[illegible] remedy designed to [illegible] of private right and public liberty against the abuses of injustice and the encroachments of arbitrary power. But the framers of the constitution were also undoubtedly aware, that this formidable instrument had been, and might be abused, and that from its very nature, an impeachment for high crimes and misdemeanors, whatever might be its result, would in most cases be accompanied by so much of dishonor and reproach, solicitude and suffering, as to make the power of preferring it, one of the highest delicacy and importance. It was due to both these considerations that the impeaching power should be lodged in the hands of those who, from the mode of their election and the tenure of their offices, would most accurately express the popular will, and at the same time be most directly and speedily amenable to the People. The theory of these wise and benignant intentions is, in the present case, effectually defeated by the proceedings of the Senate. The members of that body represent, not the People, but the States; and though they are undoubtedly responsible to the States, yet, from their extended term of service, the effect of that responsibility, during the whole period of that term, must very much depend upon their own impressions of its obligatory force. When a body, thus constituted, expresses, beforehand, its opinion in a particular case, and thus indirectly invites a prosecution, it not only assumes a power intended for wise reasons to be confined to others, but it shields the latter from that exclusive and personal responsibility under which it was intended to be exercised, and reverses the whole scheme of this part of the constitution.

Such would be some of the objections to this procedure, even if it were admitted that there is just ground for imputing to the President the offences charged in the resolution. But if, on the other hand, the House of Representatives shall be of opinion that there is no reason for charging them upon him, and shall therefore deem it improper to prefer an impeachment, then will the violation of privilege as it respects that House, of justice as it regards the President, and of the constitution, as it relates to both, be only the more conspicuous and impressive.

The constitutional mode of procedure on an impeachment has not only been wholly disregarded, but some of the first principles of natural right and enlightened jurisprudence, have been violated in the very form of the resolution. It carefully abstains from averring in *which* of "the late proceedings in relation to the public revenue, the President has assumed upon himself authority and power not conferred by the constitution and laws." It carefully abstains from specifying *what laws* or *what parts* of the constitution have been violated. Why was not the certainty of the offence—"the nature and cause of the accusation"—set out in the manner required in the constitution, before even the humblest individual, for the smallest crime, can be exposed to condemnation? Such a specification was due to the accused, that he might direct his defence to the real points of attack; to the People, that they might clearly understand in what particulars their institutions had been violated; and to the truth and certainty of our public annals.

As the record now stands, whilst the resolution plainly charges upon the president at least one act of usurpation in "the late Executive proceedings in relation to the public revenue," and is so framed that those Senators who believed that one such act, and only one, had been committed, could assent to it; its language is yet broad enough to include several such acts; and so it may have been regarded by some of those who voted for it. But though the accusation is thus comprehensive in the censures it implies, there is no such certainty of time, place, or circumstance, as to exhibit the particular conclusion of fact or law which induced any one Senator to vote for it. And it may well have happened, that whilst one Senator believed some particular act embraced in the resolution to be an arbitrary and unconstitutional assumption of power, others of the majority may have deemed that very act constitutional and expedient, or if not expedient, yet still within the pale of the constitution. And thus a majority of the Senators may have been enabled to concur, in a vague and undefined accusation, that the President, in the course of "the late Executive proceedings in relation to the public revenue," had violated the constitution and laws; whilst, if a separate vote had been taken in respect to each particular act, included within the general terms, the accusers of the President might, on any such vote, have been found in the minority.

Still further to exemplify this feature of the proceeding, it is important to be remarked, that the resolution, as originally offered to the Senate specified, with adequate precision, certain acts of the President, which it denounced as a violation of the constitution and laws; and that it was not until the very close of the debate, and when, perhaps, it was apprehended that a majority might not sustain the specific accusation contained in it, that the resolution was so modified as to assume its present form. A more striking illustration of the soundness and necessity of the rules which forbid vague and indefinite generalities, and require a reasonable certainty in all judicial allegations; and a more glaring instance of the violation of those rules, has seldom been exhibited.

In this view of the resolution it must certainly be regarded, not as a vindication of any particular provision of the law or constitution, but simply as an official rebuke or condemnatory sentence, too general and indefinite to be easily repelled, but yet sufficiently precise to bring into discredit the conduct and motives of the Executive. But whatever it may have been intended to accomplish, it is obvious that the vague, general, and abstract form of the resolution, is in perfect keeping with those other departures from first principles and settled improvements in jurisprudence, so properly the boast of free countries in modern times. And it is not too much to say, of the whole of these proceedings, that if they shall be approved and sustained by an intelligent People, then will that great contest with arbitrary power which has established in statutes, in bills of rights, in sacred charters, and in constitutions of Government, the right of every citizen, to a notice before trial, to a hearing before conviction, and to an impartial tribunal for deciding on the charge, have been waged in vain.

If the resolution had been left in its original form, it is not to be presumed that it could ever have received the assent of a majority of the Senate, for the acts therein specified as violations of the constitution and laws were clearly within the limits of the Executive authority. They are the "dismissing the late Secretary of the Treasury, because he would not, contrary to his sense of his own duty, remove the money of the U. States in deposite with the Bank of the U. States and its branches, in conformity with the President's opinion; and appointing his successor to effect such removal, which has been done." But as no other specification has been substituted, and as these were the "Executive proceedings in relation to the public revenue," principally referred to in the course of the discussion, they will doubtless be generally regarded as the acts intended to be denounced as "an assumption of authority and power not conferred by the constitution or laws, but in derogation of both." It is therefore due to the occasion that a condensed summary of the views of the Executive in respect to them should be here exhibited.

By the constitution, "the Executive power is vested in the President of the United States." Among the duties imposed on him, and which he is sworn to perform, is that of "taking care that the laws be faithfully executed." Being thus made responsible for the entire action of the Executive Department, it was but reasonable that the power of appointing, overseeing, and controlling those who execute the laws—a power in its nature executive—should remain in his hands. It is, therefore, not only his right, but the constitution makes it his duty, to "nominate, and by and with the advice and consent of the Senate appoint" all "officers of the United States whose appointments are not in the constitution otherwise provided for," with a proviso that the appointment of the inferior officers may be vested in the President alone, in the Courts of Justice, or in the Heads of Departments.

The Executive power vested in the Senate, is neither that of "nominating" nor "appointing." It is merely a check upon the Executive power of appointment. If individuals are proposed for appointment by the President, by them deemed incompetent or unworthy, they may withhold their consent, and the appointment cannot be made. They check the action of the Executive but cannot, in relation to those very subjects, act themselves, nor direct him. Selections are still made by the President, and the negative given to the Senate, without diminishing his responsibility, furnishes an additional guarantee to the country that the subordinate executive, as well as the judicial offices shall be filled with worthy and competent men.

The whole Executive power being vested in the President, who is responsible for its exercise, it is a necessary consequence that he should have a right to employ agents of his own choice to aid him in the performance of his duties, and to discharge them when he is no longer willing to be responsible for their acts. In strict accordance with this principle, the power of removal, which, like that of appointment, is an original Executive power, is left unchecked by the constitution in relation to all executive officers, for whose conduct the President is responsible, while it is taken from him in relation to judicial officers for whose acts he is not responsible. In the Government from which many of the fundamental principles are derived, the Head of the Executive Department originally had power to appoint and remove at will all officers, Executive and Judicial. It was to take the Judges out of this general power of removal, and thus make them independent of the Executive, that the tenure of their offices was changed to good behaviour. Nor is it conceivable why they are placed, in our constitution, upon a tenure different from that of all other officers appointed by the Executive, unless it be for the same purpose.

But if there were any just ground for doubt on the face of the constitution, whether all Executive officers are removable at the will of the President, it is obviated by the contemporaneous construction of the instrument, and the uniform practice under it.

The power of removal was a topic of solemn debate in the congress of 1789, while organizing the administrative departments of the Government, and it was finally decided, that the President derived from the constitution, the power of removal, so far as regards that department for whose acts he is responsible. Although the debate covered the whole ground, embracing the Treasury as well as all the other Executive Departments, it arose on a motion to strike out of the bill to establish a department of Foreign Affairs, since called the Department of State, a clause declaring the Secretary "to be removable from office by the President of the United States." After that motion had been decided in the negative, it was perceived that these words did not convey the sense of the House of Representatives, in relation to the true source of the power of removal. With the avowed object of preventing any future inference, that this power was exercised by the President in virtue of a grant from Congress, when in fact that body considered it as derived from the constitution, the words which had been the subject of debate were struck out, and in lieu thereof a clause was inserted in a provision concerning the Chief Clerk of the Department, which declared that "whenever the said principal officer shall be removed from office by the President of the United States, or in any other case of vacancy," the Chief Clerk should, during such vacancy, have charge of the papers of the office. This change having been made for the express purpose of declaring the sense of Congress, that the President derived the power of removal from the constitution, the act as it passed has always been considered as a full expression of the sense of the Legislature on this important part of the American constitution.

Here then we have the concurrent authority of President Washington, of the Senate, and of the House of Representatives, numbers of whom had taken an active part in the convention which framed the constitution, and in the State conventions which adopted it, that the President derived an unqualified power of removal from that instrument itself, which is "beyond the reach of Legislative authority." Upon this principle the Government has now been steadily administered for about forty-five years, during which there have been numerous removals made by the President or by his direction, embracing every grade of Executive officers, from the Heads of Departments to the messengers of the Bureaus.

The Treasury Department in the discussions of 1789, was considered on the same footing as the other Executive Departments, and in the act establishing it, the precise words were incorporated indicative of the sense of Congress, that the President derives the power to remove the Secretary from the constitution, which appear in the act establishing the Department of Foreign Affairs. An assistant Secretary of the Treasury was created, and it was provided that he should take charge of the books and papers of the Department "whenever the Secretary shall be removed from office by the President of the United States." The Secretary of the Treasury being appointed by the President, and being considered as constitutionally removeable by him, it appears never to have occurred to any one in the Congress of 1789, or since, until very recently, that he was other than an Executive officer, the mere instrument of the Chief Magistrate in the execution of the laws, subject, like all other Heads of Departments, to his supervision and control. No such idea as an officer of the Congress can be found in the constitution, or appears to have suggested itself to those who organized the Government. There are officers of each House, the appointment of which is authorized by the constitution, but all officers referred to in that instrument, as coming within the appointing power of the President, whether established thereby or created by law, "Officers of the United States." No joint power of appointment is given to the two Houses of Congress, nor is there any accountability to them as one body; but as soon as an office is created by law, of whatever name or character, the appointment of the person or persons to fill it, devolves by the constitution upon the President, with the advice and consent of the Senate, unless it be an inferior office, and the appointment be vested by the law itself "in the President alone, in the courts of law, or in the Heads of Departments."

But at the time of the organization of the Treasury Department, an incident occurred which distinctly evinces the unanimous concurrence of the first Congress in the principle that the Treasury Department is wholly Executive in its character and responsibilities. A motion was made to strike out the provision of the bill making it the duty of the Secretary "to digest and report plans for the improvement and management of the revenues, and for the support of public credit," on the ground that it would give the Executive Department of the Government too much influence and power in Congress. The motion was not opposed on the ground that the Secretary was the officer of Congress and responsible to that body, which would have been conclusive, if admitted, but on other grounds which conceded his executive character throughout. The whole discussion evinces an unanimous concurrence in the principle, that the Secretary of the Treasury is wholly an Executive officer, and the struggle of the minority was to restrict his power as such. From that time down to the present, the Secretary of the Treasury, the Treasurer, Register, Comptrollers, Auditors and Clerks, who fill the offices of that Department, have, in the practice of the Government, been considered and treated as on the same footing with corresponding grades of officers in all the other Executive Departments.

The custody of the public property, under such regulations as may be prescribed by legislative authority, has always been considered an appropriate function of the Executive Department in this and all other Governments. In accordance with this principle, every species of property belonging to the United States, (excepting that which is in the use of the several co-ordinate Departments of the Government, as means to aid them in performing their appropriate functions,) is in charge of officers appointed by the President, whether it be lands, or buildings, or merchandise, or provisions, or clothing, or arms and ammunitions of war. The superintendents and keepers of the whole are appointed by the President, responsible to him, and removeable at his will.

Public money is but a species of public property. It cannot be raised by taxation or customs, nor brought into the Treasury in any other way, except by law; but whenever or howsoever obtained, its custody always has been, and always must be, unless the constitution be changed, entrusted to the Executive Department. No officer can be created by Congress for the purpose of taking charge of it, whose appointment would not, by the constitution, at once devolve on the President, and who would not be responsible to him for the faithful performance of his duties. The legislative power may undoubtedly bind him and the President, by any laws they may think proper to enact; they may prescribe in what place particular portions of the public money shall be kept, and for what reason it shall be removed, as they may direct that supplies for the army or navy shall be kept in particular stores; and it will be the duty of the President to see that the law is faithfully executed—yet will the custody remain in the Executive Department of the Government. Were the Congress to assume, with or without a legislative act the power of appointing officers independently of the President, to take the charge and custody of the public property contained in the military and naval arsenals, magazines, and storehouses, it is believed that such an act would be regarded by all as a palpable usurpation of Executive power, subversive of the form as well as the fundamental principles of our Government. But where is the difference in principle, whether the public property be in the form of arms, munitions of war, and supplies, or in gold and silver, or bank notes? None can be perceived—none is believed to exist. Congress cannot, therefore, take out of the hands of the Executive Department, the custody of the public property or money, without an assumption of Executive power, and a subversion of the first principles of the constitution.

The Congress of the United States have never passed an act imperatively directing that the public moneys shall be kept in any particular place or places. From the origin of the Government to the year 1816, the statute book was wholly silent on the subject. In 1789 a Treasurer was created, subordinate to the Secretary of the Treasury, and through him to the President. He was required to give bond, safely to keep and faithfully to disburse the public moneys, without any direction as to the manner and places in which they should be kept. By reference to the practice of the Government, it is found, that from its first organization, the Secretary of the Treasury, acting under the supervision of the President, designated the places in which the public moneys should be kept, and specially directed all transfers from place to place. This practice was continued by the silent acquiescence of Congress, from 1789 down to 1816; and although many Banks were selected and discharged, and although a portion of the moneys were first placed in the State Banks, and then in the former bank of the United States, and upon the dissolution of that, were again transferred to the State Banks, no legislation was thought necessary by Congress, and all the operations were originated and perfected by Executive authority. The Secretary of the Treasury, responsible to the President, and with his approbation, made contracts and arrangements in relation to the whole subject matter, which was thus entirely committed to the direction of the President, under his responsibilities to the American People, and to those who were authorized to impeach and punish him for any breach of this important trust.

The act of 1816, establishing the Bank of the United States, directed the deposites of public money to be made in that Bank and its branches, in places in which the said bank and branches thereof may be established, "unless the Secretary of the Treasury should otherwise order and direct," in which event he was required to give his reasons to Congress. This was but a continuation of his pre-existing powers as the Head of an Executive Department, to direct where the deposites should be made, with the superadded obligation of giving his reasons to Congress for making them elsewhere than in the Bank of the United States and its branches. It is not to be considered that this provision in any degree altered the relation between the Secretary of the Treasury and the President, as the responsible Head of the Executive Department, or released the latter from the constitutional obligation to "take care that the laws be faithfully executed." On the contrary, it increased his responsibilities, by adding another to the long list of laws which it was his duty to carry into effect.

It would be an extraordinary result, if, because the person charged by law with a public duty, is one of the Secretaries, it were less the duty of the President to see that law faithfully executed, than other laws enjoining duties upon subordinate officers or private citizens. If there be any difference, it would seem that the obligation is the stronger in relation to the former, because the neglect is in his presence, and the remedy at hand.

It cannot be doubted that it was the legal duty of the Secretary of the Treasury to order and direct the deposites of the public money to be made elsewhere than in the Bank of the United States, whenever sufficient reasons existed for making the change. If, in such a case, he neglected or refused to act, he would neglect or refuse to execute the law. What would then be the sworn duty of the President? Could he say that the constitution did not bind him to see the law faithfully executed, because it was one of his Secretaries and not himself upon whom the service was specially imposed? Might he not be asked whether there was any such limitation to his obligations prescribed in the Constitution? Whether he is not equally bound to take care that the laws be faithfully executed, whether they impose duties on the highest officer of State, or the lowest subordinate in any of the Departments? Might he not be told, that it was for the sole purpose of causing all executive officers, from the highest to the lowest, faithfully to perform the services required of them by law—that the People of the United States have made him their Chief Magistrate, and the constitution has clothed him with the entire Executive power of this Government? The principle implied in these questions appears too plain to need elucidation.

But here, also, we have a contemporaneous construction of the act, which shows that it was not understood as in any way changing the relations between the President and Secretary of the Treasury, or as placing the latter out of Executive control, even in relation to the deposits of the public money. Nor on this point are we left to any equivocal testimony. The documents of the Treasury Department show that the Secretary of the Treasury did apply to the President, and obtain his approbation and sanction to the original transfer of the public deposits to the present Bank of the United States, and did carry the measure into effect in obedience to his decision. They also show that transfer of the public deposits from the branches of the Bank of the United States to State Banks, at Chillicothe, Cincinnati, and Louisville, in 1819, were made with the approbation of the President, and by his authority. They show, that upon all important questions appertaining to his Department, whether they relate to the public deposites or other matters, it was the constant practice of the Secretary of the Treasury to obtain for his acts the approval and sanction of the President. These acts, and the principles on which they were founded, were known to all the departments of the Government, to Congress, and the country; and until very recently, appear never to have been called in question.

Thus was it settled by the constitution, the laws, and the whole practice of the Government, that the entire Executive power is vested in the President of the United States; that as incident to that power, the right of appointing and removing those officers who are to aid him in the execution of the laws, with such restrictions only as the constitution prescribes, is vested in the President; that the Secretary of the Treasury is one of those officers; that the custody of the public property and money is an executive function, which, in relation to the money, has always been exercised through the Secretary of the Treasury and his subordinates; that in the performance of these duties, he is subject to the supervision and control of the President, and in all important measures having relation to them, consults the Chief Magistrate, and obtains his approval and sanction; that the law establishing the Bank did not, as it could not, change the relation between the President and the Secretary—did not release the former from his obligation to see the law faithfully executed, nor the latter from the President's supervision and control; that afterwards, and before, the Secretary did in fact consult, and obtain the sanction of the President, to transfers and removals of the public deposites; and that all departments of the Government, and the nation itself, approved or acquiesced in these acts and principles, as in strict conformity with our constitution and laws.

During the last year, the approaching termination, according to the provisions of its charter, and the solemn decision of the American People, of the Bank of the United States, made it expedient, and its exposed abuses and corruptions made it, in my opinion, the duty of the Secretary of the Treasury, to place the moneys of the United States in other depositories. The Secretary did not concur in that opinion, and declined giving the necessary order and direction. So glaring were the abuses and corruptions of the Bank, so evident its fixed purpose to persevere in them, and so palpable its design, by its money and power, to control the Government and change its character, that I deemed it the imperative duty of the Executive authority, by the exertion of every power confided to it by the constitution and laws, to check its career, and lessen its ability to do mischief, even in the painful alternative of dismissing the Head of one of the Departments. At the time the removal was made, other causes sufficient to justify it existed; but if they had not, the Secretary would have been dismissed for this cause only.

His place I supplied by one whose opinions were well known to me, and whose frank expression of them, in another situation, and whose generous sacrifices of interest and feeling, when unexpectedly called to the station he now occupies, ought forever to have shielded his motives from suspicion, and his character from reproach. In accordance with the opinions long before expressed by him, he proceeded, with my sanction, to make arrangements for depositing the moneys of the United States in other safe institutions.

The resolution of the Senate as originally framed, and as passed if it refers to these acts, presupposes a right in that body to interfere with this exercise of Executive power. If the principle be once admitted, it is not difficult to perceive where it may end. If, by a mere denunciation like this resolution, the President should ever be induced to act, in a matter of official duty, contrary to the honest convictions of his own mind, in compliance with the wishes of the Senate, the constitutional independence of the Executive Department would be as effectually destroyed, and its power as effectually transferred to the Senate, as if that end had been accomplished by an amendment of the constitution. But if the Senate have a right to interfere with the Executive powers, they have also the right to make that interference effective; and if the assertion of the power implied in the resolution be silently acquiesced in, we may reasonably apprehend that it will be followed, at some future day, by an attempt at actual enforcement. The Senate may refuse, except on the condition that he will surrender his opinions to theirs and obey their will, to perform their own constitutional functions, to pass the necessary laws, to sanction appropriations proposed by the House of Representatives, and to confirm proper nominations made by the President. It has already been maintained (and it is not conceivable that the resolution of the Senate can be based on any other principle) that the Secretary of the Treasury is the officer of Congress, and independent of the President; that the President has no right to control him, and consequently none to remove him. With the same propriety, and on similar grounds, may the Secretary of State, the Secretaries of War and the Navy, and the Postmaster General, each in succession, be declared independent of the President, the subordinates of Congress, and removable only with the concurrence of the Senate. Followed to its consequences, this principle will be found effectually to destroy one co-ordinate Department of the Government, to concentrate in the hands of the Senate the whole Executive power, and to leave the President as powerless as he would be useless—the shadow of authority, after the substance had departed.

The time and the occasion which have called forth the resolution of the Senate, seem to impose upon me an additional obligation not to pass it over in silence. Nearly forty-five years had the President exercised, without a question as to his rightful authority, those powers for the recent assumption of which he is now denounced. The vicissitudes of peace and war had attended our Government; violent parties, watchful to take advantage of any seeming usurpation on the part of the Executive, had distracted our councils; frequent removals, or forced resignations, in every sense tantamount to removals, had been made of the Secretary and other officers of the Treasury, and yet, in no one instance is it known, that any man, whether patriot or partisan, had raised his voice against it as a violation of the Constitution. The expediency and justice of such changes, in reference to public officers of all grades, have frequently been the topics of discussion; but the constitutional right of the President to appoint, control, and remove the Head of the Treasury, as well as all other Departments, seems to have been universally conceded. And what is the occasion upon which other principles have been first officially asserted? The Bank of the United States, a great moneyed monopoly, had attempted to obtain a renewal of its charter, by controlling the elections of the People and the action of the Government. The use of its corporate funds and power in that attempt, was fully disclosed; and it was made known to the President that the corporation was putting in train the same course of measures, with the view of making another vigorous effort, through an interference in the elections of the People, to control public opinion and force the Government to yield to its demands. This, with its corruption of the press, its violation of its charter, its exclusion of the Government Directors from its proceedings, its neglect of duty, and arrogant pretensions, made it, in the opinion of the President, incompatible with the public interest and the safety of our institutions, that it should be longer employed as the fiscal agent of the Treasury. A Secretary of the Treasury, appointed in the recess of the Senate, who had not been confirmed by that body, and whom the President might or might not at his pleasure nominate to them, refused to do what his superior in the Executive Department considered the most imperative of his duties, and became in fact, however innocent his motives, the protector of the Bank. And on this occasion it is discovered for the first time, that those who framed the constitution misunderstood it; that the first Congress and all its successors have been under a delusion; that the practice of near forty-five years, is but a continued usurpation; that the Secretary of the Treasury is not responsible to the President; and that to remove him is a violation of the constitution and laws, for which the President deserves to stand forever dishonored on the journals of the Senate.

There are also some other circumstances connected with the discussion and passage of the resolution, to which I feel it to be, not only my right, but my duty, to refer. It appears by the journal of the Senate, that among the twenty-six Senators who voted for the resolution on its final passage, and who had supported it in debate, in its original form, were one of the Senators from the State of Maine, the two Senators from New-Jersey, and one of the Senators from Ohio. It also appears by the same journal, and by the files of the Senate, that the Legislatures of these States had severally expressed their opinions in respect to the Executive proceedings drawn in question before the Senate.

The two branches of the Legislature of the State of Maine, on the 25th of January, 1834, passed a preamble and series of resolutions in the following words:

"Whereas, at an early period after the election of Andrew Jackson to the presidency, in accordance with the sentiments which he had uniformly expressed, the attention of Congress was called to the constitutionality and expediency of the renewal of the charter of the U. States Bank; And whereas, the Bank has transcended its chartered limits in the management of its business transactions, and has abandoned the object of its creation, by engaging in political controversies, by wielding its power and influence to embarrass the administration of the General Government, and by bringing insolvency and distress upon the commercial community; And whereas, the public security from such an institution consists less in its present pecuniary capacity to discharge its liabilities than in the fidelity with which the trusts reposed in it have been executed; And whereas, the abuse and misapplication of the powers conferred have destroyed the confidence of the public in the officers of the Bank, and demonstrated that such powers endanger the stability of republican institutions: Therefore, Resolved, That in the removal of the public deposites from the Bank of the United States, as well as in the manner of their removal, we recognise in the administration an adherence to constitutional rights, and the performance of a public duty.

"*Resolved*, That this Legislature entertain the same opinion as heretofore expressed by preceding Legislatures of this State, that the Bank of the United States ought not to be rechartered.

"*Resolved*, That the Senators of this State in the Congress of the United States be instructed, and the Representatives be requested, to oppose the restoration of the deposites and the renewal of the charter of the United States Bank.

On the 11th of January, 1834, the House of Assembly and Council composing the Legislature of the State of New-Jersey, passed a preamble and a series of resolutions in the following words:

"Whereas the present crisis in our public affairs calls for a decided expression of the voice of the people of this State; and whereas we consider it the undoubted right of the Legislatures of the several States to instruct those who represent their interests in the councils of the nation, in all matters which intimately concern the public weal, and may affect the happiness or well being of the people: Therefore

"1. Be it resolved by the Council and General Assembly of this State, That while we acknowledge with feelings of devout gratitude our obligations to the great Ruler of nations for his mercies to us as a people, that we have been preserved alike from foreign war, from the evils of internal commotions and the machinations of designing and ambitious men who would prostrate the fair fabric of our Union; that we ought, nevertheless, to humble ourselves in His presence and implore His aid for the perpetuation of our republican institutions, and for a continuance of that unexampled prosperity which our country has hitherto enjoyed.

"2. Resolved, That we have undiminished confidence in the integrity and firmness of the venerable patriot who now holds the distinguished post of Chief Magistrate of this nation, and whose purity of purpose and elevated motives have so often received the unqualified approbation of a large majority of his fellow citizens.

"3. Resolved, That we view with agitation and alarm the existence of a great moneyed corporation, which threatens to embarrass the operations of the Government, and by means of its unbounded influence upon the currency of the country, to scatter distress and ruin throughout the community; and, that we therefore, solemnly believe the present Bank of the United States ought not to be rechartered.

"4. Resolved, That our Senators in Congress be instructed, and our members of the House of Representatives be requested to sustain, by their votes and influence, the course adopted by the Secretary of the Treasury, Mr Taney, in relation to the Bank of the United States and the deposites of the Government moneys, believing as we do the course of the Secretary to have been constitutional, and that the public good required its adoption.

"5. Resolved, That the Governor be requested to forward a copy of the above resolutions to each of our Senators and Representatives from this State in the Congress of the United States."

On the 21st day of February last, the Legislature of the same State, reiterated the opinions and instructions before given, by joint resolutions, in the following words:

"Resolved by the Council and General Assembly of the State of New Jersey, That they do adhere to the resolutions passed by them on the 11th day of January last, relative to the President of the United States, the Bank of the United States, and the course of Mr Taney in removing the Government deposites.

"Resolved, That the Legislature of New Jersey have not seen any reason to depart from such resolutions since the passage thereof, and it is their wish that they should receive from our Senators and Representatives of this State in the Congress of the United States that attention and obedience which are due to the opinion of a sovereign State, openly expressed in its Legislative capacity."

On the 2d of January, 1834, the Senate and House of Representatives composing the Legislature of Ohio, passed a preamble and resolutions in the following words:

"Whereas there is reason to believe that the Bank of the United States will attempt to obtain a renewal of its charter at the present session of Congress: And whereas it is abundantly evident that said Bank has exercised powers derogatory to the spirit of our free institutions and dangerous to the liberties of these U. States. And whereas, there is just reason to doubt the constitutional power of Congress to grant acts of incorporation for banking purposes out of the District of Columbia: And whereas, we believe the proper disposal of the public lands to be of the utmost importance to the People of these United States, and that honor and good faith require their equitable distribution: Therefore,

"Resolved by the General Assembly of the State of Ohio, That we consider the removal of the public deposites from the Bank of the United States as required by the best interests of our country, and that a proper sense of public duty imperiously demanded that that institution should be no longer used as a depository of the public funds.

"Resolved, also, That we view, with decided disapprobation, the renewed attempts in Congress to secure the passage of the bill providing for the disposal of the public domain upon the principles proposed by Mr Clay, inasmuch as we believe that such a law would be unequal in its operations, and unjust in its results.

"Resolved, also, That we heartily approve of the principles set forth in the late veto message upon that subject; and,

"Resolved, That our Senators in Congress be instructed, and our Representatives requested, to use their influence to prevent the rechartering of the Bank of the U. States; to sustain the administration in its removal of the public deposites; and to oppose the passage of a land bill containing the principles adopted in the act upon that subject, passed at the last session of Congress.

"Resolved, That the Governor be requested to transmit copies of the foregoing preamble and resolutions to each of our Senators and Representatives."

It is thus seen that four Senators have declared by their votes that the President, in the late Executive proceedings in relation to the revenue, had been guilty of the impeachable offence of "assuming upon himself authority and power not conferred by the constitution and laws, but in derogation of both," whilst the Legislatures of their respective States had deliberately approved those very proceedings, as consistent with the constitution and demanded by the public good. If these four votes had been given in accordance with the sentiments of the Legislatures, as above expressed, there would have been but twenty-two votes out of forty-six for censuring the President, and the unprecedented record of his conviction could not have been placed upon the journals of the Senate.

In thus referring to the resolutions and instructions of the State Legislatures, I disclaim and reprobate all authority or design to interfere with the responsibility due from members of the Senate to their own consciences, their constituents, and their country. The facts now stated belong to the history of these proceedings, and are important to the just development of the principles and interests involved in them, as well as to the proper vindication of the Executive Department, and with that view, and that view only, are they here made the topic of remark.

The dangerous tendency of the doctrine which denies to the President the power of supervising, directing, and removing the Secretary of the Treasury in like manner with the other executive officers, would soon be manifest in practice, were the doctrine to be established. The President is the direct representative of the American People, but the Secretaries are not. If the Secretary of the Treasury be independent of the President in the execution of the laws, then is there no direct responsibility to the People in that important branch of this Government, to which is committed the care of the national finances. And it is in the power of the Bank of the United States, or any other corporation, body of men, or individuals, if a Secretary shall be found to accord with them in opinion, or can be induced in practice to promote their views, to control, through him, the whole action of the Government, (so far as it is exercised by his Department,) in defiance of the Chief Magistrate elected by the People and responsible to them.

But the evil tendency of the particular doctrine adverted to, though sufficiently serious, would be as nothing in comparison with the pernicious consequences which would inevitably flow from the approbation and allowance by the People, and the practice by the Senate, of the unconstitutional power of arraigning and censuring the official conduct of the Executive, in the manner recently pursued. Such proceedings are eminently calculated to unsettle the foundations of the Government; to disturb the harmonious action of its different Departments; and to break down the checks and balances by which the wisdom of its framers sought to ensure its stability and usefulness.

The honest differences of opinion which occasionally exist between the Senate and the President, in regard to matters in which both are obliged to participate, are sufficiently embarrassing. But if the course recently adopted by the Senate shall hereafter be frequently pursued, it is not only obvious that the harmony of the relations between the President and the Senate will be destroyed, but that other and graver effects will ultimately ensue. If the censures of the Senate be submitted to by the President, the confidence of the People in his ability and virtue, and the character and usefulness of his administration, will soon be at an end, and the real power of the Government will fall into the hands of a body, holding their offices for long terms, not elected by the People, and not to them directly responsible. If, on the other hand, the illegal censures of the Senate should be resisted by the President, collisions and angry controversies might ensue, discreditable in their progress, and in the end compelling the People to adopt the conclusion, either that their Chief Magistrate was unworthy of their respect, or that the Senate was chargeable with calumny and injustice. Either of these results would impair public confidence in the perfection of the system, and lead to serious alterations of its frame work, or to the practical abandonment of some of its provisions.

The influence of such proceedings on the other Departments of the Government, and more especially on the States, could not fail to be extensively pernicious. When the judges in the last resort of official misconduct, themselves overleap the bounds of their authority, as prescribed by the Constitution, what general disregard of its provisions might not their example be expected to produce? And who does not perceive that such contempt of the Federal constitution, by one of its most important Departments, would hold out the strongest temptation to resistance on the part of the State sovereignties, whenever they shall suppose their just rights to have been invaded? Thus all the independent Departments of the Government, and the States which compose our confederated Union, instead of attending to their appropriate duties, and leaving those who may offend, to be reclaimed or punished in the manner pointed out in the constitution, would fall to mutual crimination and recrimination, and give to the People, confusion and anarchy, instead of order and law; until at length some form of aristocratic power would be established on the ruins of the constitution, or the States be broken into separate communities.

For be it from me to charge, or to insinuate, that the present Senate of the United States intend, in the most distant way, to encourage such a result. It is not of their motives or designs, but only of the tendency of their acts, that it is my duty to speak. It is, if possible, to make Senators themselves sensible of the danger which lurks under the precedent set in their resolution; and at any rate to perform my duty, as the responsible Head of one of the co-equal Departments of the Government, that I have been compelled to point out the consequences to which the discussion and passage of the resolution may lead, if the tendency of the measure be not checked in its inception.

It is due to the high trust with which I have been charged; to the Representatives of the People, whose constitutional prerogative has been unlawfully assumed; to the People and the States; and to the constitution they have established; that I should not permit its provisions to be broken down by such an attack on the Executive Department, without at least some effort "to preserve, protect, and defend" them. With this view, and for the reasons which have been stated, I do hereby SOLEMNLY PROTEST against the aforementioned proceedings of the Senate, as unauthorized by the constitution; contrary to its spirit and to several of its express provisions; subversive of that distribution of the powers of government which it has ordained and established; destructive of the checks and safe-guards by which those powers were intended, on the one hand, to be controlled, and on the other to be protected; and calculated by their immediate and collateral effects, by their character and tendency, to concentrate in the hands of a body not directly amenable to the People, a degree of influence and power dangerous to their liberties, and fatal to the constitution of their choice.

The resolution of the senate contains an imputation upon my private as well as upon my public character; and as it must stand forever on the journals, I cannot close this substitute for that defence which I have not been allowed to present in the ordinary form, without remarking, that I have lived in vain, if it be necessary to enter into a formal vindication of my character from such an imputation. In vain do I bear upon my person, enduring memorials of that contest in which American liberty was purchased—in vain have I since perilled property, fame, and life, in defence of the rights and privileges so dearly bought—in vain am I now, without a personal aspiration, or the hope of individual advantage, encountering responsibilities and dangers, from which by mere inactivity in relation to a single point, I might have been exempt—if any serious doubts can be entertained as to the purity of my purposes and motives. If I had been ambitious, I should have sought an alliance with that powerful institution, which even now aspires to no divided empire. If I had been venal, I should have sold myself to its designs—had I preferred personal comfort and official ease to the performance of my arduous duty, I should have ceased to molest it. In the history of conquerors and usurpers, never, in the fire of youth, nor in the vigor of manhood, could I find an attraction to lure me from the path of duty; and now, I shall scarcely find an inducement to commence their career of ambition, when gray hairs and a decaying frame, instead of inviting to toil and battle, call me to the contemplation of other worlds, where conquerors cease to be honored, and usurpers expiate their crimes. The only ambition I can feel, is to acquit myself to Him whom I must soon render an account of my stewardship, to serve my fellowmen, and live respected and honored in the history of my country. No; the ambition which leads me on, is an anxious desire and a fixed determination, to return to the people, unimpaired, the sacred trust they have confided to my charge—to heal the wounds of the constitution and preserve it from further violation; to persuade my countrymen, so far as I may, that it is not in a splendid Government, supported by powerful monopolies and aristocratical establishments, that they will find happiness, or their liberties protection; but in a plain system, void of pomp—protecting all, and granting favors to none—dispensing its blessings like the dews of Heaven, unseen and unfelt, save in the freshness and beauty they contribute to produce. It is such a Government that the genius of our People requires—such an one only under which our States may remain for ages to come, united, prosperous and free. If the Almighty Being who has hitherto sustained and protected me, will but vouchsafe to make my feeble powers instrumental to such a result, I shall anticipate with pleasure the place to be assigned me in the history of my country, and die contented with the belief that I have contributed, in some small degree, to increase the value and prolong the duration, of American Liberty.

To the end that the resolution of the Senate may not be drawn into precedent, with the authority of silent acquiescence on the part of the Executive Department; and to the end, also, that my motives and views in the Executive proceedings denounced in that resolution, may be known to my fellow citizens, to the world, and to all posterity, I respectfully request that this Message and Protest may be entered at length on the Journals of the Senate.

ANDREW JACKSON.

April 15th, 1834

The Protest having been read—

Mr POINDEXTER moved that it be not received.

Upon this motion, a debate took place, which lasted until half past 4 o'clock, and in which Messrs. POINDEXTER, SPRAGUE, FRELINGHUYSEN, BENTON, SOUTHARD, KING, of Alabama, and LEIGH, participated.

Without the question being taken, and without his yielding the floor, on motion of Mr. LEIGH,

The Senate adjourned

THE BEE.

PRINTED AND PUBLISHED DAILY, BY
JEROME BAYON.
STATE PRINTER.

THE UNION—IT MUST BE PRESERVED.

MONDAY MORNING, MAY 5, 1834.

FOR GOVERNOR:
J. B. DAWSON.

SECOND SENATORIAL DISTRICT:
B. MARIGNY.

For Congress—1st District, CH. GAYARRE,
" 2d " JAMES BRADFORD,
" 3d " J. WALKER.

No Northern mail was received yesterday.

We are gratified to lay before our readers, as we promised, the protest of President Jackson against the factious and unconstitutional proceedings of the U. S. senate. The recent course of that body in preferring charges against that functionary thereby constituting themselves both the powers of accusers and judges, the former of which is solely vested in the house of representatives is anomalous and unprecedented in the legislation of this country, and is in direct conflict with our constitution. *The president is both accused and adjudged by one and the same co-ordinate branch of the government with having transcended his privileges and violated his trust.* In justice to himself, and to the people who have reposed confidence in him, he has felt constrained to vindicate his conduct from the aspersions cast upon it and to question the authority of those who have so heedlessly passed sentence upon him. We commend his protest to the dispassionate and calm perusal of every man, let his political predilections be what they may. [illegible] respect may have been [illegible] of things but us pause [illegible] [illegible] what is due to their stations and have not been actuated by motives of a sordid and despicable nature in what they have done. It should be remembered that the contest which has originated between them and the president has grown entirely out of the U. S. bank question. Already has the country been convulsed from one end to the other by the course which that institution has pursued. Beggary, distress and desolation have followed its fist, and communities as well as individuals have been plunged into one fell and general distress to suit its infamous designs. All have been made to feel its dread power, enemies and friends, as circumstances required, have been sacrificed or menaced, and he who had the temerity to believe himself secure from want has seen ruin staring him in the face. The picture is not overcharged, but what we have represented has actually proved to be nothing but sad and solemn truth. This in itself should command serious attention. But when in conjunction a high and responsible part of the government is found lending itself to the designs of this dangerous monopoly, aiding and abetting its war upon the liberties of the people, every patriot, every man who desires the perpetuation of our blessed and happy institutions, should be aroused to the importance of the crisis and the indispensable necessity of sustaining the president, in his manly efforts to strangle the hydra and save the people from the most intollerable thraldom. The question is one pregnant with consequences, and he who either from ignorance, design or interest should be found recreant to duty or principle, incurs a dreadful responsibility in the eyes, not only of his cotemporaries, but in those of succeeding generations.

We yield to no man in the admiration we feel for the U S. senate as a political institution. We believe that it may and does serve as as salutary check upon the operations of the executive power, and as far as it exerts its influence for this purpose, no one is more heartily disposed to concur in the propriety of its measures than ourselves. But we shall not for this reason, from any idle apprehensions, or from a supposed infallibility on its part, indiscriminately approve of all that it may do under the plea of executive usurpation.—This would be folly. To illustrate our position, by a reference to the case under discussion, that body, or rather the reckless and unprincipled majority who now control it, have transcended their powers to censure the president, as they have it, for official misconduct. Admitting that the president is guilty of what is laid to his door, his accusers are equally culpable for their unauthorized, illegal and unique proceedings in the form of an information or indictment against him. No one who is competent to judge of the matter will or can seriously and sincerely sanction their conduct, whatever may be his feelings or prepossessions against the president, however much he may disapprove of what he has done. Thus stands the controversy, even if it be admitted that there were just grounds for imputing to the president the offences charged in the resolution. But, if on the other hand, as is most powerfully urged in the protest, the house of representatives shall be of opinion that there is no reason for charging them upon him, and shall therefore deem it improper to prefer an impeachment, then will the violation of privilege as it respects that house, of justice as it regards the president, and of the constitution, as it relates to both, be only the more conspicuous and impressive. This is too plain to require a moments argument. The point then is settled—the senate have violated the high and sacred trusts confided to them.

We have already spoken of the high literary merits of the protest. Its temperate and irresistible arguments are before our readers, and we believe they will come pretty generally to the same conclusion as ourselves that they cannot be controverted.

The [illegible] of the city of New-York [illegible] a special message to the councils, explanatory of the measures adopted to repress the election riots, and asking for an appropriation to defray the expenses. He represents that in the course of these events, a number of the city watch have been so materially injured as to be unable to perform their duty as watchmen, or to do ordinary daily labor, and several have no means of support for themselves or families.—He recommends provision to be made for them out of the city treasury. The mayor urges the necessity of amending the laws for the prevention of such occurrences. Numerously signed petitions, supported by both political parties, have been presented to the city councils for the establishment of a registry of qualified votes. The mayor in his message favors this plan.

MARINE JOURNAL.
PORT OF NEW-ORLEANS.
CLEARED.

Ship Margaret Forbes, King, Cowes, L H Gale
Brig Perfecta Aguila Mexicana, Hernandez, Tampico, Lizardi Brothers
Brig Virginia, Harston, Philadelphia, T Toby & co
Brig Pandora, Jones, Boston, J Thayer & co
Brig Phoenix, Green, Buenos Ayres, A Fisk
Schr San Louis, Sasuta, Tampico, J Pratz & son
Schr Mezatte, Stewart, Porto Cabello, Master
Schr Mannia, TalNan, Brazoria, Master

ARRIVED.

Towboat Whale, L C Wood, from the Pass—towed to sea line ship Mississippi, ship Florence and brig Uncas. Passed the Lion at Fort Jackson. Brought up French ship Adolphe Fanny.

Steamer Post Boy, Annibel, towed to sea brig Manuel [illegible], schooners Francisco and Salom—brought up line ship Louisville and brig Tribune.

Steamer Grampus, Pinger, towed to sea ship Tennessee, brought up ship Freedonia and barque Lord Stanley.

Steamer Lion, Hubbell, towed brig Wm Osborn, brought up brig Architect.

Ship [illegible], Page, from Mobile—in ballast.

Packet ship Louisville, Price, from New York to Foster & Hutton.

Ship Adolphe Fanny, Gallet, from Bordeaux—cargo assorted to sundries

Barque Lord Stanley, Hal, from Liverpool, 12th ult cargo salt, &c

Brig Tribune, Smith, 16 days from Norfolk, with 60 slaves to Isaac Franklin.

Brig Pulaski, ——from Thomastown—cargo lime [illegible]

Brig Architect, Gray, from Providence, to the master—cargo, Domestics to Waterman & Burgess, A Gurney, and others.

Brig Amity, Such[illegible], from Liverpool—cargo 2597 sacks salt to C Mason.

Steamer Two Friends, Cady from Opelousas—cargo cotton to sundries.

Steamer Transport, Patterson, from St Martinsville—cargo cotton.

Steamer Rapide, Doughty, from Negroville, cargo cotton to sundries

Steamer Walter Scott, Navan, from Manchester.

Steamer Huntsville, Laurant, from Bayou Sarah—cargo cotton.

Steamer Ouchita, Crain, from Manchester—cargo cotton to sundries.

Steamer Lady Washington, Gordon, from Opelousas—cargo cotton.

Steamer Cora, Stock, from Lafourche Interior—Cargo, Sugar, Molasses, &c.

AMERICAN THEATRE:
(CAMP-STREET.)

POSITIVELY THE LAST WEEK BUT ONE

FAREWELL BENEFIT OF Mr. SINCLAIR.
On which occasion he will be aided by Mrs. AUSTIN.

THIS EVENING, MAY 5th,
Will be presented, the favorite and truly splendid Opera of
CINDERELLA

PRINCE, Mr SINCLAIR,
Pedro, Russell,
CINDERELLA, Mrs AUSTIN

To conclude with the Operatic Farce, called
NO.

Frederick, Mr SINCLAIR,
Maria, Mrs Russell.

SALES AT AUCTION.

BY TRICOU & CANONGE.

SALE of Drugs, Medicines, Fixtures, Furnitures &c. corner of Poydras and Magazine st. on Monday 5th May, at 10 o'clock.
Terms at sale. may 3

BY JOSEPH LE CARPENTIER.

WILL be sold on Tuesday May 6th, at half past 4 o'clock in the evening, at F & W. Delvys Cotton Press, on account of whom it may concern, and under inspection of the Port Wardens, about 30 bales of Cotton, damaged, board the Flat Boat [illegible], capt J. D Freeland. may 3

BY J. LE CARPENTIER.

WILL be sold on Monday 5th inst at 11 o'clock a m, in front of his auction store.
50 bales Northern Rum,
50 do Gin.
Just landing from barque Peacher from New York.
Terms at sale. may 3

BY TRICOU & CANONGE.

WILL be sold, on Monday 5th of May, at 10 o'clock on account of departure, at the residence of Mr. Prosper Marigny, Bienville st. corner of Franklin, all the house furniture therein.—Terms at sale. may 1

BY J B BLACHE.

ON Tuesday the 6th of May next, will be sold, at 12 o'clock, at the Exchange Coffee House,
A PLANTATION, situated on the Metairie Road, between the Bayou St John and the New Orleans Canal, [illegible] from the city. This plantation is divided into lots of [illegible] each, front on Metairie, [illegible] according to a plan made by C F Zimpel, city surveyor, which will be exhibited at the Exchange Coffee House.

Terms, 1, 2, 3, and 4 years credit, in notes endorsed to the satisfaction of the vender, with mortgage until final payment.

Acts of sale to be passed before F Feraud, not. pub. at the expense of the purchasers. ap 28

FOR VERA CRUZ.

The schooner HALCYON, Capt. Vigne, having part of her cargo engaged, will have immediate despatch. For balance of Freight apply to the captain on board or to
M S CUCULLU, LAPEYRE & Co.
may 5 No 20, Toulouse street

FOR FREIGHT OR CHARTER.

The remarkably fast sailing copper fastened & coppered brig MARY, of Baltimore 159 tons per register, carries about 1300 barrels, and is in first rate order for any voyage; apply to
HARRISON, BROWN & Co
may 5 117 Royal st.

WASHINGTON FIRE CO, NO. 4.

CONFORMABLY to the bye-laws of this Company, a stated meeting will be held this evening at half past seven o'clock precisely. The members will assemble at No. 17 Chartres street, 2d story.
may 5 R. L. DECOIN, Secy.

THE subscriber offers for sale a lot of Ground, situated Dauphin, between St Louis and Toulouse sts, measuring fifteen feet front by one hundred and twenty in depth, with the buildings thereon, which are in a good state.

Conditions: One third cash, and the balance at 30 months credit, in five notes with endorsement and mortgage to the satisfaction of the vender. If between this and the 8th inst. the property be not sold at private sale, it will be offered at public auction on the 10th.
may 15 LAREE, jr.

THE subscriber, going to France, declares that he owes nothing on open account. Those who are indebted to him are requested to pay as soon as possible to Mr. L. A. Garidel, who is appointed his agent during his absence from the city.
may 5 A. BEL.

BOARD OF THE CITIZENS' BANK.

NOTICE is hereby given, that an election of a Cashier of this institution will take place on Monday 5th of May next. The candidates will make written application before 10 o'clock a m, of said day. By order of the Board.
E BARAU,
apr 24 Secretary

EXCHANGE on France and New York, for sale by
V POUTZ,
apr 22 No 92, St Louis street.

NOTICE TO BUTCHERS.

PROPOSALS will be received until Monday the 5th May next, for supplying the Charity Hospital with good fresh meat during one year, and a security of two thousand dollars will be required for the faithful compliance to the contract.
By order of the Board
may 1 S S RELF, Sec.

NEW ORLEANS ARCHITECT COMPANY,
For the Eighth District.

TAKE NOTICE, that an election for five directors of this institution, will be held on Monday the 5th May next, at the subscriber's residence, corner of Bourbon and St. Peter streets, between 10 a m. and 2 p m. Stockholders are respectfully invited to attend. By order.
apr 22 FLEURY GENERELLY, Secy.

40,000 feet LUMBER, first quality, landing between Toulouse and St Louis streets, for sale by
may 3 BLANC & BRUGIER.

A Good washer woman and house servant is wanted at the corner of Bourbon and Custom house sts.
may 3