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[BY AUTHORITY.]

LAWS OF THE UNITED STATES PASSED AT THE TWENTY-FOURTH CONGRESS FIRST SESSION.

[PUBLIC, No. 8.]

AN ACT making a further appropriation for the suppression of Indian hostilities in Florida.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of five hundred thousand dollars be, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, in addition to former appropriations, for suppressing Indian hostilities in Florida.

JAMES K. POLK,
Speaker of the House of Representatives.
M. VAN BUREN,
Vice President of the United States and President of the Senate.

APPROVED, April 1st, 1836.
ANDREW JACKSON.

From the Hartford Times.

The following letter is from a distinguished gentleman at Washington, who is perfectly conversant on the subject which he treats, and whose statements may be implicitly relied upon. It may be proper to

this State, but no man enjoys in a greater degree the confidence of those who know him—by his fellow-citizens and his country, whom he has served in various capacities, and has been honored with important and responsible trusts. We are obliged to him for devoting a leisure moment in exposing the mercenary band employed to traduce and defame the friends of the administration, and give a false glow to the opposition.

Extract of a letter from a gentleman in Washington City, dated March 9, 1836.

My Dear Sir:—You will not be surprised to be informed that scoundrels who furnish the libels and carricatures that emanate from this city, and are published in most of the Whig papers, are the persons who have seats furnished for them at the expense of the public, in either branch of Congress, and who pretend to sit there as reporters for the National Intelligencer and United States Telegraph. Two of these fellows who are permitted to sit in seats directly behind Messrs. Clay and Webster, are John Agg and ——Orr. The former is well known as a quondam editor of the National Journal, a newspaper that has long since been defunct, and on which Judge White's "Sun" has been recently engrafted. The latter (Orr) is known as a renegade preacher and speculator, who has travelled through New England as missionary, to gather funds for pretended charitable objects. They have as their assistants, a fellow by the name of Otis, from Portland, Maine, who narrowly escaped "Lynching" in Virginia, on suspicion of being an incendiary employed by the abolitionists last summer, and a miserable creature by the name of Brooks, acting as amenuensis to the former. This latter person is the nominal editor of an abolition whig newspaper, published at Haverhill, Mass. Another writer is a Unitarian minister from Providence, by the name of Farley, who takes his position in the gallery of one or the other House, on week days, and preaches at Gales and Seaton's chapel on Sundays.

These, and some of these, furnish the correspondence from Washington, first published in the Baltimore Patriot, the New York Commercial Advertiser, and the Boston Courier. That they may strengthen each other in the work of falsehood and misrepresentation, they meet after each session, and compare notes; and its no uncommon event to see identically the same falsehood, manufactured from whole cloth, reiterated by apparently three or four different writers, in as many papers. It is said that these mercenaries receive for their work of fiction, from one to two dollars for each letter. There is good reason to believe that certain members of Congress have under particular direction, the points which these writers are to misrepresent and falsify!

It is worthy of remark the same letter writers furnish matter for the nullification newspapers of the south, and the whig papers of the north, which profess to oppose nullification. The noble and magnanimous course taken by Mr. Pinckney of South Carolina, in the House of Representatives, to put a stop to the abolition agitation in Congress, will be long remembered. This agitation was moved in both branches from the moment Calhoun and Preston took their seats (about one fortnight after the session commenced;) with the apparent determination that the whole south should be alarmed at the magnitude of the efforts making by a few fanatics at the north. It was soon apparent that Tappan and his followers at the north were acting in perfect concert with Calhoun, Wise, Waddy Thompson, and other nullifiers. Seeing the knavery that was intended to be practised, Mr. Pinckney, like an honest man, although nominally belonging to the nullification party, determined to make an effort to calm the troubled waters, by introducing resolutions directing that every petition, and every other matter, having relation to the exciting question, should be referred to be reported on by a special committee. As soon as Mr. P.'s intention was known, he was hissed and denounced by Calhoun and others, and the moment he introduced his proposition, the bully, Wise actually hissed him on the floor as a traitor to the south, because he wished to put an end to the agitation.—One of the mercenary writers who furnishes matter for Buckingham's Courier in Boston, calls Pinckney a traitor, for taking ground which every sensible man at the north must admit was preferable to the ground taken by Calhoun. The outrage of the mercenary on the gallant Pinckney was so apparent at the moment, that vile as Buckingham himself is, he felt obliged, in his next subsequent paper, to tread back and disavow the charge of treachery preferred by his correspondent, and he accordingly finds an apology of nearly half a column, necessary to make the amende honorable, not to Mr. Pinckney, but to the intelligence and patriotism of his own readers!

I have been thus particular, to show you the character of the vile letter writers, who impose daily on the people of the United States, and who have privileged seats in the Halls of the Legislature of the Union, and who abuse those seats by the most contemptible and miserable misrepresentations.—If the vile creatures had not taken to themselves consequence, by the notice taken of them there are members of the House of Representatives who would have kicked them from their seats; and the clerks of either branch, but for the circumstance that they would have attempted to raise the public sympathy, would have removed them from their positions. No friend of the administration can move, or speak, but his acts, either of omission or commission, are made a subject of misrepresentation or ridicule: while the partizans of the opposition, both whigs and nullifiers, are represented as patterns of perfection.

EXPURGATION OF THE JOURNAL

Speech of Mr. Benton,

OF MISSOURI.

[Continued.]

IN SENATE.

March 18, 1836.

11. Having shown, Mr. President, that the proceeding against President Jackson was illegal and unconstitutional, I take up my second proposition which affirms the injustice of that proceeding, and makes an issue of fact upon the truth of the sentence pronounced upon him. This proposition is these words:

"And whereas the said resolve, in all its various shapes and forms, was unfounded and erroneous in point of fact, and, therefore, unjust and unrighteous, as well as irregular and unconstitutional; *because* the said President Jackson, neither in the act of dismissing Mr. Duane, nor in the appointment of Mr. Taney, as specified in the first form of the resolve, nor in taking upon himself the responsibility of removing the deposites, as specified in the second form of the same resolve, nor in any act which was then, or can now, be specified under the vague and ambiguous terms of the general denunciation contained in the third and last form of the resolve, did do or commit any act in violation or in derogation of the laws and constitution, or dangerous to the liberties of the people."

The condemnatory resolution, as first drawn up, contained two specifications of supposed violation of law and constitution; 1, the dismission of Mr. Duane from the Treasury Department because he would not remove the public moneys from the Bank of the United States; and, 2, the appointment of Mr. Taney to make that removal. The second form of the resolution contained a single specification, namely, taking upon himself the responsibility of removing the deposites; and the third and ultimate form of the same resolution was utterly destitute of any specification whatever. Having remarked that these specifications were copied from the proceedings of the Bank of the United States, and in the very words used by that institution, such as he had read them at the opening of this debate, Mr. B. said, we join issue upon each of these specifications, as far as they are made under the first and second forms which they bear, and are can be assigned under the vague terms of the third form.

We deny, out and out, that there was any violation of the laws or constitution in the dismissal of Mr. Duane, or in the appointment of Mr. Taney, or in taking upon himself the responsibility of removing the deposites, or in any proceeding whatever, either late or early, in relation to the public revenue.

All these denials we made at the time; and every specification ventured upon by the mover of the resolution, was promptly met, and fully overthrown by us. Shall I repeat the arguments we then used? or shall I limit myself to a recapitulation of points which mark our reasoning, and to an enumeration of proofs which attest our victory? prefer the latter, and shall proceed accordingly.

First, then, the dismissal of Mr. Duane, because he would not remove the deposites.

In answer to this specification we showed, first, that the right of the President to dismiss this Secretary, resulted from his constitutional obligation to see the laws faithfully executed; secondly, from the recognition of the right in the first act of Congress establishing the Treasury Department.

Here is the law; "*Whenever the Secretary (of the Treasury) shall be removed from office by the President of the United States, or in any other case of vacancy in the office of Secretary, the assistant shall, during the vacancy, have the charge and custody of the records, books, and papers, appertaining to the said office.*" This is the seventh section of the act entitled, An act to establish the Treasury Department, passed September 2, 1789. It is an express, and as the debates of the time will show, a purposely *expressed* recognition of the right of the President to dismiss this officer. And here I might dismiss this specification; but it is right to recall the recollection of the fact, that the mover of the resolution gave it up, and was compelled to give it up, or lose the whole resolution; for it was well known throughout the Senate that not even a *party* majority, at the end of an hundred days' debate, could be got to vote for it,—that several members of the opposition openly admitted the right of the President to make the dismission, and could not vote for the resolution with that specification in it.

The second specification was for appointing Mr. Taney to make the removal of the deposites, which Mr. Duane would not. This requires no consideration, and admits of no notice. It was scarcely noticed in debate; and being wholly dependant on the first specification, it was withdrawn with it, and never mentioned since. It was given up by the mover without a vote, because even a *party* majority could not be got to vote for it; and it cannot be resuscitated now for the sake of a posthumous discussion.

The third specification was, for taking on himself the responsibility of removing the deposites. This specification, like the two former, was found to be too weak to stand a vote. It was withdrawn by the mover without a vote, because it was known that not even a *party* majority could be induced to vote for it. Being thus given up and abandoned, it can no longer claim the honor of a notice.

An allegation, twice repeated by way of aggravation, also graced the first and second forms of the resolution, which disappeared from the third; it was, that the President's conduct was dangerous to the liberties of the People. This allegation also shared the fate of the three specifications. It was given up and withdrawn without a vote, because not even a *party* majority could vote for it; and thus it was clearly admitted that the President's conduct was not dangerous to the liberties of the People.

The resolve as adopted was void of specification, and contains no allegation whatever on which an issue of fact or of law could be taken. It was a vague, indefinite denunciation, without a reference to any act, at any time, in any place, or to any law, or any clause in the constitution supposed to be violated. Against such a condemnation, argument is impossible, for issues are impracticable. I limit myself to the broad, emphatic denial of the truth and validity of any thing that can be specified under this vague denunciation. I pronounce myself and my friends to be now standing ready, challenging and defying any specification under this resolution, and waiting to impale and transfix it the moment it is produced. And here I conclude this head, and hold my second proposition to be completely established, *namely* that the charge of violating the laws and constitution was unfounded and erroneous in point of fact, and that the condemnation of the President was, therefore, as unjust and unrighteous as it was illegal, irregular, and unconstitutional.

III. I pass on to the third proposition which affirms the vagueness and ambiguity of the resolve as adopted, and presents some of the evils resulting from such an indefinite mode of condemnation. It is in these words:

"And whereas the said resolve, as adopted, was uncertain and ambiguous, containing nothing but a loose and floating charge for derogating from the laws and constitution, and assuming ungranted power authority in the late Executive proceedings in relation to the public revenue, without specifying in what part of the Executive proceedings, or what part of the public revenue, was intended to be referred to, or what parts of the laws and constitution were supposed to have been infringed or in what part of the Union, or at what period of his administration, these late proceedings were supposed to have taken place thereby putting each Senator at liberty to vote in favor of the resolve upon a seperate and secret reason of his own, and leaving the ground of the Senate's judgment to be guessed at by the public, and to be differently and diversely interpreted by individual Senators according to the private and particular understanding of each; contrary to all the ends of justice, and to all the forms of legal and judicial proceeding—to the great prejudice of the accused, who could not know against what to defend himself; and to the loss of Senitorial responsibility, by shielding Senators from public accountability, for making up a judgment upon grounds which the public cannot know, and which, if known, might prove to be insufficient in law, or unfounded in fact."

When he had read this proposition, Mr. B. said is this a true description of the Senate's judgment? Can it be possible that this elevated body intended by the constitution to be the gravest assembly on earth, could have so far sported with its own responsibility, and with the rights of an accused person, as to deliver a sentence of condemnation so void of form as this description announces? The question is a grave one, and the answer should be the best which the nature of the case can possibly admit of. Inspection is the best answer which the case admits of. It is a case for the inspection of the record—for trying the record by itself. Here it is; read, listen and judge.

"Resolved, That the President, in the late executive proceedings in relation to the revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both."

Vague! vague! vague! uncertain, ambiguous, deceptive! amphibological; and the highest illustration of that Cynic's sarcasm, who defined language to be an art conferred upon man to enable his tongue to conceal his thoughts. Surely the very thing is concealed here which is the only thing that ought to be known, namely, the specific act which constitutes the violation of law and constitution intended to be fastened on the President.

I do not dilate upon the use and necessity of precise allegation in criminal accusation. The time, the place, and the act, are the essence of the charge, and can never be dispensed with. The instinct of justice in every human bosom, recognizes, this; the forms of criminal proceeding in all countries of law and order, prescribe it and the mover of this condemnation admitted it by his repeated attempts to give specifications, and by his tardy abandonment of that attempt at the last moment, at the end of one hundred days' debate, when the sentence of condemnation could no longer be delayed, without losing the benefit of it at the impending elections, and when it was indisputably known that no majority, not even the PARTY majority which then prevailed in this chamber, could be brought to unite in any act of illegal conduct which the genius of the n ever could impute to the President. I will not dilate upon this plain point, but I will produce an example from our own history to show with what precise allegation of time, place, and act, violations of law were charged upon executive officers in the earlier age of our republic.

I read from the journals of the House of Representatives in 1793. They are the resolutions submitted by Mr. Giles, of Virginia, for the purpose of impeaching the Secretary of the Treasury, General Hamilton, and are in these words:

"*Resolved*, That the Secretary of the Treasury has violated the law passed the 4th of August, 1790, making appropriation of certain moneys authorized to be borrowed by the same law, in the following particulars, to wit:

"1. By applying a certain portion of the principal borrowed to the payment of interest falling due upon the principal, which was not authorized by that, or any other law.

"2. By drawing a part of the same moneys into the United States, without the instructions of the President of the United States."

Here all is open, manly and intelligible.—Mr. Giles tells what he means, and commits himself upon the issue. General Hamilton knows what he is charged with; the House knows what to proceed upon; and the public knows for what to hold the accused to his defence, the accuser to his proofs, the House to its justice, and all the parties to their official accountability, to their constituents.—Compare this resolve against President Jackson, with the resolve of Mr. Giles, and see how different in the essential particulars of criminal accusation. The general charge is the same in both cases, that of violating law, and acting without authority; yet the resolves are totally different; one, all precision, the other, all ambiguity. In one, every word a declaration of fact or law, on which precise issues might be taken; in the other every word a problem, and susceptible of as many meanings as there were tongues to debate it. Like the oracular responses of the Pythian Apollo, they seemed to be selected for their amphibology, and because any meaning and every meaning which might be required or forbid, might be affirmed or denied under them. Try them by their sense and import. "Late Executive proceedings."—There are three words, and three ambiguities, in "Late." How late! one year, two years' five or ten years ago? 2. "Executive."? What part of the executive! the Chief Magistrate, or one of the heads of departments? "The public revenue." What part of it. Is it in the Bank of the United States, or in the deposite banks, or in a state of collection in South Carolina? I defy any man to fix any definite idea to either of these terms, or to take any issue upon them. All is uncertain, ambiguous, problematical; nothing is clear but the abandonment of all that related to Mr. Duane, Mr. Taney, the removal of the deposites, the responsibility of removing them, the danger to the liberties of the people, and the complete cutting loose from all connexion with the Bank of the U. States, those wrongs had solemnly occupied the two previous forms of the resolution, and had figured so incontinently in the speeches of all its friends. All this is abandoned; all mention of the Bank is dropped. Instead of it, the vague charge is substituted, which has been so often pointed out to the notice of the Senate; and under this general denunciation, a general verdict was procured by a new species of individual contribution, something like a subscription, list, or poney purse of accusation, in which each one put in according to his will and his means.

Mr. B. said he had adduced this instance of criminal accusation, this charge against General Hamilton, for the purpose of showing, that precise allegations were indispensable in such cases; but it was also available and eminently applicable for another purpose; for the purpose of showing that corrupt, wicked, or improper motives were not necessary to be alleged in proceeding against an officer for an impeachable offence. The design of Mr. Giles, was to impeach General Hamilton; and for that purpose, he charges him with a naked violation of law, without the slightest imputation of an improper motive, and without the smallest allegation of injury to the public. It is a case in point; and added to the cases of the judges Chase and Pickering, is conclusive to show, that even where a regular and formal impeachment is intended, no averment, under our constitution, of criminal motives, or public detriment, need be alleged.

Mr. President, the public, and even the Senate, have heard much of late years, of a certain doctrine in politics, called non-committal, and it has generally been presented in a very unenviable and undesirable point of view. Some have even gone so far as to say, that they scorned the character of an uncommitted man; and a certain gentleman that you and I wot of has been conspicuously paraded in speeches and gazettes, as the founder of the non-committal school, and the original of the portrait which has been drawn of an uncommitted man. Of the justice, the propriety, the truth, and the decency, of what has been said and published of that gentleman, on that point, it is not my province to make a question nor raise a decision. I prepermit that labor; and proceeding upon the assumption of his opponents, that the aforesaid gentleman was actually the founder of the aforesaid school, I have to remark, that it seems to me, that like other inventors, he is in danger of being robbed of the glory of his discovery by the improvements which are made by others upon his invention. So far as I understand the institutes of the original school the right of non-committal extended no farther than to problems in politics; it did not embrace cases of law and morality, nor extend to the conduct of judges and Senators! But who can stop the march of improvement? Who can limit the genius of the scholar? Who can baffle the art of the cunning imitator? Already the doctrine of non-committal has made its way to the judgment seat,—to this chamber,—and to this very case. The Senate refuses to commit itself upon the question, *of what it is*, that they have condemned President Jackson for! They not only refuse to commit themselves for grounds of their judgment, but they revoke the committal which they had partly made. They withdraw every thing upon which they could be held to their accountability. They haul in, back out, cut loose, and run away, from their their own attempt to specify the guilt of President Jackson; and then condemn him in a general verdict, made up by compromise, and unable to hear the test of any one specification whatever. Yes, sir! made up by compromise! for whom of us, that were then in this chamber that does not remember the extraordinary circumstances of the closing scene? the precipitate movements which took place among members? the crossing to and from this floor? the consultations and the whisperings? the fixing and altering, the writing and rubbing out, the offering and withdrawing, the tearing up and beginning anew, which went on in this chamber, to the delay of the call for the yeas and nays, until a set of phrases were collected, by contribution from different parts of this floor, sufficiently non-committal to embrace all who were willing to condemn the President; without being able to tell for what? I speak as an eye witness, when I describe the closing scene in these terms; and I appeal to forty Senators then, and now present, to affirm my statement. And what say the laws of the land to the verdicts obtained by compromise? Utterly reprobated; the jury reprimanded who gives them, their verdict set aside, and a new trial ordered.

Sir, said Mr., B., examine this sentence of condemnation as it stands. Examine it word by word, and see if it is located to any one place, limited to any time, or confined to any one act? Will it not cover the "*late*" Executive proceedings relative to the revenue in South Carolina, as well as the "*late*" Executive proceedings relative to the deposites in Philadelphia? Will it not cover the orders to Commodore Elliott to proceed to Charleston, just as well as it will cover the order to Mr. Duane to quit the cabinet? Would it not cover the removal of troops to the south, to ensure the collection of the revenue, just as well as it would cover the removal of the deposites from the Bank to prevent the mischiefs of their remaining there? Were not the two measures equally complained of at Charleston and in Philadelphia? and is it not notorious, that when distinguished sons of South Carolina, immediately after the condemnation of the President, denounced the lawless tyranny of his conduct in public speeches in Philadelphia, meaning all the while his conduct in relation to the revenue in South Carolina, that the friends of the Bank, who had previously applauded the President for that conduct, clapped, and shouted, and flung their caps into the air, in a delirium of exultation, under the delusion that all this denunciation founds its *innendo* in the wrongs of the Bank, and not in the wrongs of South Carolina? Certain it is, that the criminating resolve which, in its first and second form was all Bank, in its third form, cut loose from the Bank entirely! that Mr. Duane, Mr. Taney, the responsibility, the deposites, the mother Bank and its branches, which figured exclusively in the first and second forms, were all expunged in the third form and not one word retained, which could *commit* the supporters of the resolve to the name, to the cause, or to the complaints of the Bank!

I have described the scene, faintly described it, as it took place in this Senate, in the face of all their present, and while the call for the yeas and nays was delayed to give time for making up the phraseology of the resolution. It now becomes my duty to explain the reason why it came to pass that this business of fixing the non-committal phrases of the resolve was postponed to the last moment, and then had to be transacted by consultations and whisperings in the Senate. The reason, sir, was this at the commencement of the session of 1833, '34, the Bank of the United States, and the Senate of the United States, appear to have commenced an attack upon the people, the property, and the Government of the United States. The Bank created a pressure; the Senate excited a panic; and the spring elections in New York and Virginia were the first and principal objects of both. The Bank sent out her orders to call in debts and break up exchanges; the Senate brought in its resolution to condemn President Jackson for a violation of the laws and constitution; and under the combined action of this double process, the price of all property was sunk, and the public mind agitated and alarmed, until a fictitious panic was produced. The operation was kept up, the Bank screwing tighter and tighter, and the alarm guns firing, and the tocsin ringing faster and louder in the Senate, until the pressure had reached its lowest point of depression, and the panic its highest point of culmination, and the important elections of New York and Virginia were just at hand, and every thing was ripe for the final blow. The condemnation of the President before those election, and at the moment of their commencement, was this final blow, and the exact moment for striking it had arrived on Friday, the 28th of March. That was the day, for it was the last day that it could be done in time to have its effect.

Monday was the first day of April, and the great elections were to begin; it was therefore indispensible that the news of the condemnation of the President should leave Washington a few days before the first of April, in order to reach in time the more remote election grounds in the great States of New York and Virginia, and to have its effect upon those elections. This is the reason why the debate on the condemnatory resolution was delayed, protracted, prolonged, and spun out from the 26th of December to the 28th of March, and then passed in the hurry and precipitation which

[illegible]

in and striking out, of offering and withdrawing, which was then witnessed in the Senate, and which ended in the engendering of that unrivalled specimen, that *ne plus ultra* production, that *chef d'euvre* and everlasting masterpiece of the non-committal policy, which now stands upon your journal as a judgment of condemnation against President Jackson!

Mr. B. said he was an enemy to monopolies, and must express his dissatisfaction to them, in whatsoever shape they were presented to his view. Here was a monopoly, a new and strange monopoly; it was a monopoly of non-committal and of irresponsibility, and that by friends present to the prejudice of their friends absent. The Kentucky legislative resolve, all the State legislative resolves, all the resolves of all the public meetings, and all the petitions of the 120,000 petitioners sent into the Senate, were direct and specific in their charges against the President. They all charged in direct terms the violation of the laws and constitution, and all grounded their charges upon the dismissal of Mr. Duane, the appointment of Mr. Taney, the assumption of the responsibility, the removal of the deposites, and the danger to the liberties of the people. They all specified these acts, and therefore fully committed themselves, and now stand committed upon them. So did their friend and leaders on this floor. All were even at the start. All were in the same predicament up to the memorable 28th day of March, 1834. Up to that day all were together in the *Caudine Forks*; but now the leaders and the followers are devided. The leaders extricated themselves; they uncommitted themselves; they cut loose from the Bank and all its griefs and complaints. They dropt every thing which could connect them, upon the record, with the Bank and its cause; enconced themselves in the mystification of amphibological phrase; and now stand untrammeled, unpledged, untied, uncommitted and non-committed upon one single allegation of law or fact on which responsibility can be incurred, or an issue can be taken.

This is wrong. The leaders should never desert their followers; they should never leave their deluded associates in the lurch. The military man shares the fate of his solders; he saves them, or dies with them! The politician should do the same. No monopoly of escape is allowed to one any more than to the other. Here is a case for sympathy and relief,—for interposition and help. The followers should be allowed to escape with the leaders; they should be allowed to cut loose from the Bank; they should be permitted to uncommit themselves! and for that purpose should have leave to withdraw and amend! to amend, by striking out every thing that relates to the deposites, the Secretaries, the liberties of the people, the responsibility, &c., and float at large upon the undefinable and intangible denunciation of "THE LATE EXECUTIVE PROCEEDINGS IN RELATION TO THE REVENUE!!"

IV. My fourth proposition applies to the doctrine of legal implications, and affirms that what has been withdrawn upon objection, cannot afterwards be understood, by implication, to remain a part of the record. The proposition, for its better understanding will be read. It is in these words:

"And whereas the specifications contained in the first and second forms of the resolve, having been objected to in debate, and shown to be insufficient to sustain the charges they were adduced to support, and it being well believed that no majority could be obtained to vote for the said specifications, and the same having been actually withdrawn by the mover in the face of the whole Senate, in consequence of such objection and belief, and before any vote taken thereupon, the said specifications could not afterwards be admitted by any rule of parliamentary practice, or by any principle of legal implication, secret intendment, or mental reservation, to remain and continue a part of the written and public resolve from which they were thus withdrawn: and, if they could be so admitted, they would not be sufficient to sustain the charges therein contained."

The proposition contains three points: 1. An affirmation: 2. A rule of law: 3. An issue offered. The affirmation, in part, is proved by the record, namely, that the specifications of President Jackson's supposed illegal and unconstitutional conduct, were all withdrawn; and the remainder of it, namely, that they were withdrawn because no majority, not even a party one, could be got to vote for them, can be proved by the Senators then and now present. The rule of law is too clear for argument. It is known to every apprentice to the law, that, what is given up upon the face of the record, cannot be retained, as a part of the case, by any fiction of pleading, legal intendment, constructive implication, mental reservation, or suppositious reintegration whatsoever. The issue is open and bold, that if the specifications can be saved by implication, they are insufficient to justify the condemnation; and to the trial of this issue, we challenge and defy the whole power of the opposition.

V. My fifth proposition affirms the total impropriety, and the particular unconstitutionality of the Senate's proceeding against President Jackson. It is in these words:

"And whereas the Senate being the constitutional tribunal for the trial of the President when charged by the House of Representatives with offences against the laws and the constitution, the adoption of the said resolve before any impeachment was preferred by the House, was a breach of the privileges of the House, a violation of the constitution, a subversion of justice a prejudication of a question which might legally come before the Senate and a disqualification of that body to perform its constitutional duty with fairness and impartiality, if the President should thereafter be regularly impeached by the House of Representatives for the same offence."

In this proposition, said Mr. B., I take my stand upon the same ground which I took in the case of Mr. Barry in February, 1831, and in the case of President Jackson in January, 1834. What I said in the case of Mr. Barry, five years ago, has been read; what I said in the case of President Jackson, two years ago, will be read now. It is done for two purposes; *first*, to show that we stand upon the same ground now which we occupied then; and *next* to let it be seen that the expunging process is no after thought with us; and that gentlemen are not allowed to take a distinction between expunging, now and expunging then; their power alone having prevented the expurgation at the same session, the same day and the same instant at which the unjust and unrighteous sentence was passed.

Mr. B. here read from the debate of February, 1834.

"Mr. Benton said that the first of these resolutions contained impeachable matter, and was in fact, though not in form, a direct impeachment of the President. He cited the constitutional provision, that the President might be impeached, 1 for treason; 2. for bribery; 3, for other high crimes, 4. for misdemeanors; and high crime and a misdemeanor; the crime, in violating the laws and constitution in seizing upon illegal and ungrantedpower over the public Treasury, to the danger of the liberties of the people; the misdemeanor, in dismissing the late Secretary of the Treasury from office.—Mr. B. said that the terms of the resolution were sufficiently explicit to define a high crime within the meaning of the constitution; without having recourse to the arguments and declarations used by the mover of the resolution in illustration of his meaning; but if any doubt remained on that head, it would be removed by the whole tenor of the argument, and especially that part of it which compared the President's conduct to that of Cæsar in seizing the public treasure in Rome, to aid him in putting an end to the liberties of his country; and every Senator, in voting upon it, would vote directly upon the guilt or innocence of the President as he was responding to the question of guilty, or not guilty in the concluding scene of a formal impeachment. We are then, said Mr. B. trying an impeachment! But how? The constitution gives to the House of Representatives the sole power to originate impeachments; yet we originate this impeachment ourselves. The constitution gives the accused a right to be present: but he is not here.

It requires the Senate to be sworn as judges but we are not so sworn. It requires the Chief Justice of the United States to preside when the President is tried; but the Chief Justice is not her presiding. It gives the House of Representatives a right to be present, and to manage the prosecution; but neither the House nor its managers attend this proceeding. It requires the forms of criminal justice to be strictly observed; yet all these forms are neglected or violated. It is a proceeding without law, without justice without precedent! in which the Chief Magistrate of the Republic is to be tried without being heard, and in which his accusers are to act as judges.

This is what I said two years ago. I choose to refer to it as then said, and to repeat it now, first, to show that my present opinions of the conduct of the Senate were formed two years ago, and fully expressed then, and are not the creation of subsequent events and afterthoughts; and secondly, that the specifications then made were laid hold of, and expressly objected to, as showing the impeachment character of the resolution; so that the objections which could not be answered, and on which votes could not be taken. I thus show that the opinions expressed in this fifth proposition are as old as the commencement of the Senate's proceeding against the President; and what is, perhaps, more material, I have shown from the resolutions proposed in the Kentucky Legislature, in the case of Judge Innis, that they were expressed by others, long before I had any occasion to form opinions upon such subjects. I will place my proposition by the side of that resolution, and leave it to any one to show a difference, except in the circumstance that makes the conduct of the Senate many ten thousand times more censurable than the conduct of the Kentucky General Assembly.

It was thus, Mr. President, that I challenged the unconstitutionality of the Senate's proceeding on the moment of the first introduction of this fatal resolution. I did so from a thorough conviction of its total infringement of the constitution. I knew then and I know now, what was due to the Senate, and what was implicated of myself in the expression of such an opinion. I knew that I spoke under a just and high responsibility to that enlightened tribunal and high court of the coun-

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