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"THE END OF EVERY GOVERNMENT SHOULD BE THE WELFARE OF THE PEOPLE."

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POETRY.

[COMMUNICATED.]

LINES

BY A LADY OF ANNAPOLIS.

On the death of the lamented

MRS. MARY ELECIE.

To gather round the new-made grave and stand upon its brink,
And see the loved and cherished form into its bosom sink;
And feel that one our spirit loved, was in those caverns drear,
Ah! who would look on such a scene and check the falling tear.
The heart will bleed when those we love are taken from our sight,
Although the inmost soul may feel, that He who wounds is right.
The tender ties that bind us here will pain when they are riven,
Even though our faith can trace the flight of those we love to Heaven.
On such a scene I lately gazed, when low in dust was laid,
The lifeless form of one on whom disease for years had preyed;
The lamp of life had dimly burned for many an anxious day,
And long the weary spirit turned its hopes from earth away
"What is the world?" I heard her say; "what are its joys to me?
I feel that I could leave them all, and to my Saviour flee.
My children dear, whom once I thought I never could resign,
I give them up, my precious Lord, oh make me wholly thine."
Such in its spirit was her speech, while drawing near the grave,
For she had gone to Him for help, who died the world to save.
I saw her from her Pastor's hand, in penitence receive
The symbols of that dying love, which whoso tastes shall live;
And knowing this, as by that grave, in solemn thought I stood,
And heard from Sacred Writ rehearsed those words so true and good—
Blessed are they who in the Lord die and obtain their rest—
I thought how useless 'twas to mourn for those whom God had blest.
Children of her, whose cold remains now rest beneath the sod,
Will you not yield your mother up to dwell above with God?
And will you not, with purpose firm, that narrow path pursue,
Which those who tread, and those alone, will find the promise true?
Religion! Oh, what untold charms lie hidden in that word,
Unveiled to those who seek and find the favor of their Lord.
Guarded by Him the spirit gains the conquest over death,
And soars aloft as nature heaves the last expiring breath.

A man of Property.—A young man of Nuremburgh, requested a lawyer to recommend him to a family where he was a daily visitor, and where there was a handsome daughter who was to have a large fortune. The lawyer agreed, but the father of the young lady asked what property the young man had. The lawyer said he did not exactly know, but would inquire. The next time he saw his young friend, he asked him if he had any property at all. "No," replied he. "Well," said the lawyer, "would you suffer any man to cut off your nose, if he should give you $20,000?" "Not for the world," replied the young man. "Very well," returned the lawyer, "I have a reason for asking." The next time he saw the girl's father, he said, "I have inquired into the young man's circumstances; he has indeed no ready money, but he has a jewel, for which, to my certain knowledge, he has been offered and refused $20,000." This induced the old man to consent to the marriage, which accordingly took place, though it is said in the sequel, he often shook his head when he thought of the jewel.

Debate in the Senate.

SPEECH OF MR. CLAY,

(OF KENTUCKY,)

On the resolution to expunge a part of the journal for the session of 1833-1834.

MONDAY, JANUARY 16, 1837.

Mr. CLAY rose, and said that, considering that he was the mover of the resolution of March, 1834, and the consequent relation in which he stood to the majority of the Senate by whose vote it was adopted, he had felt it to be his duty to say something on this expunging resolution; and he had alway intended to do so when he should be persuaded that there existed a settled purpose of pressing it to a final decision. But it had been so taken up and put down at the last session—taken up one day, when a speech was prepared for delivery, and put down when it was pronounced, that he had really doubted whether there existed any serious intention of every putting it to the vote. At the very close of the last session, it will be recollected that the resolution came up, and in several quarters of the Senate a disposition was manifested to come to a definitive decision. On that occasion he had offered to waive his right to address the Senate, and silently to vote upon the resolution; but it was again laid upon the table, and laid there forever, as the country supposed, and as he believed. It is, however, now revived; and, sundry changes having taken place in the members of this body, it would seem that the present design is to bring the resolution to an absolute conclusion.

I have not risen (continued Mr. Clay,) to repeat, at full length, the argument by which the friends of the resolution of March, 1834, sustained it. That argument is before the world, was unanswered at the time, and is unanswerable. And I here, in my place, in the presence of my country and of my God, after the fullest consideration and deliberation of which my mind is capable, re assert my solemn conviction of the truth of every proposition contained in that resolution. But, whilst it is not my intention to commit such an infliction upon the Senate as that would be of retracing the whole ground of argument formerly occupied, I desire to lay before it, at this time, a brief and true state of the case. Before the fatal step is taken of giving to the expunging resolution the sanction of the American Senate, I wish, by presenting a faithful outline of the real questions involved in the resolution of 1834, to make a last, even if it is to be an ineffectual, appeal to the sober judgments of Senators. I begin by reasserting the truth of that resolution.

Our British ancestors understood perfectly well the immense importance of the money-power in a representative Government. It is the great lever by which the Crown is touched, and made to conform its administration to the interests of the kingdom and the will of the people. Deprive Parliament of the power of freely granting or withholding supplies, and surrender to the King the purse of the nation, he instantly becomes an absolute monarch. Whatever may be the form of government, elective or hereditary, democratic or despotic, that person who commands the force of the nation, and at the same time has uncontrolled possession of the purse of the nation, has absolute power, whatever may be the official name by which he is called.

Our immediate ancestors, profiting by the lessons on civil liberty which had been taught in the country from which we sprung, endeavored to encircle around the public purse, in the hands of Congress, every possible security against the intrusion of the Executive. With this view, Congress alone is invested, by the Constitution, with the power to lay and *collect* the taxes. When collected, not a cent is to be drawn from the public Treasury, but in virtue of an act of Congress. And, among the first acts of this Government, was the passage of a law establishing the Treasury Department, for the safe keeping and the legal and regular disbursement of the money so collected. By that act, a Secretary of the Treasury is placed at the head of the Department; and, varying in this respect from all the other Departments, he is to report, not to the President, but directly to Congress, and is liable to be called to give information in person before Congress. It is impossible to examine dispassionately that act, without coming to the conclusion that he is emphatically the agent of Congress in performing the duties assigned by the constitution to Congress. The act further provides that a Treasurer shall be appointed to receive and keep the public money, and none can be drawn from his custody but under the authority of a law, and in virtue of a warrant drawn by the Secretary of the Treasury, countersigned by the Comptroller, and recorded by the Register. Only when such a warrant is presented, can the Treasurer lawfully pay one dollar from the public purse. Why was the concurrence of these four officers required in disbursements of the public money? Was it not for greater security? Was it not intended that each exercising a separate and independent will should be a check upon every other? Was it not the purpose of the law to consider each of these four officers, acting in his proper sphere, not as a mere automaton, but as an intellectual, intelligent, and responsible person, bound to observe the law, and to stop the warrant, or to stop the money, if the authority of the law were wanting?

Thus stood the Treasury from 1789 to 1816. During that long time no President had ever attempted to interfere with the custody of the public purse. It remained where the law placed it, undisturbed, and every Chief Magistrate, including the Father of his Country, respected the law.

In 1816, an act passed to establish the late Bank of the United States for the term of twenty years; and, by the 16th section of the act, it is enacted "that the deposites of the money of the United States in places in which the said bank and the branches thereof may be established, shall be made in said bank or branches thereof, unless *the Secretary of the Treasury shall* at any time otherwise *order* and *direct*; in which case, the Secretary of the Treasury shall immediately *lay before Congress*, if in session, and, if not, immediately after the commencement of the next session, *the reasons* of such order or direction."

Thus, it is perfectly manifest, from the express words of the law, that the power to make any order or direction for the removal of the public deposites is confided to the Secretary alone, to the absolute exclusion of the President, and all the world besides. And the law, proceeding upon the established principle that the Secretary of the Treasury, in all that concerns the public purse, acts as the direct agent of Congress, requires, in the event of *his* ordering or directing a removal of the deposites, that he shall immediately lay his reasons therefor before whom? The President? No: before Congress.

So stood the public Treasury and the public deposites from the year 1816 to September, 1833. In all that period of seventeen years, running through or into several Administrations of the Government, the law had its uninterrupted operation, no Chief Magistrate having assumed upon himself the power of directing the public purse from its lawful custody, or of substituting his will to that of the officer to whose care it was exclusively entrusted.

In the session of Congress of 1832-3 an inquiry had been instituted by the House of Representatives into the condition of the Bank of the United States. It resulted in a conviction of its entire safety, and a declaration by the House, made only a short time before the adjournment of Congress on the 4th of March, 1833, that the public deposites were perfectly secure. This declaration was probably made in consequence of suspicions then afloat of a design on the part of the Executive to remove the deposites.—These suspicions were denied by the press friendly to the Administration. Nevertheless, the members had scarcely reached their respective homes before measures were commenced by the Executive to effect a removal of the deposites from that very place of safety which it was among the last acts of the House to declare existed in the Bank of the United States.

In prosecution of this design, Mr. McLane, the Secretary of the Treasury, who was decidedly opposed to such a measure, was promoted to the Department of State, and Mr. Duane was appointed to succeed him. But Mr. Duane was equally convinced with his predecessor that he was forbidden by every consideration of duty to execute the power with which the law had entrusted the Secretary of the Treasury, and refused to remove the deposites; whereupon he was dismissed from office, a new Secretary of the Treasury was appointed, and, in September, 1833, by the command of the President, the measure was finally accomplished. That it was the President's act was never denied, but proclaimed, boasted, defended. It fell upon the country like a thunderbolt, agitating the Union from one extremity to the other. The stoutest adherents of the Administration were alarmed; and all thinking men, not blinded by party prejudice, beheld in the act a bold and dangerous exercise of power; and no human sagacity can now foresee the tremendous consequences which will ensue. The measure was adopted not long before the approaching session of Congress; and, as the concurrence of both branches might be necessary to compel a restoration of the deposites, the object was to take the chance of a possible division between them, and thereby defeat the restoration.

And where did the President find the power for this most extraordinary act? It has been seen that the Constitution, jealous of all Executive interference with the Treasury of the nation, has confided it to the exclusive care of Congress, by every precautionary guard, from the first imposition of the taxes to the final disbursement of the public money.

It has been seen that the language of the sixteenth section of the law of 1836 is express and free from all ambiguity; and that the Secretary of the Treasury is the sole and exclusive depositary of the authority which it confers.

Those who maintain the power of the President have to support it against the positive language of the Constitution, against the explicit words of the statute, and against the genius and theory of all our institutions.

And how do they surmount these insuperable obstacles? By a series of far-fetched implications, which, if every one of them were as true as they are believed to be incorrect or perverted, would stop far short of maintaining the power which was exercised.

The first of these implied powers is, that of dismissal, which is claimed for the President. Of all the questioned powers ever exercised by this Government, this is the most questionable. From the first Congress down to the present Administration, it had never been examined. It was carried then, in the Senate by the casting vote of the Vice President. And those who, at that day, argued in behalf of the power, contended for it upon conditions which have been utterly disregarded by the present Chief Magistrate. The power of dismissal is nowhere in the Constitution granted, in express terms, to the President. It is not a necessary incident to any granted power; and the friends of the power have never been able to agree among themselves as to the precise part of the Constitution from which it springs.

But, if the power of dismissal was as incontestable as it is justly controvertible, we utterly deny the consequences deduced from it. The argument is, that the President has by implication, the power of dismissal. From this first implication another is drawn, and that is, that the President has the power to control the officer, whom he may dismiss, in the discharge of his duties, in all cases whatever; and that this power of control is so comprehensive as to include even the case of a specific duty expressly assigned by law to the designated officer.

Now, we deny these results from the dismissing power. That power, if it exists, can draw after it only a right of general superintendence. It cannot authorize the President to substitute his will to the will of the officer charged with the performance of official duties. Above all, it cannot justify such a substitution in a case where the law, as in the present instance, assigns to a designated officer exclusively the performance of a particular duty, and commands him to report not to the President, but to Congress, in a case regarding the public purse of the nation committed to the exclusive control of Congress.

Such a consequence as that which I am contesting would concentrate in the hands of one man the entire Executive power of the nation, uncontrolled and unchecked.

It would be utterly destructive of all official responsibility. Instead of each officer being responsible, in his own separate sphere or his official acts, he would shelter himself behind the orders of the President. And what tribunal, in Heaven above or on earth below, could render judgment against any officer for an act, however atrocious, performed by the express command of the President, which, according to the argument, he was absolutely bound to obey?

Whilst all official responsibility would be utterly annihilated in subordinate officers, there would be no practical or available responsibility in the President himself.

But the case has been supposed, of a necessity for the removal of the deposites, and a refusal of the Secretary of the Treasury to remove them; and it is triumphantly asked if, in such a case, the President may not remove him, and command the deed to be done. That is an extreme case, which may be met by another. Suppose the President, without any necessity, orders the removal from a place of safety to a place of hazard? If there be danger that a Secretary may neglect his duty, there is equal danger that a President may abuse his authority. Infallibility is not a human attribute. And there is more security for the Public in holding the Secretary of the Treasury to the strict performance of an official duty specially assigned *to him*, under all his official responsibility, than to allow the President to wrest the work from his hands, annihilate his responsibility, and stand himself practically irresponsible. It is far better that millions should be lost by the neglect of a Secretary of the Treasury, than to establish the monstrous principle that all the checks and balances of the Executive Government shall be broken down, the whole power absorbed by one man, and his will become the supreme rule. The argument which I am combatting places the whole Treasury of the nation at the mercy of the Executive. It is in vain to talk of appropriations by law, and the formalities of warrants upon the Treasury. Assuming the argument to be correct, what is to prevent the execution of an order from the President to the Secretary of the Treasury to issue a warrant, without the sanction of a previous legal appropriation, to the Comptroller to countersign it, to the Register to register it, and to the Treasurer to pay it? What becomes of that quadruple security which the precaution of the law provides? Instead of four substantive and independent wills, acting under legal obligations, all are merged in the Executive vortex.

But there was, in point of fact, no cause, none whatever, for the measure. Every fiscal consideration (and no other had the Secretary or the President a right to entertain) required the deposites to be left undisturbed in the place of perfect safety where by law they were. We told you so at the time. We asserted that the charges of insecurity and insolvency of the bank were without the slightest foundation. And time, that great arbiter of human controversies, has confirmed all that we said. The bank, from documents submitted to Congress by the Secretary of the Treasury at the present session, appears to be able not only to return every dollar of the stock held in its capital by the Public, but an addition of eleven per cent. beyond it.

Those who defend the Executive act have to maintain not only that the President may assume upon himself the discharge of a duty specially assigned to the Secretary of the Treasury, but that he may remove that officer, arbitrarily, and without any cause, because he refused to remove the public deposites without cause.

My mind conducts me to a totally different conclusion. I think, I solemnly believe, that the President "assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both," in the language of the resolution. I believed then in the truth of the resolution, and I now in my place, and under all my responsibility, reavow my unshaken conviction of it.

But it has been contended on this occasion, as it was in the debate which preceded the adoption of the resolution of 1834, that the Senate has no right to express the truth on any question which, by possibility, may become a subject of impeachment. It is manifest that if it may, there is no more usual or appropriate form in which it may be done than that of resolutions, joint or separate, orders, or bills. In no other mode can the collective sense of the body be expressed. But *Senators* maintain that no matter what may be the Executive encroachment upon the joint powers of the two Houses, or the separate authority of the Senate, it is bound to stand mute, and not breathe one word of complaint or remonstrance. According to the argument, the greater the violation of the Constitution or the law, the greater the incompetency of the Senate to express any opinion upon it! Further, that this incompetency is not confined to the acts of the President only, but extends to those of every officer who is liable to impeachment under the Constitution. Is this possible? Can it be true? Contrary to all the laws of nature, is the Senate the only being which has no power of self-preservation—no right to complain or to remonstrate against attacks upon its very existence?

The argument is, that the Senate, being the constitutional tribunal to try all impeachments, is thereby precluded from the exercise of the right to express any opinion upon any official malfeasance, except when acting in its judicial character.

If this disqualification exist, it applies to all impeachable officers, and ought to have protected the late Postmaster General against the resolution, unanimously adopted by the Senate, declaring that he had borrowed money contrary to law. And it would disable the Senate from considering that Treasury order which has formed such a prominent subject of its deliberations during the present session.

And how do Senators maintain this obligation of the Senate to remain silent and behold itself strip, one by one, of all its constitutional powers, without resistance, and without murmur? Is it imposed by the language of the Constitution? Has any part of that instrument been pointed to which expressly enjoins it? No, no, not a syllable. But it is attempted to be deduced by another far-fetched implication. Because the Senate is the body which is to try impeachments, therefore *it is inferred* the Senate can express no opinion on any matter which may form the subject of impeachment. The Constitution does not say so. That is undeniable; but Senators think so.

The Senate acts in three characters, Legislative, Executive, and Judicial, and their importence is in the order enumerated. By far the most important of the three is its legislative. In that, almost every day that it has been in session from 1789 to the present time, some legislative business has been transacted; whilst, in its judicial character, it has not sat more than three or four times in that whole period.

Why should the judicial function limit and restrain the legislative function of the Senate, more than the legislative should the judicial? If the degree of importance of the two should decide which ought to impose the restraint, in cases of conflict between them, none can doubt which it should be.

But if the argument is sound, how is it possible for the Senate to perform its legislative duties? An act in violation of the Constitution or laws is committed by the President or a subordinate executive officer, and it becomes necessary to correct it by the passage of a law. The very act of the President in question was under a law to which the Senate had given its concurrence. According to the argument, the correcting law cannot originate in the Senate, because it would have to pass in judgment upon that act. Nay, more, it cannot originate in the House and be sent to the Senate, for the same reason of incompetency in the Senate to pass upon it. Suppose the bill contained a preamble reciting the unconstitutional or illegal act to which the legislative corrective is applied, according to the argument, the Senate must not think of passing it. Pushed to its legitimate consequence, the argument requires the House of Representatives itself cautiously to abstain from the expression of any opinion upon an Executive act, except when it is acting as the grand inquest of the nation, and considering articles of impeachment.

Assuming that the argument is well founded, the Senate is equally restrained from expressing any opinion which would imply the innocence or the guilt of an impeachable officer, unless it be maintained that it is lawful to express praise and approbation, but not censure or difference of opinion. Instances have occurred in our past history, (the case of the British minister, Jackson, was a memorable one,) and many others may arise in our future progress, when, in reference to foreign Powers, it may be important for Congress to approve what has been done by the Executive, to present a firm and united front, and to pledge the country to stand by and support him. May it not do that? If the Senate dare not entertain and express any opinion upon an Executive measure, how do those who support this expunging resolution justify the acquittal of the President which it proclaims?

No Senator believed in 1834 that, whether the President merited impeachment or not he ever would be impeached. In point of fact he has not been, and we have every reason to suppose that he never will be impeached. Was the majority of the Senate, in a case where it believed the Constitution and laws to have been violated, and the liberties of the People to be endangered, to remain silent, and to refrain from proclaiming the truth, because, against all human probability, the President might be impeached by a majority of his political friends in the House of Representatives?

If an impeachment had been actually vested by the House of Representatives, there is nothing in the Constitution which enjoins silence on the part of the Senate. In such a case, it would have been a matter of propriety for the consideration of each Senator to avoid the expression of any opinion on a matter upon which, as a sworn judge, he would be called to act.

Hitherto I have considered the question on the supposition that the resolution of March, 1834, implied such guilt in the President that he would have been liable to conviction on a trial by impeachment before the Senate of the United States. But the resolution, in fact, imported no such guilt. It simply affirmed that he had "assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both." It imputed no criminal motives. It did not profess to penetrate into the heart of the President. According to the phraseology of the resolution, the exceptionable act might have been performed with the purest and most patriotic intention. The resolution neither affirmed his innocence, nor pronounced his guilt. It amounts, then, say his friends on this floor, to nothing. Not so. If the Constitution be trampled upon, and the laws be violated, the injury may be equally great whether it has been done with good or bad intentions. There may be a difference to the officer, none to the country. The country, as all experience demonstrates, has most reason to apprehend those encroachments which take place on plausible pretexts, and with good intentions.

I put it, Mr. President, to the calm and deliberate consideration of the majority of the Senate, are you ready to pronounce, in the face of this enlightened community, for all time to come, and whoever may happen to be the President, that the Senate dare not in language the most inoffensive and respectful, remonstrate against any Executive usurpation, whatever may be its degree or danger?

For one, I will not, I cannot. I believe the resolution of March, 1834, to have been true: and that it was competent to the Senate to proclaim the truth. And I solemnly believe that the Senate would have been culpably neglectful of its duty to itself, to the Constitution, and to the country, if it had not announced the truth.

But let me suppose that in all this I am mistaken; that the act of the President to which exception was made was in conformity with the spirit of our free institutions and the letter of our Constitution and

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The New-Yorker.

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