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TERMS.

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struck out, and in lieu thereof a clause was of removal from the constitution, the act as

PRESIDENT'S PROTEST. (Concluded.)

t passed has always been considered as a full expression of the sense of the Legislature In this view of the resolution it must certainly be regarded, not as a vindication of on this important part of the American conany particular provision of the law or the

stitution. Here then we have the concurrent authorititution, but simply as an official rebuke or condemnatory sentence, too general and indefinite to be easily repelled, but yet suffity of President Washington, of the Senate, and the House of Representatives, numbers ciently precise to bring into discredit the conduct and motives of the Executive. But of whom had taken an active part in the convention which framed the constitution, whatever it may have been intended to acand in the State conventions which adopted complish, it is obvious that the vague, geneit, that the President derived an unqualified ral and abstract form of the resolution, is in power of removal from that instrument it perfect keeping with those other departures self, which is 'beyond the reach of Legisla rom first principles and settled improvetive authority.' Upon this principle the Government has now been steadily adminisfrom first principles and settled implove-ments 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, tered 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 which had established in statutes, in bills of Bureaus.

rights, in sacred charters and in constitutions The Treasury Department, in the discus of government, the right of every circen to sions of 1789, was considered on the same a notice before trial, to a hearing before con-footing as the other Executive Departments, viction, and to an impartial tribunal for the and in the act establishing it, the precise ciding on the charge, have here waged in woods were incorporated indicative of the wain.

If the resolution had been left in its orig al 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 An assistant Secretary of the Treasury was 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 su stituted, and as these were the "Excentive proceedings in relation to the public revenue," principally referred to in the course of the discussion, they will do bitess be generally regarded as the acts intended Congress can be found in the constitution, or of his important trust. to be denoused as "an assumption of au-thority and power not conferred by the con-

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 exercis-ed 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

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 vacan-ey," the chief clerk should during such va cancy have charge of the papers of the office. This change having been made for the cince. press purpose of declaring the sense of Con-gress, that the President derived the power

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 directing that the public moneys shall be kept in any particular place or places. From the origin of the Gov-ernment to the year 1816, the statute book was wholly silent on the subject. In 1789 a treasurer was created, sub-ordinate to the Secretary of the Trea-sury, and through him to the President He was required to give bond, safely

of Congress, from 1789 down to 1816; and although many banks were selec-ted and discharged, and although a pertion of the moneys were first placed in the State Banks, and, then in the grin transferred to the State Banks, oo legislation was thought necessary by Congress, and all the operations were originated and perfected L, Ex-contine pointing and removing those officers; by Congress, and all the operations were originated and perfected L, Ex-contine authority. The Secretary of the Treasary, responsible to the President, the Treasary is one of those officers; his power to remove the Secretary from the constitution, which appear in the act establishing the Department of Foreign Affairs created, and it was provided that he should take charge of the books and papers of the lepartment," "whenever the Secretary shall be removed from office by the President of the United States," The Secretary of the Treasury, responsible to the President, the Treasury is one of those officers; Treasury being appointed by the President and with his approbation, made con- th t the custody of the public property and being considered as constitutionally retracts and arrangements in relation and money is an executive function, movable by him, it appears never to have to the whole subject matter, which occurred to any one in the Congress of 1739 or since, until very recently, that he was thus entirely committed to the di- always been exercised through the Sewas other than an executive officer, the mere rection of the President, under his reinstrument of the Chief Magistrate in the sponsibilities to the American People, execution of the laws, subject, like all other and to those who were authorised to Heads of Departments, to his supervision and impeach and punish him for any breach

annears to have suggested inelf to those The act of 1816, establishing the who organized the Government. There are Bank of the United States, directed

to any equivocal testimony. The doc-uments of the Treasury Department show that the Secretary of the Treasury did apply to the President, and ob-The Congress of the United States tain his approbation and sanction to have never passed an act imperatively the original transfer of the public deposites to the present Bank of the U-

palpable numpation of Executive power, sub-versive of the form is well as the fundamental property be in the form of arms, munitors of war, and supplies, or is gold and sliver, or bank notes? Now can be preceived—none is believ-ed to exist. Congress cannot, therefore, take out of the countrol, even in re-lation to the deposites of the public money. Nor on this point are we left the countrol testimony. The docbe silently acquiesced in, we may rea- before the Senate. sonably apprehend that it will be followed, at some future day, by an attempt at actual enforcement. The Senate may refuse, except on the condition series of resolutions in the following that he will surrender his opinions to words:

Sate Banks at Chilicothe, Cincin-sury, 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 or places in which they sloudd be kept. By reference to the practice of the Government, it is foand, that from its first organization, the Secretary of the Treasury, acting under the supervision of the President, designated the places in which the supervision of the Resident, designated the places in which the supervision of the Creasury to obtain for his acts the public moneys should be kept, and specially directed all transfers from place to place. This practice was continued, with the silent acquiescence of Congress, from 1789 down to 1816; and although many banks were sciee-of Congress, from 1789 down to 1816; and although many banks were sciee-

have called forth the resolution of the words: Senate, seem to impose upon me an the the custody of the public property and money is an executive function, which, in relation to the money, has always been exercised through the Se-cretary of the Treasury and his subor-dinates; that in the performance of these duties, he is subject to the super-vision and control of the President, and in all important measures having rela-tion to them, consults the Chief Ma-tion to them, consults the Chief Ma-The therefore due to the occasion that a contract of the product o where than in the Bank of the United States and its branches. It is not to be considered that this provision in a-ny 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 his constitutional obliga-tion to "take care that the laws be faithfully executed." On the contra-ry, it increased his responsibilities, by adding another to the long list of laws which it was his duty to carry into ef-fect. The Secretary did not concur in that in that attempt, was fully disclosed; 5. Resolved. That the Governor be re-opinion, and declined giving the necessary order and direction. So glar-ing were the abases and corruptions of the Bank, so evident its fixed pur-with the view of making another vigo. recter throughout. The value discussion recises an unanimous concurrence in the principle that the scenary of the Treasury with a executive officer, and the strug get of the muserity was to restrict his power as such. From that time down to the pre-sent, the Scenetary of the Treasury, the ence, it would seem that the version of the stronger in relation to the for-particle as model that it was the sis work. From that time down to the pre-sent, the Scenetary of the Treasury, the ence, it would seem that the version stronger in relation to the for-particle as model that it was the particle as model that it was the particle as model that it was the particle as model that it was the is constructed and related as on the same footing with corresponding grades means. The cost of the public property and the subscrute as the opporty, and the subscrute as the the other scenarios of the public interest and the subscrute as the footing treated as the subscrute as the opporty, and the subscrute as the opport, and the stronger in relation to the for-ments. At the time the removal was and the subscrute as the footing treated as the subscrute as the opport, and the stronger in the public interest and the subscrute as the subscrute from instability to order and direct the reasary of the public money to be made obtact as the public from of the subscrute from instability to order and direct the reasary of the public from as the public interest and the safety of our institutions and the stronger. The the subscrute from instability to order and direct the reasary of the subscrute from as the subscrute from instability to order and direct as and the safety of our institutions and the stronger from the subscrute from as the subscrute for in stronger as the down of the subscrute from as the subscrute from the subscrute from instability to order and direct as the assoch stronger as the down of the subscrute from the subscrute from instability to order and direct from the subscrute for in stronger as the down of the subscrute from t the United States, whenever supercised is supercised to act, he would neglect or re-fused to do what his superior in the the fullowing words: Where the the present is believe that the these to execute the law. What would then be the sworn duty of the President? Could be say that the constitution, and whose generous sacrifices of interest and feeling, when in our occupies, ought forever to have sacrifices of interest and feeling, when in ow occupies, ought forever to have shielded his motives from suspicion, and his character from reproach. In the service was specially and his character from reproach. In the service was any such limitation to his obligation prescribed in the Constitution? Whether he is not equally bound to take care that the laws be faithfully executed, whether they impose duites on the highest officer of State, or the lowest subordinate in a spot of the Departments? Might he not be told, that it was for the sole part former and the serve. If the principates to the bewest, faith fully to perform the serve set of the sole part former to the serve to the lowest faithfully to perform the serve set of the sole part former to the serve set of the sole part former to the sole part of the president of the bey to be soled to the bowest, faith fully to perform the sole part of the sole and the fully to perform the services required to the sole and the fully to perform the services required to the sole and the fully to perform the service required to the sole and the fully to perform the service required to the sole and the the sole part of the sole and the sole part of fully 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 induced to act, in a matter of official my duty, to refer. It appears by the intertwenty-six Senators who voted for the late

The two branches of the Legislature

Whereas the present crisis in our public sflairs

States whose appointments are not in the which distinctly evinces the unanimous con-constitution otherwise provided for," with a corresce of the first Congress in the princi provise that the appointment of interior off- ple that the Treasury Department is wholly cers may be vested in the President alone, executive in its character and responsibiliin the Courts of Justice, or in the Heads of ties. A motion was made to strike out the provision of the bill making it the duty of the Departmen's.

The executive power vested in the Senate Secretary to digest and report plans for the is neither that of 'nominating' nor 'appoints' ing." It is merely a clicck upon the executive power of appointment. If individuals are proposed for appointment by the President, by them deemed incompetent or unworthy, influence and power in Congress. The mothey may withhold their consent, and the tion was not opposed on the ground that the appointment cannot be made. They check Secretary was the officer of Congress and feet. action of the Executive, but cannot, in responsible to that body, which would have

relation to those very subjects, set 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 guaran. tee 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 the same fouring with corresponding grades is no longer willing to be responsible for their acts. In strict accordence with this principle, the power of removal which, like that of niment, is an original executive power, is left unchceked by the constitution in relation to all executive officers for whose conduct the Président is responsible, while it is taken from him in relation to judicial adicers, for whose acts he is not responsible. In the government from which many of the fundamental principles of our system are derived, the Head of the Executive Depart. ment 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 chavior. 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

It would be an extraordinary result, been conclusive if admitted, but on other if because the person charged by law grounds which conceded his executive chawith a public duty, is one of the Secracter throughout. The whole discussion

every species of property belonging to the United States, (excepting"that which is in the use of the several co-ordinate depart. ments of the Government as means to aid them in performing their appropriate func-tions,) is in charge of officers appointed by the President, whether it be lands, or buildings, or merchandize, or provisions, or cloth-ing, for arms and munitions of war. The superintendents and keepers of the whole ars appointed by the President, responsible m, and removable at his will. to h

Public money is bot a species of public pro-

the same purpose. The same purpose. The same terms of the reason is an origination the reason is an origination of the stream is an origination of the terms with any stream of the reason is an origination of the stream is anoorigination origination origination origination originatis perty. It eanot be raised by taxation or cus-tons, nor brought into the treasury in any other

But here, also, we have a cotempo- tive Department would be as effectu- who had supported it in delaye, in its raneous construction of the act, which ally destroyed; and its power as effect original form, were one of the Senators