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I WILL TEACH YOU TO PIERCE THE BOWELS OF THE EARTH AND BRING OUT FROM THE CAVERNS OF THE MOUNTAINS, METALS WHICH WILL GIVE STRENGTH TO OUR HANDS AND SUBJECT ALL NATURE TO OUR USE AND PLEASURE.—DR. JOHNSON.

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PRESIDENT'S PROTEST.

MESSAGE OF THE PRESIDENT OF THE UNITED STATES TO THE SENATE.

(CONCLUDED.)

The act of 1816, establishing the Bank of the United States, directed the deposits 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 deposits 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 his 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 deposits 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 the 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 service 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 powers of this Government? The principles implied in these questions appear 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 the 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 obtained his approval 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 transfers 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 approval of the President, and by his authority. They show, that upon all important questions appertaining to his department, whether they related to the public deposits 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 U. States; and, 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 laws, 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 obligations 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 deposits; 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 resolutions of the Senate, as originally framed, and as passed, if it refers to these acts, pre-supposes 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 more 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 effectually destroyed, and its power as effectually transferred to the Senate, as if that had been accomplished by an amendment to 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 opinion 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 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 coordinate 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 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 motive, 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 nearly 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 journal 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 United 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 trust reposed in it has 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 deposits, from the Bank of the United States, as well as in the manner of their removal, we recognize 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 deposits 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 deposits 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 is 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 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 deposits.

"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 United 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 deposits 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 United States; to sustain the Administration in its removal of the public deposits; 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 journal of the Senate.

In thus referring to the resolutions and instructions of the State Legislatures, I disclaim and repudiate 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 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 doctrines which denies to the President the power of supervising, directing, and removing the Secretary of the Treasury, in like manner with other Executive officers, would soon be manifest in practice, were the doctrines 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 there is 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 consequence 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 insure 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, creditable 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 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, 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 broken into separate communities.

Far be it from me to charge, or insinuate, that the present Senate of the United States intended, 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 those who may be called to succeed me in it; to the Representatives of the People and to 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 safeguards 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 their 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 and purposes 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 periled property, fame and life, in defence of the rights and privileges 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 to whom