Dec J. of State

No. 5.

EDITED AND PUBLISHED, WEEKLY, BY H. L. HOLMES.

TERMS-\$2 50 per annum, it paid in advance; \$3 if paid at the end of six months; or §3 50 at the expiration of the year. Advertisements inserted at the rate of sixty cents per square for the first, and thirty cents for each subsequent inser-

Letters on business connected with this establishment, must be addressed—H. L. Holmes, Editor of the North-Carolinian, and in all cases post-paid.

Report of the Minority of the Select Committee,

[Concluded.]

To allow either House of Congress, by its action alone to direct its scrutiny into the conduct of this or that particular officer without charge, allegation, or suggestion of misconduct, would be to usurp an authority not recognized by the constitution, and liable in high party times to great abuse. It would be an arbitrary exercise of power of no ordinary character. Similar to the sic volo of the Roman lady, it would be the concentrated essence of despotism. For the purpose of testing this great principle, and ascertaining the sense of the committee on it, one of the undersigned submitted the following resolu-

"Whereas, doubts appear to exist as to the power conferred on the committee by the resolution of the House of the Representatives; and, as it is important that a distinct expression of opinion should be given on the subject, for the information of the House, under whose authority we act, and the people of the United States,

"Be it resolved That it is the deliberate opinion of this committee that the authority conferred on them, by the resolution aforesaid, is limited in its character; that it is confined to the investigation of the late defalcations, and to the actings and doings of the officers of the Government therein contained, against whom any charge is made, or suspicion rests; but that they are not authorised by virtue of the said resolutions, to call upon all or any of the officers aforesaid, to exhibit their books, papers, accounts, and correspondence, unless some foundation is laid for the inquiry, by a distinct charge, general rumor, or the suggestion of some member of the committee, believe there is misconduct in the management of the office; that any other practice would be dangerous to the rights of individuals, arbitrary in its character, and in direct conflict with the genious and principles of our Republican Government. The committee, so far from considering such a power was authority, by the House of Representatives alone, would be a violation of the constitution, and the common principles of justice." Which was rejected.

At a subsequent meeting of the committee, when the reading of the journal was in progress, the mover of the resolution proposed to amend it, by striking out the last sentence, and substituting the following:

"The committee, so far from considering any other power was intended to be conferred, reasonable request. are of opinion, the delegation by the House of Representatives alone, of an unlimited au thority, to call on all officers, without restriction, would be a violation of the constitution, and the principles of common justice."

"It is evident the object of the mover was not to change the nature of the proposition, but to express, in more distinct language, the idea intended to be conveyed. This reasonable request was inexorably refused, and the the journal.

It is submitted, without further commentary, to the calm judgment of the House, and the intelligence of the people. The "latter being seldom wrong in their opinions, in their sentiments, never."

By the rejection of that resolution, and the course pursued by the majority of the committee, it was manifest to a common observer, the case of Swartwout and Price was to be, partially, abandoned, and a new field of discovery opened an entered upon.

The undersigned, fully impressed with this idea, deemed it a duty they owed to the House and the country, to have a distinct expression of opinion by the committee, on the subject of the defalcations of Swartwout and Price, constituting, as the undersigned supposed the principal object of the House in raising the

For this purpose, one of the undersigned submitted the following resolution:

"Whereas, under the resolution of the House of Representatives, one of the great objects was the investigation into the cause of the defalcation of Swartwout and Price; and as the visit of the committee to New York was to attain that object, the persons and papers being there to enable them to make the necessary examination into the said causes; and as the public mind has been greatly excited on the subject, and looks to this comnittee for a thorough investigation into the ctings and doings of the persons above men-

"Be it resolved, That this committee will roceed with all possible despatch to investigate the case of Swartwout, in which they have of Price, and give that a thorough investiga-

Which resolution was laid on the table.

The call under the resolution before alluded , was made on Mr. Hoyt, the present collector, or papers and documents in relation to his fficicial conduct. He responded in a written ommunication, and among other matters, askd if the committee considered him as a default-, and embraced in the resolution of the ouse of Representatives. The replication as by a resolution in the following words:

"Resolved, That in response to the letter f Mr. Hoyt of the 28th inst. the chairman be nstructed to call upon him again, to furnish his committee with all letters not heretofore furnished, from the several officers of the Treasury Department, to the late and present collector of New York, and from said collecors to said officers of the Treasury Department, since the first day of January, 1837, up the 17th day of January, 1839; and also with all orders and instructions from said offi-

The North-Carolinian.

"Character is as important to States, as it is to individuals; and the glory of the State, is the common property of its citizens."

Vol. I.

cers to said collectors, and the answers of said collectors thereto, if any, not heretofore furnished, since the first day of January, 1837, up to the 17th day of January, 1839.

"And be it further resolved, That this committee cannot recognise any authority or right whatever, in any collector, receiver, or disburser of the public money, to call upon 'the committee,' or 'any of its members,' to prefer or disayow a charge of his being a defaulter,' before such officer sends 'the correspondence' of 'his office,' when required under the authority of the House of Representatives, 'to send for persons and papers,' to enable its committee to inquire into and make report of any defalcations among collectors, receivers, and disbursers of the public money, which may now exist. Nor can this committee, or 'any of its members,' report whether Mr. Hoyt is or is not now a defaulter, until, by examination of the 'persons and papers,' for which it has sent and will send, it shall discover 'who are the defaulters, and the amount of defalcations, the length of time they have existed, and the causes which led to them.' And when the committee shall have found the facts embraced by these inquiries, or closed its investigation, it will make report thereof to the House of Representatives."

By this resolution, the House will perceive the opinion entertained by the majority of the committee, as to the extent of their power, and the mode and manner of carrying it into

The doctrine here avowed is, that an officer of Government, against whom no charge is made of defalcation, and no suspicion express ed, is called upon to exhibit the papers of his office; not in compliance with the requisitions of existing laws, but the ipse dixit of a committee professing to act under the order of the House of Representatives alone, and who say to him "they cannot report whether he is or is not now a defaulter, until, by examination of upon his responsibility, that there is cause to the 'persons and papers,' for which it has sent and will send, it shall discover who are the

If the political doctrine contained in the resolution is the doctrine of the House of Representatives it is important it should be known to the people. If it be wrong, they will put their mark of disapprobation on it. If it is ever intended to be conferred on them, are of right, they will give it the sanction of their opinion that the exercise of such an unlimited opinion. But until they do give it their sanction, the undersigned will consider the doctrine at variance with every principle of liberty and individual right.

> Mr. Hoyt complied with the resolution, and furnished the papers; but demanded of the committee, as an act of justice and matter of right, that they would go into a thorough investigation of his official conduct prior to their departure from New York. The House will see hereafter what attention was paid to this

During the investigation a practice was oursued in the examination of two and so times a greater number of witnesses at one and the same time, embarrassing to the committee, and calculated to produce great confusion. Also a practice of allowing interrogatories to be given to witness, with the privilege of answering them at their leisure, and out of the committee room. The injurious effect of the latter practice was strongly proposition itself not allowed to be inserted on exemplified by permission given, under resolution, to David S. Lyon, who was afterwards proved to be a dismissed officer of the customs, and stood in the relation of a public prosecutor of Jesse Hoyt, the collector, to take the question or questions home with him, to be answered next morning.

The resolution is in these words: "Moved, That David S. Lyon, a witness duly sworn, and now in attendance, and who states that he is in ill health, and unable longer to attend the committee this evening, be permitted to take away with him the first interrogatory propounded by Mr. Wise, and that he be allowed to draw up his answer thereto in writing, and bring the same to the committee for their consideration at the meeting to-

morrow morning." These practices, so novel and unprecedented, in the opinion of the undersigned, and so likely injuriously to affect the rights of all persons implicated in the investigation, it was deemed necessary to check, if possible, by a direct vote of the committee. One of the

undersigned moved the following resolution: "Whereas, The practice adopted by the committee, of examining two witnesses at the same time, is calculated to deteat the object of this investigation, and the just expectations of the country, as well as to produce great embarrassment and inconvenience to the members, and particularly when under the rule of examination, one member is compelled to examine two witnesses at the same time; and whereas, the injurious effect of this practice is strongly exemplified by the examination at the same time, and in presence of each other, of two witnesses, to wit: Henry Ogden and Joshua Philips, cashier and assistant cashier, made considerable progress; and when that is complete and ended, they will take up the case to testify to the actings and doings of the cashier department: be it therefore

"Resolved, That, hereafter, one witness alone shall be admitted into the committee room, whose examination shall be complete and ended before the introduction of another." The other resolution was in the words fol-

"Whereas, The practice of permitting witnesses to prepare their answers to interrogatories out of the committee room, and not in the presence of the committee, upon the suggestion of ill health, real or affected, is dangerous in its character and injurious to the rights of those implicated, as the conduct and manner of witnesses in giving their testimony are almost as important as the matter; and as the intention of the House of Representatives, from whom we derive our power, was to have

a fair, honest, and impartial investigation: "Be it resolved, That all and every witness in the course of this investigation, shall be sworn and examined in the committee room, and in the presence of the committee."

FAYETTEVILLE, SATURDAY, MARCH 30, 1839.

in all its forms.

The latter was rejected, a substitute being offered and adopted, as will be seen by reference to the journal; the latter laid on the table. These acts need no further observation; we give the text, the commentary can be applied by others. While on this branch of the subject there was another practice adopted by the

committee, which, in the opinion of the undersigned, affected the private rights of indi-viduals, inquiries, not as to defalcations, but the disposition by officers of the Government of their own money for party or political purposes, as will be seen by a question to, and answer of, — Depeyster, also a dismissed officer of the customs.

"Question 3. While you were connected with the custom house, do you know whether or not the officers of the customs were called upon to pay any part of their salaries, or any assessment or tax thereon, for party or political purposes? If yea, state whether you have ever, and when you have made any such payment, and state the motive upon which such payments were made.

"Answer. The weighers were called on to pay fifteen dollars each for the support of the elections, and when I declined, Mr. Vanderpool, the deputy surveyor, observed that I ought to consider whether my \$1500 per annum was not worth paying 15 dollars for.—
Under the impression that it was the price for my situation, I paid it. The above occurred during the last spring election for charter officers. During my holding office, for about five years, I was occasionally called on, but always declined until within the last two years."

In the pursuit of this object an occurrence took place in the committee room, which was deemed of sufficient importance to be spread upon the journal. The statement is in these

"Resolved. That the following facts be entered on the journal:

"Mr. Wise propounded to the witness, Abraham B. Vanderpool, the following question, to wit:

"Question 2. Do you know whether the officers of the custom house have been called on to contribute sums of money to party and political objects? What officers have been so called upon; by whom; for what amount; when did they contribute; if they refused; was any intimation given that their refusal might occasion their removal; what amount has been so contributed or collected; and for the support of what party at any one election?

"The witness took the interrogatory without objection to propounding the same, and proceeded to write his answer thereto on the paper attached to the question, and had written the following, to wit:

tom house to have been called on for'-when Mr. Owens, member of the committee, in-terposed and informed the witness that he was not bound to answer any interrogatory relatng to his private affairs; and thereu Foster, another member of the committee, objected to propounding the interrogatory. The witness here commenced to tear off what he had written before objection was made to the interrogatory. Mr. Wise prevented him from doing so by forbidding the act. Mr. Foster insisted that the witness had the right to tear off what he had written, and that it was not his answer until it was complete and handed in, and he asked the witness whether it was his answer, and he replied 'it was not.' And the committee having decided that the interrogatory should be propounded, the said question by Mr. Wise was again handed to the witness, and he returned the following: 4 decline to answer the second question.' The witness was then permitted to retire."

If the information given to the witness of his rights stood in need of justification or precedent, it is contained in the following statement of facts, which had previously occurred in the committee room:

Mr. Owens propounded to Mr. Joseph the fifth question.

The witness wrote his answer in the following words, to wit:

"He owed us a very large sum of money on account of these stock operations, as the revulsion of 1837 had occasioned a very great loss on the stocks we had, and which were sold after our failure by the parties who had them under hypothecation;" and handed the foregoing answer to Mr. Owens, who, after reading it, told the witness he had not answered the question fully, not having stated the amount of Swartwout's indebtedness. Whereupon, the witness replied, "that he would not wish to state that, as he had not his counsel here, and the amount was yet to be settled between him and Mr. Swartwout."

Mr. Wise then observed, in the hearing of the witness, that, as a judge in this case, he felt it to be his duty to say to the witness that he had a right to decline answering a question relating to his private affairs. The witness, after some conversation between Mr. Owens, Mr. Foster, and Mr. Wise, took back his answer, and added the following words:

"As to the amount, I do not think it neces sary to state it, as it as a matter of account has to be adjusted when we come to a settle- been injured by him in the discharge of his ment with him."

served to the rights and privileges of witness- stake; and say, "if these things can pass us es under examination before a committee regulated by no known laws, but governed by the dictate of an arbitrary discretion.

In the opinion of the undersigned, the question propounded to the witness had relation to his private affairs. The witness Vanderpool answered but in part; but, as soon as he was informed of his right and obligations as a witness, he refused to complete it, and said it was not his answer, and wished to destroy it. It was nevertheless retained, as appears by the statement above referred to .own commentary; and, without further obser- secutive hours.

vation it is submitted to the House and the

Whether a committee of this House, appointed under its extraordinary and discretionary parliamentary power, undefined and undefinable, is authorized to go into the investigation of the private affairs of officers of the General Government, in relation to their actings and doings as citizens of the State in which they reside, and having reference to their domestic elections, (the question is general, and Depeyster refers to the charter of elections) is a subject of grave consideration. It assumes an attitude that places it beyond the reach of mere party movements. It strikes at cardinal principles dear to the American people. It is the assumption of power not warranted by the limited constitution, under which the General Government lives, breathes and has its being. The doctrine of State Rights is a mere mockery to the understanding, ir the principle is warranted and acted upon. Admit it, and the acceptance af office under the General Government ipso facto denationalizes the individual as a citizen of New York. The right of inquiry involves the right to pass laws. If Congress can say the officer shall not have the right to use his money for one purpose, they may say he shall not use it for another; they may say he shall not attend the polls; and, putting the cap-stone to his political pillar, they may say he shall not vote at any election. Sanction this principle and you have a consolidated government

This doctrine, like others akin to it, may be maintained by specious argument and ingenuity. But the people of this country, as they have heretofore done, in all the proceedings, affecting their lives, their property, or political rights, will not be guided by the refinements of learning, but consult their understanding, and be governed by the dictates of common sense. The evidence on the subject of money spent for party purposes has reference to Swartwout as collector. The general conclusion derived from it is, that the practice is not confined to one party, but pervades all parties in New York. That it is the general, if not universal practice, the best evidence is afforded by the witness, David S. Lyon, who, according to his own admission, belonged to both parties, and is well qualified to testify to the fact.

That the payment was not compulsory but voluntary, is evident from the answer of Depeyster, who says, for three years out of five, he contributed nothing, and there is no evidence he was proscribed by Swartwout.

With a view of putting a stop to such inquiries, and to enable witnesses, particularly grant man, to know their righ gations, one of the undersigned offered the

following resolution:
"Resolved, That every witness, upon being called to testify, shall be informed by the chairman that he is not obliged to answer an question upon his private affairs, or the private affairs of others."

Which was rejected. The examination of this witness, David S. Lyon, an officer who had been discharged by Mr. Hoyt from the custom house, had not progressed far before it was evident his intention was to criminate the collector. The undersigned, considering the plainest principles of justice were violated by allowing the character and reputation of an important officer of the Government to be attacked as it were in the dark, without his knowledge and without the means of ascertaining the charges made against him, one of them moved the following resolution:

"Resolved, That Mr. Hovt, collector, be furnished by the clerk, with copies of all the interrogatories and answers of David S. Lvon, a witness examined in this investigation as far as he has made answers to them, and having relation to the conduct of said Jesse Hoyt.

Which was adopted.

But this being considered too great an indulgeace, a reconsideration was moved, and carried, and an amendment offered as follows:

"Resolved, That Jesse Hoyt, the collector of New York, be forthwith summoned as a witness, and that before he be examined the interrogatories submitted to David S. Lyon, a witness examined this morning, and his answer thereto, be read to him if desired, or he be allowed to read them, and that he have liberty to attend the committee during the examination of any witness wi may be called upon to testify concerning his official con-

The amendment was adopted, and the re solution as amended, was voted for by the undersigned as a dernier resort, or the same would have been lost.

They beg leave to call the attention of the House and the country to this amendmentto this boon given to Mr. Hoyt, in his position of collector, surrounded as he was by open and secret enemies, in the shape of officers discharged by him under an imperious sense of duty to the public and himself, from their places in the custom house, and foreign between Mr. Swartwout and ourselves, and importing merchants, who fancied they had duty as collector. They beg the house and The subject is calculated to attract the pub- the country to look at it in its two fold aspect lic eye and produce reflection. It affords a as a subpæna and as an indulgence given to remarkable instance of the course pursued by an American citizen, who had his reputation, the majority of the committee; the respect ob- dearer to an honorable man than life itself, at like summer clouds, and not attract our spe-

cial wonder. Mr. Hoyt was summoned to appear forthwith, not as an ordinary witness, but in the double character of a witness and party accused. For rapidity of movement and quickness of execution, it was more like a warrant than a subpœna. It was no sooner served than Mr. Hoyt was in the committee room Lyon's testimony, as far as it had gone, was read to him, and he was instantly placed in the crucible of one of the members of the The whole proceeding carries along with it, its committee, who examined him for many con-

We know not how others felt at the scene passing around them; but for ourselves, it was a subject of deep humiliation, and has left an impression on the memory not easily erased. In the progress of the investigation into the officeial conduct of Mr. Hoyt, intimations were thrown out occasionally in the committee room, that the time had nearly arrived for the departure of the committee from N. York. These intimations were warnings not to be neglected. The evidence against Mr. Hoyt was in manuscript, though not printed; it would, as a matter of course, appear on the journal. All that he had to oppose to it was his own testimony, and that of one or two other witnesses. Justice demanded that he

should have a full and fair opportunity to in-

troduce rebuting evidence. Propriety and

the peculiarity of his position required this op-

portunity should be afforded him in the city of

New York. One of the undersigned therefore moved the following resolution: "By reference to the testimony of David S. Lyon, a witness examined in the course of this investigation, it appears charges of a curious character are brought against the present collector of New York, Jesse Hoyt, and intending to implicate Benjamine F. Butler, the district attorney of New York; and as justice requires the said Jesse Hoyt and Beniamin F. Butler should be heard fully in relation to the said charges, to enable them to spread upon the journal of this committee the evidence upon which their defence may be founded, so that as the journal contains the position, the antidote (if the testimony furnishes it) also should appear, for the instruction of the House and the information of the people

"Be it resolved, That the committee will not adjourn its setting in the city of New York, where the parties reside, and the evidence most likely to be found, until the said Jesse Hoyt and Benjamin F. Butler have full and ample time to prepare their defence (if anythey have) to the charges against them as officers of the Government of the United

of America-

It was moved to lay the resolution on the table until the examination of witnesses was completed, and was so laid on the table.

Mr. Hort himself under circumstances more particularly developed in the journal, sent a written communication making the same demand. It was neither read nor received. The ground upon which the rejection of this application was based, was the refusal of Mr. Hoyt to respond to a question propounded to him until his communication was acted on. On the same day, at half-past four o'clock, P. M. the following resolution

"Resolved, That the committee having accomplished its principal object, to inspect the books and papers in the custom-house, in coming to the city of New York, and desirous to inspect the books and papers in the Treasury Department, at the City of Washington, during the short period now left to the further prosecution of its inquiries, will adjourn this day, at 10 o'clock, r. M., to meet at twelve M., on Tuesday, the 12th instant, at the room of the Committee on Commerce, in the Capitol, and that the witnesses henceforth be summoned to appear at that place until further ordered." It was moved by one of the undersigned to

amend the resolution as follows:

"Whereas, in the course of the investigations of this committee, witnesses have been introduced and sworn, whose testimony has tended to charge the present collector of the port of New York with official misconduct; and whereas, the said collector has applied to the committee for permission to be heard in relation thereto, and to go into a full investigation thereof, by witnesses to be produced by him; and requiring that such full investigation may be had here, (in the city of New York,) where he alleges that the witnesses whom he wishes to introduce reside; and whereas, it is due to the fair and full administration of justice, that the said collector should have a full opportunity to rebut the charge thus made against him; and whereas, several witnesses are now under examination before this committee, the testimony of whom is not yet closed; and whereas, from the fact that several witnesses have been under examination at the same time, the testimony of several of whom is not now before the committee, either in manuscript or in print, (a portion of the manuscript being in the hands of the printer,) the committee have not at this time the means of ascertaining the effect to be given to that testimony, or the nature thereof, and individual members of the committee are consequently unable (until a better opportunity should be afforded to examine said testimony) to determine how much further the examination of the witnesses should proceed, or want other witnesses ought to be examined into the case, in order to a full understanding thereof; and whereas, we are satisfied that the full investigation of the facts connected with the defalcations charged can be better examined into

here than elsewhere—therefore "Resolved, That this committee will not fix upon a time for closing the testimony in New York, until the testimony is at an end; and that the fixing the time for adjourning to Washington, by a resolution passed before the testimony is ended, will be calculated to deprive the said collector of the right (which every man has when charged) of showing that those charges are unfounded, and of protecting his character from aspersion; will prevent the individuals of the committee from examining and cross-examining such witnesses as they may believe ought to be examined; will set a precedent entirely new and arbitrary in the administration of justice, dangerous to the rights and privileges of persons who may be charged with misconduct; will be deciding a question, the propriety of which the committee cannot possibly know, and will be well calculated to destroy in the public mind all confidence in the results to which this committee may arrive.

the committee will be in session, shall be from ten o'clock, A. M., till half past four o'clock, P. M., and from seven o'clock, P. M., till half past ten, P. M."

The amendment was rejected and the resolution adopted.

The determination therein expressed was carried into effect and the committee was adjourned at 10 o'clock at night, while one of the undersigned was in the act of examining the witnessess, David S. Lyon, and another in the act of submitting a proposition for subpænas for Hoyt's witnesses.

In consequence of these proceedings against Mr. Hoyt, the collector, but a very limited examination was made into the defalcations of Price, the district attorney. Few witnesses were examined, and few facts of any importance were elicited not already known. The undersigned however, regret a more thorough investigation was not made. They are under the conviction, from the general complexion of the testimony during the whole investigation, that Price acted a very important part in these frauds and pecula-

On the return of the committee to Washington they resumed their arduous duties .-Many witnesses were examined and documents referred to, all of which are incorporaled in the report and not of them at

The subjects of inquiry were similar to those in New York, both as to the extent and causes of the defalcations; and also the causes why the same were not known at an carlier date to the accounting officers at Washington. In pursuing the latter inquiry it was necessary to go into an investigation of the peculiar duties required to be performed under existing laws, practice, or usage, by the Secretary of the Treasury, the First Auditor, and the Comptroller. The undersigned will not increase the volume of this report, by including in it all the evidence on this subject in detail, but beg leave to refer to the journal. They deem if proper, however, for a full understanding of the duties belonging exclusively to these different officers of the Government, in relation to the auditing and settling of accounts, more particularly those appertaining to the customs, to call the attention of the House and the country to the following documents, and the questions and answers of witnesses examined upon the occasion, and in reference to this

The evidence of Mr. Young, chief clerk in the Treasury Department:

"Question 3. Will you state how the department of the Secretary of the Treasury is organised, legally and practically, in respect to settling the accounts of collectors and receivers?

"Answer. The power of adjusting and settling the accounts of collectors and receivers in respect to the revenue from duties and lands, is by law vested in the accounting officers of the Treasury. Collector's accounts are adjusted by the First Auditor, subject to the revision of the First Comptroller; accontats of receivers, by the Commissioner of the General Land Office, also subject to be revised by the First Comptroller. The Secretary of the Treasury has no power as to the settlement and adjustment of these accounts, further than to make allowances for the expenses of collection, in cases where there is no express legislation fixing allowance for such

That of Mr. Woodbury, Secretary of the Treasury, to the following:

"Question 11. Am I to understand that you have never considered it to be your duty, and that you have never discharged the duty, of superintending the reports of the First Auditor and the Comptroller, and that you did not know, and had no means of knowing, whether their reports were correct, or whether they had faithfully done their duty in adjusting and settling accounts?

"Answer in these words. The reports of the First Auditor, on accounts settled, are, by law and usage, made to the First Comptroller, and not to the Secretary of the Treasury; and the reports of the First Comptroller, on accounts settled, when the balance are considered suspicious, or proper for suit, are made directly to the Solicitor of the Treasury, and formerly to the law agent. Neither in those settlements, nor in those reports, does the Secretary of the Treasury interfere; and it has often been decided by the Attorney General, that no officer of the Government has a right to control or reverse the decisions of the accounting officers in making those settlements and reports."

Extract of a letter, dated office of the Attorney General of the United States, October 20th, 1823, signed William Wirt:

"In the original organization of the Treasury Department, (vol. 2. Laws U. S., p. 48,) the duties of the officers are designated specifically. There was one Auditor and one Comptroller. The duty of the Auditor is declared to be to receive all public accounts; and, after examination, to certify the balance, and transmit the accounts, with the vouchers and certificates, to the Comptroller, for his decision thereon; with this proviso, that if any person be dissatisfied therewith, he may, within six months, appeal to the Comptroller against such settlement. Here the right of appeal stops; there is no proviso for an appeal to the President. With regard to the Comptroller, it directs that it shall be 'nis duty to superintend the adjustment and preservation of all public accounts, to examine all accounts settled by the Auditor, and certify the balances arising thereon to the Register; no right of appeal, from his decision, to the President." Extract of a letter, dated Attorney General's Office, April 5, 1832, signed R. B. Taney:

"None of the acts of Congress, prescribing the mode of settling accounts, and ascertaining balances, look to a revision of the accounts by the President; except, perhaps, some laws passed for the relief of particular individuals, in which the power is expressly given. The general laws upon that subject seem to regard the decision of the Comptroller as final, and require the executive branch of the Government to act upon it accordingly."

The reasons why the defalcations were the sooner detected by the first Auditor and no Comptroller, to whom the duty of auditing and settling the accounts exclusively belonged, are given in their evidence, and the general conclusion derived from it is, that it arose from "Resolved, That hereafter the time which | the fraudulent manner in which Swartwout