acted by one session of a Legislature, may be repealed by another or during a subsequent session. What one resolves, another may rescind; and in like manner and on the same principle, one Legislature has as much and the same power over the Legislative records as another. In this respect, there is an obvious and important distinction between Legislative and Judicial bodies; a supposed analogy in whose functions and proceedings has, doubtless, misled the honorable Senator. After the adjournment or close of the term of a court, its proceedings, its orders, its judgments, its decrees, are final and irrevocable, so far as depends on its own action. It has no power, as legislative bodies have, at a subsequent term or session, to revoke, change or set aside any thing done by it at a preceding term or session. If error has been committed, that error can be corrected after the expiration of the term only by a higher tribunal, and certain limitations of time are prescribed within which even these appeals to higher tribunals must be prosecuted. So imperative is the maxim "*interest reipublicæ ut sit finis litium*," the public repose requires a limit to be fixed to judicial controversies. The nature of the legislative trust, however, being altogether different, and requiring that the exercise and expression of the public will should be, at all time, unfettered in matters of general concern, every Legislature, or session of a Legislature, has an unlimited control over the acts, proceedings, or

me, through the whole course of this discussion, by a supposed analogy between legislative and judicial proceedings, when, in fact, none exists Either from the force of professional habits, or from a hasty consideration of the subject, we have heard legislative journals or judicial records constantly confounded, when no two things can be more distinct. The security of private rights, titles to property, real and personal, repose on the judicial records of the country; and hence those records are everywhere guarded by proper penal enactments, against unauthorized interference, or any alteration whatever. But in regard to legislative journals, while they are necessarily confided to the sound discretion of the respective bodies whose duty it is to keep them, private rights and the security of property can never depend upon them. Important rights and interests may sometimes be claimed or acquired, I know, under legislative acts; but those acts, if laws, are never spread upon the journal; or if joint resolutions, they are enrolled and preserved, like the laws, out of, and independently of, the journal; and both are included in annual and authorized publications of the acts of Congress, which are received in evidence in all the courts, without further proof of authenticity.

Dismissing for the present, Mr. President, the authority of precedents, there are cases in which, upon the mere reason of the thing, I think all would agree that the right of this body to expunge an entry from its journal would be unquestionable. The constitution requires each House to keep a journal of its "*proceedings*;" that is, I presume, its proceedings as a constitutional body, acting in discharge of its appropriate constitutional functions. On this point, I beg leave to read a passage from Mr. Jefferson's Manual, the authority which es- a passage which seems to me to have an important bearing on the question we have been considering.

He says, "Where the constitution authorizes each House to determine the rules of its *proceedings*, it must mean in those cases, legislative, executive, or judiciary, submitted to them, by the constitution, or in something relating to these, and necessary towards their execution. But orders and resolutions are sometimes *entered in the journals* having no relation to these, such as acceptances of invitations to attend orations, to take part in processions, &c. These must be understood to be *merely conventional* among those who are willing to participate in the ceremony, and are, therefore, perhaps *improperly placed among the records of the House.*"

The result of this, as it seems to me, very clear and just distinction is, that nothing is to be regarded as properly a *proceeding* of either House of which a *journal* is required to be *kept*, but such acts as are done in discharge of the legislative, executive, or judicial functions respectively committed to them by the constitution. If any act be done by either House, not appertaining to the discharge of its constitutional functions, that act ought to be considered as extra-official, or, as Mr. Jefferson expresses it, as merely *conventional* among the members participating in it; consequently, not as a *proceeding* of the *body* to be entered on the journal, and if *properly placed* there, may be, and ought to be, taken off. With this distinction as my guide, let me suppose a case. Let us suppose that this body, imitating the irregular practice which has obtained in some of the State Legislatures, should, while still organized as a Senate, proceed to the nonination of a President of the United States: let us suppose that the very resolution which is now proposed to be expunged had been used, as it well might, as a preamble to such a nomination: let us suppose that the President had been in his first term, and then the preamble and nomination would have run thus—"Whereas Andrew Jackson, 'the President of the United States, has, in the late Executive proceedings in relation to the public revenue, assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both,' and has thereby proved himself unworthy of the confidence of a free people: Resolved, therefore, as the opinion of the Senate, that —— —— be, and is hereby, recommended to the good people of the United States, as the most fit and proper person to replace the said Andrew Jackson in the office of President," &c.

Suppose, Mr. President, that such a resolution had been adopted by the Senate, organized as it is at this moment, yourself in the chair, all the Senators in their seats, the Secretary at his table, the yeas and nays called upon it, and the resolution finally entered on the journal; could such a resolution, notwithstandin all the Senatorial forms which might have accompanied it, be considered as a *proceeding* of the *Senate* within the meaning of the constitution? Can any one doubt that there would be full authority in this body, when it should see the error and evil tendency of its act, to *expunge* such a resolution from its journal? If so, the question of *power* is settled; and the propriety only of its exercise would then depend upon a question, which I will not anticipate the discussion of, but which it may be well to suggest for the consideration of gentlemen, whether the resolution actually adopted on the occasion referred to, had more relation to the functions, legislative, executive, or judiciary, entrusted by the constiution to this body, than the resolution supposed, would have had.

While, therefore, Mr. President, I cannot doubt that there are cases in which an entry improperly placed upon our journals may be removed or expunged therefrom by actual erasure or obliteration, it must yet be borne in mind that no such obliteration or erasure is contemplated or required by the resolution now under consideration. It contemplates a *moral* not a *physical* expunction; an expunction of the *act*, without expunging the *record*. It seeks to deprive that *act* of all legal force and validity by applying to it the appropriate and significant language of parliamentary condemnation; and without erasing or obliterating the original entry of it on the journal, to show, in all time, that the resolution which has been revoked, annulled, and repudiated by the solemn judgment of the Senate and the nation; so that if in any future search for precedent, the act be found, its condemnation will be found inseparably associated with it. That this is the meaning and intention of the resolution, is shown by its own express declaration. But it is objected that, in that sense, the *term* expunged cannot be properly used. The question, then, becomes one of mere verbal criticism; and surely gentlemen will admit that it is the privilege of public bodies, as well as private individuals, to *define* the sense in which they use terms susceptible of a difference of signification. This is explicitly done by the resolution under consideration, and all objections founded on the assumption of a meaning, different from that in which the resolution interprets and defines its own language, must, of necessity, fall to the ground. But I willingly meet gentlemen on the question they have made, and maintain that the use of the word *expunge*, in the sense in which it is employed on the present occasion, is perfectly correct and consistent in itself, and justified by numerous parallel examples in the usage of language, both in juridical and parliamentary proceedings. I will call the attention of my learned colleague, (Mr. Leigh,) to a striking illustration furnished by the decisions of the highest courts in our own State, with which he is far more familiar than I can pretend to be. We all know, Mr. President, that in law, a deed is an instrument signed, *sealed* and delivered—that it is an essential and indispensable element in its legal character that it should be *sealed*, and that a *seal*, in the common understanding of the word, and as defined, I believe, by Lord Coke himself, is an impression made on wax or wafer; and yet the Court of [illegible] believe, the courts in a majority of the other States, decided on principles of common sense and common law, independently of any statutory provision on the subject, that a scroll or *black lines* drawn in any shape to suit the fancy of the drawer when *declared to be intended* for a *seal*, does, in fact, constitute a *seal*, and makes the paper to which it is attached, to all intents and purposes, a *sealed* instrument. Now, sir, if *black lines* can thus be made to constitute a *seal*, a thing which, in its ordinary sense, is formed of wholly different materials, surely they may be made to stand for *expunging*, which, in its strictest and most literal sense, demands only one of the same materials. In either case the declared intention stands in place of, and is equivalent to, the thing itself.

Again, sir, the term *cancel*, if not of precisely the same, is certainly of very analogous import, to the word *expunge*. Its etymological meaning, as well as that which is given to it in the legal definition, is to destroy a deed or other writing by drawing lines across it in form of *lattice work*. It is a principal branch of the common law jurisdiction of the Court of Chancery in England to *cancel* letters patent, (which are records,) obtained from the King upon false suggestions, or otherwise void. In both legal and popular phraseology we speak of a deed or will (also matters of record) being *cancelled* by the decree of a court. Now, sir, in these cases, I presume the Lord Chancellor does not actually draw lines in the form of lattice work on the letters patent which he *cancels*; nor does the court run the pen across the will or deed, which is cancelled and set aside by its decision. On the contrary, it is the decision of the chancellor or the decree of the court pronouncing the patent, will, or deed, to be fraudulent and void, which, *per se*, *cancels* it; that is, destroys its legal validity and effect, while leaving the record of its material existence unimpaired. In like manner, the word *expunge*, in the present instance, exerts its whole force on the legal *act* or precedent itself, without impairing the written entry of it upon our journal.

The illustrations furnished by familiar parliamentary proceedings, are not less forcible, while they have the advantage of coming still nearer home to us. When a motion is made and carried to *strike out* a clause or section of a bill, it is not, as I understand, actually stricken out or *erased* with the pen, but the portion voted to be stricken out is indicated by suitable marks, with a corresponding notation on the margin of the bill, or on a separate paper, and is considered as *stricken* out by the mere force of the vote. What is directed to be done is, by a parliamentary fiction, if you choose, considered as actually done. It is a singular coincidence that, in the earlier period of our parliamentary history, this very word *expunge* which has of late furnished such a fruitful theme of commentary, was habitually used instead of the phrase to *strike out*, in reference to amendments, and in the sense in which the latter phrase has just been explained. During the two first Congresses under the present constitution, I find that in the journal of this body especially, the word *expunge* is of constant recurrence; and that in proposing amendments to bills, the motion was to expunge, instead of *strike out*; and when carried, the clause or section which was the subject of the motion, was said to be *expunged*, though, as in the case of *striking out*, there was no actual *erasure*, which it is now contended the word necessarily imports. From its frequent recurrence in the same application, in Yates's report of the convention which formed the constitution, we are authorised to infer, that its use in the same sense was also familiar among the learned statesmen who composed that illustrious assembly.

But there is an example of its use which I cannot forbear to mention.

In the draft of the declaration of independence, this significant word is used in the very sense which is assigned to it on the present occasion. After stating the fundamental principle of the right of the people to alter or abolish their institutions a right, which prudence requires should not be exercised for light and transient causes, and accordingly, that all experience hath shown mankind more disposed to suffer, while evils are sufferable, than to abolish the forms to which they are accustomed, the following pregnant sentence occurs:

"Such has been the patient endurance of these colonies, and such is now the necessity which constrains them to *expunge* their former system of government."

Now, sir, as Mr. Jefferson was what Lord Clarenden, I think, called John Hampden, a *root and branch man*, he might be considered, perhaps, both in temperament and principle, as an *expunger*. It may not, therefore, be improper to add that this word stood in the declaration of indepenlence, not only as it came from the pen of Mr. Jefferson, but as it was reported to Congress, and sanctioned by the rest of the committee, by John Adams, Benjamin Franklin, Robert Livingston, and Roger Sherman. What, sr, did these great men and illustrious patriots mean by expunging our "former systems of government?" Did they mean that the *royal charters*, in which those systems of government exited and were delineated, were to be *erased* and *obliterated* with the pen, as modern commentators would have us believe the word *expunge* can only mean? No, sir, they meant as we mean on the present occasion, that the *institution*, the *act* should be *expunged*, leaving the record of it unimpaired.

Having thus, sir, I hope, satisfactorily established the true parliamentary sense of expunging, permit me to say something of the thing itself. Attempts have been made here and elsewhere to represent it as something very odious and iniquitous. Now, sir, I take upon myself to say that, from the nature of the thing, implying necessarily a deliberate change in the public councils, it never can be resorted to in a representative povernment, but with the sanction, and under the authority of the people, and in their hands will never be used but for the vindication of their rights and of the principles of their fundamental law. In the history of our British ancestors, sir, it comes down to us, through a long line of glorious traditions. In that country, it has been the instrument by [illegible] cal liberty has been successfully vindicated and established. How was *expunging* used, sir, in the celebrated case of John Hampden and ship-money, in 1640? We all know, sir, that in that case, the King claimed an arbitrary power to levy upon the people, at his own discretion, whatever imposition he might deem *necessary* for the support of the government, and in defence of the kingdom. This enormous usurpation was sanctioned by the Judges, not merely in an extra judicial opinion irregularly obtained from them, but in their solemn judgment rendered in the Exchequer Camber against John Hampden, for his refusal to pay the odious tribute exacted of him. These iniquitous proceedings were afterwards *expunged* in the high court of Parliament; and by that *expunction*, the great principle of free government, that the people can be taxed only with their consent given through their representatives, that principle which gave birth to our own glorious revolution, was, for the first time successfully and irrevocably established. In the case of Skinner and the East India company, in 1669, to which I have heretofore referred, what was the great principle involved? In addition to that ultimate appellate jurisdiction in questions of law, of which the House of Lords in England has long been possessed, it claimed on that occasion, cognizance of original suits, in utter subversion of the trial by jury. By being forced at last, by the noble resistance of the House of Commons, to *expunge* the judgment they had pronounced and their proceeding in that memorable case, they renounced, finally, this dangerous claim of original jurisdiction, and the glorious institution of our Anglo Saxon ancestors, the great bulwark of British and American freedom, the trial by jury, was thus triumphantly rescued and maintained.

In the case of the protest of the tory lords in 1690, to which I have also had occasion to refer, the principle involved and finally vindicated by this odious process of *expunging*, was even of a deeper and more vital character.—The Senate will recollect that the clause in the recognition bill, to which the tory lords objected and against which they entered their protest, was one asserting the validity of the acts of the convention Parliament—that Parliament, under whose auspices the glorious revolution of 1688 had just been achieved. The tory lords were unwilling to recognize the validity of its acts, because it was called together, in the emergency of a great crisis, by the voice of the nation itself, speaking in the person of the Prince of Orange, and without the formality of the King's writ, which these lords held was indispensable, under all circumstances, to constitute a lawful Parliament. This objection, formally recorded in their protest, struck at the vital principle of the revolution which had just been accomplished—the sovereign right of the people to alter or abolish their institutions without a slavish submission to pre-existing forms. The House, therefore, ordered their protest, which had been regularly entered on the journal, to be *expunged*, and in doing so, worthily vindicated the vital principle of the right of the people to change, modify, or abolish their institutions, whenever it shall seem to them good, a principle which stands in the very front of the declaration of American independence, and is even more essential to American than British liberty.

The case of the Middlesex election, which gave rise to another instance of expunging in 1782, is perfectly familiar to the minds of the Senate. There the great right of the people freely to choose their own representatives, was vindicated and established by *expunging* a resolution of the House of Commons, adopted fourteen years ago, and which was justly described as "subversive of the rights of the whole body of electors in the kingdom." We have seen, then, this denounced and calumniated process of *expunging*, through two centuries of British freedom, used as the efficacious instrument by which every great constitutional right, every cardinal principle of popular liberty dear to the hearts of freemen, has been successfully vindicated and redeemed—in 1640, the right of the people to be taxed only with their own consent—in 1769 the right to jury trial—in 1890, that right, which is the mother of all others, the right of the people to organize, modify, or abolish their political institutions at their own pleasure—in 1682, that right, which forms the practical security for the rest, the right of the people freely to choose their own representatives. In view of these facts, it is no exaggeration to say that every cardinal principle of British and American freedom has, at one period or another, been vindicated and established by this remedial, but calumniated process of expunging.

I have already remarked, Mr. President, that this remedy for the abuse of delegated power can never be resorted to, in a representative government, but with the deliberate sanction, and under the formal authority, of the people. *Expunging* is, in fact, the embodied and potential voice of the people, bursting, by its legitimate power, the doors of legislative assemblies, and correcting, in the most solemn form, the deviations and assumptions of their servants. It necessarily implies a change in the public councils by the operation of the public will; for the body which has committed an error or been guilty of an usurpation, remaining constituted as it was, will not be the willing instrument of correcting or expunging its own Accordingly, in every one of the cases which I have mentioned, the final parliamentary action has been preceded by the matured, the settled, the irreversible judgment of the public mind. In the case of Hampden and the ship-money, the proceedings which were expunged took place in 1637; the expunction followed, three years after, in 1640. In the mean time, the public mind had been anxiously and intensely exercised on the subject; the question had been publicly and solemnly argued before all the Judges in the Exchequer chamber, from time to time, through a period of six months. After their decision was pronounced, the merits of that decision continued to furnish the theme of able and earnest discussion, at the bar of public opinion; and finally, the settled judgment of the nation was carried into execution, by the order of the high court of Parliament, for expunging the rolls of the obnoxious proceeding. In the case of Skinner and the East India company, in like manner, the question between the two Houses was pending, and earnestly debated before the nation, for eighteen months; and the Hose of Commons was but the organ of the settled public opinion of the country, in finally wresting from the lords the *expunction* of their dangerous and illegal proceedings. In the case of the protest of the tory lords, in 1690, the great principles involved had been kept constantly before the public mind, by the profound interest awakened by the revolution of 1688, and the faithful and patriotic whigs of that day but acted out a deliberate and foregone conclusion in the public judgment, by *expunging* a protest which assailed the vital principle of popular sovereignty. In the case of the Middlesex election, the question had been pending before the nation for fourteen long years; during which time it had been the subject of public discussion in every possible form—popular, parliamentary, and legal; in meetings of the people, in both Houses of Parliament, and incidentally before the judicial tribunals of the country. Public opinion was never more maturely formed, more fully expressed, or more faithfully represented, than in the order for *expunging* the unconstitutional and obnoxious resolution in that case.

So it is, sir, on the present occasion. It is this day precisely two years since the resolution now proposed to be expunged was adopted by this body. During the whole of that period, the public attention has been constantly recalled to it by able and eloquent debates here—by the searching discussions of the press—by the calm, and self-directed inquiries of the public mind. The subject has been constantly under the consideration of the people, in one form or another. Every temporary and artificial excitement has passed by, and the public judgment has been left to its own self-balanced wisdom to pronounce on the issue joined before it. Its decision, I believe sir, has been made up, and, in great part, pronounced. Eleven of the sovereign States of this Union have spoken, and spoken authoritatively, demanding the expunction of this resolution from our journals.—There can be but little hazard in saying, that four or five more desire and would approve it, though they have not yet spoken in an authoritative form, probably because they have supposed it to be unnecessary to do so. The judgment of our constituents, then, of the people and of the States, has passed on this transaction—I believe, irrevocably passed upon it.—They consider the resolution adopted by this body on the 28th March, 1834, as irregular, as illegal, as unjust, as unconstitutional; and the more alarming, as proceeding from that branch of the Federal Legislature which is the most irresponsible, and as tending dangerously to increase its power, already sufficiently great. On these grounds, they demand that that resolution be expunged from our journal; and seeing not the slightest constitutional impediment to the remedial process for which they have indicated their preference, I for one, Mr. President, will cheerfully obey their voice.

NEWBERN PRICES CURRENT.

(*Corrected Weekly.*)

BEESWAX,	lb	25	a	28
BUTTER,	do	30	a	35
CANDLES,	do	14	a	15
COFFEE, [by the bag.]	do	13	a	15
CORDAGE,	cwt	14 00	a	
COTTON,	do	16 87	a	
COTTON BAGGING—Flax,	yd	23	a	25
Hemp,	do	25	a	28
FEATHERS,	lb	30	a	
FLAX,	do	12½	a	15
FLOUR, Country,	bbl	8 00	a	
Northern,	do	9 00	a	9 50
Corn Meal,	bushel	80	a	1 00
GRAIN—Wheat,	do	80	a	90
Corn,	bbl	3 50	a	3 75
IRON—Bar, American & Eng.	lb	6	a	
Russia and Swedes,	do	6½	a	
LARD,	do	14½	a	
LEATHER—Sole,	do	15	a	25
Hides,	do			
LUMBER—Flooring, 1¼ inch,	M	16 00	a	17 00
Inch boards,	do	12 00	a	14 00
Scantling,	do	12 00	a	14 00
Square Timber,	do	25 00	a	45 00
Shingles, Cypress,	do	2 75	a	
Staves, W. O. hhd,	do	18 00	a	20 00
Do R. O.	do	8 00	a	10 00
Do. W. O. barrel,	do	12 00	a	15 00
Heading, hhd.	do		a	22 00
Do. barrel,	do	12 00	a	15 00
MOLASSES, [by the hhd]	gall			45
NAILS—Cut, 4d. & 3d. [keg]	lb		a	9
All sizes above 4d.	do	10	a	
Wrought,	do	20	a	25
NAVAL STORES—Tar,	bbl	1 50	a	1 60
Turpentine,	do	3 60	a	3 70
Pitch,	do	1 40	a	1 60
Rosin,	do	1 00	a	1 75
Spirits Turpentine,	gallon	60	a	65
Varnish	do	25	a	
OILS—Sperm,	do	1 00	a	1 20
Whale and Porpoise,	do	35	a	40
Linseed,	do	1 40	a	1 60
PAINTS—Red Lead,	do	15	a	18
White Lead, ground in oil,	cwt	12 00	a	13 00
PEASE—Black eyed,	bushel	95	a	1 00
Grey eyed,	do	40	a	50
PROVISIONS—Bacon, Hams.	lb	14	a	
Beef,	do	5	a	8
Pork, mess,	bbl	25 00	a	
Do. prime,	do	20 00	a	
Do.	do			
SALT—Turk Island,	do	45	a	50
Besufort,	do	None in market.		
Liverpool, fine,	do	60	a	75
SHOT,	cwt	10 00	a	
SOAP—Yellow, [by the box,]	lb	6	a	
SPIRITS—Brandy, French,	gall	1 50	a	2 00
Apple, do.	do		a	1 00
Peach do.	do	1 25	a	
Rum, Jamaica,	do	1 20	a	1 50
Do. Windward Island,	do		a	90
Do. N. England,	do	47	a	50
Gin, Holland,	do	1 50	a	1 60
Do. Country,	do	50	a	55
Whiskey,	do	45	a	
SUGAR—Loaf,	lb	20	a	25
Do. Lump,	do	18	a	
Do. Brown,	do	13	a	16
TALLOW,	do	11		
TEAS—Hyson,	do	1 00		
Young Hyson,	do	1 00		
Imperial,	do	1 20		
Gunpowder,	do	1 20		
Black,	do	80		
WINES—Madeira,	gall	3 00	a	6 00
Sherry,	do	2 50		