have been traitorous to their obligations, their honor, and their oaths, or he must acquit us, who have applied to the same act, not the same language, but the same sentiment. Surely it could not be asked, or expected by the Senator, or by any other person, that Senators are to sit here with their arms folded, and their voices dumb, when measures are pursued by the Executive which his nearest and most devoted friends deliberately declare to be violations of law, and ruinous to the nation. If we did, we should be faithless to our duty, faithless to ourselves, and our States, faithless to the Constitution and the country, faithless to our consciences and our God.

A word or two on another matter. The Senator from Georgia, in a spirit of frankness and candor which did him honor, and for which he tendered his acknowledgments, had openly, and without disguise, disclosed the extent of party feeling in Congress. He has stated in plain and explicit terms, that, if we had calmly proposed a restoration of the deposites to the Bank of the United States, without connecting with it an attack upon the administration, we should have had the votes of two-thirds of each House of Congress, in favor of such a proposition, and the reason why we cannot now obtain two-thirds in each branch is, that such a vote would break down General Jackson's administration. The Senator is one of the few who will not be held in the traces of party: he has distinctly announced his individual exemption from these bonds by which his friends are chained: he means to obey the higher duties of his station, and give his aid to a measure which he believes calculated to promote the best interests of the people.

The Senator deserves praise for announcing a fact which his means of information has enabled him to ascertain with a certainty that must secure the most undoubted confidence in his accuracy. And what is the fact? Sir, it is one upon which the good people of this country will ponder well; it is one which I trust and hope they will all hear, and one and all will deliberately reflect upon. We are making issues to send to the people and the polls, to be tried and decided. I desire that this evidence be used in the trial of these issues—that it be known far and wide, how matters stand here, in the very ark of our political safety, amongst those who are sent here by freemen, to represent freemen, to protect the constitutional and legal rights, to guard the interests and promote the happiness, of thirteen millions of people. Yes, sir, let it be known, that on this floor and by a candid and honorable Senator, a political friend of the administration, it is distinctly announced, that, although two-thirds of each branch of Congress are deeply convinced in their judgment that the late measures of the Executive were unwise; that their influence upon the country, was decidedly pernicious; that the people were injured and oppressed by them, and that they were convinced of the propriety of retracing these false steps; that if they regarded only their duty to the country and the people, they would vote for a measure which would relieve the distresses and advance the happiness of the community; but that they are restrained from the exercise of this admitted duty *for the cause*, that such a vote would probably destroy the popularity of General Jackson, and lessen the hopes of political elevation now indulged by those who are identified with him.

Let the people know that when they consider the end and object of this Government to be the happiness and the comfort of themselves, their wives, and their children, and the elevation of the national character at home and abroad; that when they consider the officers who administer the Government as *their* servants, engaged in performing *their* work, for *their* advantage, and according to *their* will, they are in total error. Let them know, that according to the now admitted doctrine of this administration, and its advocates in the halls of Congress, there are other and higher demands; other and dearer interests—other and greater objects, which those rulers regard. That the wants and necessities of the people cannot be regarded until the political wants of their rulers are provided for; that the elevation of Andrew Jackson, and those who expect to ride into office through his popularity, are motives stronger and more imperative, than the restoration of contentment and plenty to a whole community who are now crying aloud for relief—for necessaries—for bread: who are perishing, and famishing, and fainting under a load of oppression, and loss, and poverty, which the passion and fury of one man has put upon them.

Sir, I am one of those who yield obedience to the old-fashioned doctrine, not only that the people are those whose interest and prosperity are alone the legitimate ends and objects of our Government, but that they are the true and only source of power. If, upon appeal to them, they shall sanction the doctrine now, for the first time, publicly announced, that the protection of the popularity of a few individuals—the perpetuation of power in the hands of Gen. Jackson, and those who stand or fall with him—the support of an administration when its measures are admitted to be indefensible—when the people shall deliberately give sanction to the doctrine that these are objects fit to supersede the claims of an injured and suffering people; that the interests and prosperity of the many, the whole, are to be sacrificed to the political elevation of the few—the two or three individuals who are, and expect to be in power—then sir, for one, I will bow in submission. The people have the right to make the Government what they please. If they are no longer desirous to be free, they have the poor privilege of becoming slaves. Let that experiment be tried, and I have no fear of the verdict which will be returned to use on this issue. They will not give power to those who abuse it by making it tributary to the personal ambition of any man, or or any set of men, regardless of the country—the whole country.

SPEECH OF MR. CLAYTON,

OF GEORGIA,

On Mr. MARDIS' resolution, instructing the Committee of Ways and Means to inquire into the expediency of *reporting* a bill to deposite the public moneys in the State banks; and to define all contracts hereafter to be made with the Secretary, for the safe keeping, management and disbursement of the same.

Mr. CLAYTON said—Mr. Speaker, if at an early period of this question, presented now in a new shape, the rules of the House had permitted me to have succintly explained the reasons for my present position, I should not now have drawn upon a patience which seems to be entirely exhausted. But it will be recollected I promised such explanation, and although it might be cheerfully excused *here*, yet *elsewhere* it may have excited expectations that will not yield a similar indulgence.

I shall consider this question, what it really is, one exclusively of POWER. My views shall be directed to that point chiefly; and I shall leave the suggestion that it involves the recharter of the bank with but a few passing remarks, to to those who have more alarms on that subject than I either feel or foresee.

Before I proceed farther, I must pay my respects to the gentleman from Alabama, (Mr. MARDIS,) as he made me the subject principally of his speech. And first, if it is a matter of so much concern to him, to see the course I am taking, what am I to think of his? If the administration has done nothing wrong, if they had a right to take the public funds from the Bank of the United States, and place them, by contract, in the State banks, wherefore the necessity of his proposition to legislate upon the subject, and to provide a new place of deposite? We contend that this was done, by virtue of a lawful power in the President, and yet is afraid to trust its further exercise in that quarter. If it is *his* right, it cannot belong to *Congress*, and we shall be impertinently intermeddling with the rights of the Executive. Persons, when they speak in one place, to be heard in another, are quite apt to overlook the very inconsistency in themselves which they think they see in others. Now, sir, for my part, I would want no better proof of the illegality of a measure, than that it needs to be afterwards legalized, and if its consequences must be bolstered up by law, it follows pretty clearly, as we say in another place, that it is wrong *"from the beginning."*

But, says the gentleman, he cannot understand my course; perhaps he does not wish to do it, he has an object that might be defeated by it.—There are some debaters who, failing to convince by reasoning, have done wonders at insinuation; and find that it answers fully as well for obtaining *favor* as those of fair argument!

Sir, I suspect the motives or discernment, I care not which, of any man, who says there is no difference between restoring the deposites and rechartering the bank; and as I am asked to reconcile my contemplated vote with the views of my report, I hope to be able to do it, even to the understanding of the gentleman himself, as much astonishment (to give it no worse name,) as he feels, or affects, on the subject.

I must first take notice of one of his remarks. He says, after I had succeeded in obtaining two verdicts against the bank, I now wanted to enter a *Nolle prosequi*; this, he adds, might be the fashion of the country where I live, but it was not so in his. To this, I have two answers, and the gentleman is welcome to take his choice: In the country where I live, whenever an *honest* solicitor finds his prosecution malicious, that the prosecutor is using the court as an instrument to accomplish a selfish object for himself or his friends, that his purposes are "unjust, arbitrary and vindictive," and further, that he suborns his witnesses to affect his designs, *he does* enter a *Nolle prosequi*.

Now, sir, it may be different in the gentleman's country; it may be a custom there, that the worse the case, on the part of the State, like the deposites, the harder they hold on to it; if so, I envy them no such principles. For myself, I had rather *actually* be inconsistent, than even to *appear* unjust; and I leave those, who choose the latter, to the full, uncovetted enjoyment of their preference.

The second answer is contained in an anecdote, which is located in the gentleman's own State; and is as follows:—A certain individual was indicted for the crime of murder; and the jury, after being out all night and half of the next day, brought in their verdict that the man was not guilty of murder, but of *shop-lifting*. The court informed the jury that that was impossible, they must retire to their room and re-consider the case; whereupon they were sent back, and after remaining the balance of that day and the whole of the ensuing night, they returned their verdict into the court, stating that if the man was not guilty of *shop-lifting* he certainly was of *sheep-stealing*; and, throwing themselves upon their constitutional rights, they were determined to stick to that verdict. Now, sir, I indicted the bank for murder, perpetrated upon the body of the Constitution, which affected its life. From this charge it was acquitted; but the President insists upon it, that if it is not guilty of *shop-lifting* upon a certain *French bill of exchange*, it surely was of *sheep-stealing*, committed upon the Government directors, and therefore ought to, and shall, be cropt. This, the gentleman wants to make me believe, is the identical charge which I brought against the bank! He must excuse my credulity if it refuses to swallow this dose!

But my vote at the last session seems to disturb *him*. I voted, he says, that the deposites were unsafe in the bank, and therefore, I ought now to sanction their illegal seizure and withdrawal, to be placed in those which his own proposition considers equally dangerous. If they are safe where they are, why legislate upon the subject? It cannot be possible, that my vote went the length to allow the Government to violate its plighted faith, to suffer a person to take the public funds, who had no right to them; to rob the proper department of the Government of its rightful control over them; to have them farmed out wherever the Secretary of the Treasury might thin proper, in places less responsible and more unsafe! No, sir, I must protest against such a construction. All that could possibly be claimed from me, under that vote, would be to vote for a withdrawal of the deposites, if the question could be legitimately come before me as a member of Congress, but I beg to be exonerated from suffering it to let any other person do it, contrary to law, and then bind me to justify the act. The President himself has changed his opinions on this point; at the last session he suggested to Congress that the deposites were unsafe, and yet when he removed them, he abandoned that idea altogether, and said the bank was too strong; and now his friends modestly call upon me to sustain him upon a ground which *he, himself*, believed to be unfounded! This is the shape of the argument; the President says to me, I removed the deposites in October last, believing them to be perfectly safe, but you thought they were unsafe a year ago, therefore, you ought not to rely on my judgment, but vote against their restoration. If he puts it upon my superior sagacity, I know not how far such a compliment may carry me, but if he requires it of my subserviency, I must beg to refer him to some more pliant tool.

It was never my intention to injure the present bank, or to destroy its existing rights, merely for those objects; I could have no such inducement. My whole purpose was to prevent its re-establishment upon principle, and under the firm conviction that it was not authorized by the Constitution. In the attempt, however, to accomplish this object, I was not unaware that injury might be inflicted upon that institution; but it was a consequence, not desired, following the exercise of a duty which I considered imperative.

In the peculiar situation in which I find myself, it is fortunate for me I have the evidence, the recorded evidence, of the truth of my statements.

In the investigation which was made by a committee of this House two years ago, I find these remarks at the very commencement of its report: They say—"They believe that as the House wished information more for the purpose of enlightening their minds and assisting their judgments as to the expediency of *again renewing the charter*, than *to abridge* it of the *small remnant* of time left for its operation, a liberal construction of the resolution would not be deemed a departure from their trust."

The motive is here fully developed that it was no part of the object of the investigation, by a sudden destruction of the bank, to disturb the great moneyed relations of the country, to agitate the wide spread operations of commerce, or to impair the extended interests of the Government either in its fiscal or joint-stock connexion with the bank. All of which would have been the result, as is now, by recent events, too painfully proved.

And, sir, permit me to ask what was the result of that inquiry? Besides every thing, except the crimes against the French bill and the Government Directors, which has since been discovered; and I affirm, not a new principle of objection has been found. Besides the difficulty of the three per cents. which was then submitted—besides the suggestion that the bank had, interfered with elections, by reason of its large discounts, its fees to lawyers, its accommodations to members of Congress, its subsidizing the press, its publication of documents, its extravagance in printing—all of which are carefully insinuated—there was presented to the consideration of Congress six distinct cases of supposed breaches of the charter. 1. In relation to usury. 2. To the issuing of branch orders as a circulation. 3. The selling of American coin. 4. The sale of stock. 5. Making donations for roads and canals; and 6th. Building houses to rent or sell, and erecting other structures in aid of that object.

Upon this information, well weighed, I hope, by the body to which it was submitted, did they believe the deposites should be removed? Did they think a suit should be instituted to revoke the *renewal* of the charter? So far from it, to my mortification, Congress, by a large majority, rechartered the bank; and, strange to tell, there were those at that day, the warmest friends of the bank, and voted for a renewal of its charter, who are now convinced upon weaker testimony, of precisely the same character, that its deposites ought to be removed!

The verdict of that Congress settled the fate of the report, and though *the facts* remain, they are robbed of their force; for, at the last session, they had no influence upon the question then presented, as to the safety of the deposites. In the authority of two concurring decisions, whatever may be my opinion as to their correctness, the public voice, as expressed by their Representatives, seems to have acquiesced, and to have pronounced that the labors of the investigating committee had brought to light no good reason for a change of the institution.

So far then, sir, from obtaining two verdicts against the bank, the bank obtained two verdicts against me—that is, if Congress, the immediate representatives of the people, is considered any part of this Government; but, perhaps, the gentleman may give into the new doctrine, that the President is the Government, and as such, had a right to alter the verdicts in the manner before related. If so, they are his verdicts, not mine.

I yet remain unconvinced of the justness of that decision, so far as respects the constitutionality of the measure, though I candidly own my mind has undergone a very considerable change as to its expediency, and this has been mainly effected by the dear bought experience which has succeeded a rash and inconsiderate act, the consequences whereof are now sweeping over the country like a desolating simoom.

I consider the removal of the deposites more unconstitutional than the charter of the bank, because there is less doubt about it, and infinitely more mischief. The bank divides, perhaps, more than equally, the talents of the country—has had two great administrations in its favor, backed by a decision of the Supreme Court; and what is stranger than all, has the promise of the "greatest and best" to be renewed, though rejected upon constitutional grounds, provided the country will let him dictate the terms. Not so with the removal of the deposites. One wide, deep and settled tone of complaint attests the public disapprobation. The murmurs of the people rise and swell the tide of discontent which beats upon this House, if not in the fury of a storm, in the steady progress of a torrent. The act was and is condemned by the friends and foes of its author. His best advisers pronounced it wrong. The former and present Secretary of State—of War—and at one time, of the Navy, if reports be true, deprecated the measure; and, sir, his best friend and most decided enemy of the bank, the firm and honest DUANE, said it was "unwise, unjust, unnecessary, arbitrary and vindictive." Never did five words comprehend more truth, in relation to the effect of a measure. It was unwise, as relates to the interest of the country—it was unjust, as relates to the bank—it was unnecessary, as relates to the moneyed operations of the Government—it was arbitrary, with reference to the exercise of official power; and it was vindictive to those who manage the concerns of the institution.

It was, moreover, unnecessary, in reference to the prevention of a future renewal of the charter. The President will remain in office, if he lives, till the 4th of March, 1837, and if he dies, his place will be filled with a milder, because a more cunning hostility to the bank. He had vetoed the late charter, and as he boasts, it was confirmed by the people. It could not possibly pass *him* and his *successor* in the residue of its existence. Why then, strike at a prostrated enemy, which if not dead, was in the last agonies, that inevitably tended to that fate? Why run the risk of exciting public sympathy, by the exercise of cruel and unequal persecution towards an enemy that all must confess has done some good. There was every thing to lose and nothing to gain. The bank was gone, and that was all that its opposers wanted. Did it not occur to the President, and does it not occur to every one, what a dangerous experiment results from this measure? If it does not succeed as contemplated, if some where in the chain of reasoning an error has been committed, if in the long and complicated consequences expected to follow an action, which pervades the most ramified interests of society, a false conclusion has been drawn, conducting the whole process to an entirely different result, a result fatally injurious to the fortunate destinies of the country, who does not see that all will be laid to the necessity of a bank, and, as on a former occasion, public opinion directed by the best of all science, suffering experience will again demand and have a bank?

Actions are not without their motives, we must look for the motive of every measure. Seeing, then, the course of the administration was wholly unnecessary as related to the future renewal of the charter, and that, indeed, it might produce an opposite effect, a question naturally presents itself, what could be the object? The subject had been laid before Congress and refused; it had been laid before the cabinet and rejected; the best and wisest councils of the country had advised against it; the good sense of the whole community revolted at the idea; why then, should a favorite and highly honorable officer be expelled from his post to achieve this singular project? It is something else than the mere prevention of a charter. Mr. SPEAKER, history is full of the melancholy truth, that rulers, and sometimes good ones, are controlled by an artful sinister, influenced of which they themselves are unconscious, and thus operated upon, deeds have been done at which their own good judgment has been made to shudder, after suffering alll the consequences of deceitful councils, their characters have been delivered over to the faithful page of history, there to receive their merited obloquy. What a reflection to one whose high character and lofty fame now hangs upon the issue of a most doubtful experiment. The stake is great, and the game, as it draws to a close, is fearfully critical. If rumor speaks the truth, just such an influence has produced the present agony of the country. There are around the administration two malign influences operating for the accomplishment of a joint but ultimately a single purpose. *Avarice* and *ambition*—the first seeks its gratification, in the attainment of stocks, lands and low office; the latter, in the highest office of the Government, but this last is the special instrument by which the former is to be continued, and hence, to this end every power is concentered. Enough is seen to show that the bank stands in the way of a scheme to organize a moneyed regency, throughout the country, the most irresistable agent successfully tried elsewhere, to effect the purpose referred to, and consequently it must be *immediately* destroyed; it will not do to wait for its natural death; the golden harvest will have passed, and though the Government may lose some millions of stock, though it may lose a part, or perhaps the whole of its revenue, though it may lose all its facilities for carrying on the fiscal operations of the treasury, though the whole country may bleed at every pour, yet these are nothing compared with the selfish objects of heartless politicians. This then, in my humble opinion, accounts for a measure which Mr. Duane declared, and truly too, was totally "unnecessary."

I come now, Mr. Speaker, to consider the subject with reference to the POWER which has been exercised in the removal of the deposites, and to show that I am opposed to the recharter of the bank upon Constitutional principles, I ought to be much more so, if consistent, to the power exercised by the Executive. And I will candidly own that if I were driven to the necessity of choosing between them, which I trust will not be the case, I would prefer the former to the latter. Before I proceed permit me to ask what is the bank? Is it any part of the Government? If it is, what? If it is not, what relation does it bear to the Government? These are important questions in the view I shall take of the subject.

The principle upon which the bank is chartered, as contended for by General Washington, Mr. Madison, the Federal Court, and the two Congresses that have sanctioned their opinions, is to be found in this strong and expressive language: "That Congress has a distinct and substantive power to create corporations, without reference to the objects entrusted to its jurisdiction, is a proposition which never has been maintained: *But that any one of the* POWERS EXPRESSLY CONFIRMED *upon Congress, is subject to the limitation, that it shall not be carried into effect by the agency of a corporation, is a proposition which is equally unwarrantable.*" For that it has a right to all the means "necessary and proper" to execute its powers. Then, we clerly infer that the bank is a part of the Government, to carry into effect some of its "expressly confirmed powers." What are those powers? If friends have always relied upon these, 1st. To assist the government in "collecting taxes, duties, imposts, and excesses; and paying them away, and to pay debts of the United States.

2d. To borrow money on the credit of the United States.

3d. To regulate commerce; and,

4th. To coin money, regulate the value thereof, and of foreign coin," and thereby regulate the currency of the country.

These are all the express powers, upon a careful examination of the Constitution, the bank is intended to subserve; there is not another that has the slightest relation to it. Let it be constantly recollected that these are *legislativ* enot *executive* powers, and found in the *very article* which defines the powers of *Congress*. The Government has, besides this, another distinct interest in the bank, but this is evidently a *private* interest, and clearly distinguishable from that just mentioned, which is a *public* one. It holds stock in common with the other stockholders, and every one must perceive if its *public interest* was withdrawn, if the bank was not its agent to carry into effect certain powers of the Constitution, it would have no more control over the bank than any other stockholder. This *private* interest is managed by its directors as the interest of the stockholders is managed by their directors, all constituting one representative body *for the whole*, with no superior powers or privileges resting in any to the exclusion of the others. This *private* interest must be kept entirely separate from the other; they have nothing to do with each other. The *public* interest is not at all entrusted to the directors appointed by the Government individually, or as a class, but only so far as they are connected with the other directors in the general management of the institution. This interest is confided to the Secretary of the Treasury, to carry into effect the powers of the Constitution, Any other view involves the contradiction that two different agencies are created to regulate the same interest, "a disagreement between which would entirely defeat the object of the Government, which the bank has undertaken to discharge. These powers are to aid, as before stated, in collecting and disbursing the revenue, to borrow money, to regulate commerce, and to establish a uniform currency. This is the entire scope of his duties, because to go beyond these is to go beyond even the powers of the Government, and the very object they had in chartering the bank. They admit and declare that for *exclusively* private purposes they have no power to grant charters of incorparation, but they can do so when it is to carry into effect well known powers of the Constitution, they have named these powers, and within them, they and their agents must revolve. We have now got the question into a very intelligible and well defined boundary.

It could not be expected that the bank would execute these powers for nothing. If they were highly important to the Government they were worth something; consequently the Government said to the bank you shall have the use of all our deposites, and we will receive your bills in payment of all our revenue, thus investing you with the Government's whole funds and credit, but this is more than equivalent for the services to be performed by you; you must pay a bonus of one million and a half of dollars for your charter; for your exclusive privilege, moreover, it is improper to risk the public treasures with a private corporation without having some control over it. Its *safety* demands that we should have a weekly and monthly inspection of your affairs by the Secretary of the Treasury, and also by a Committee of Congress whensoever that body may think proper, and besides its *safety*, the proper *execution* of the *powers* of the Constitution which you have undertaken, requires that the same officer may withhold the deposites, *"in which case"* however, to prevent injustice "he shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the next session the REASONS of such order or direction." Now here is a plain, simple, fair contract, the condition of one part being the condition of every other part, and it has been violated by a misconception of the Secretary in two important particulars. First, he considers himself a party to the contract, when nothing can be more erroneous. He speaks of the Government's vesting in him certain powers which divested it of any further control over them. A little attention to this idea will completely manifest its perfect absurdity. Who are the contracting parties to this deed? Certainly there are but two. The Stockholders and the Government. Who are to be benfited by it? Certainly no one but the Stockholders and the Government. Between whom has the consideration passed? Certainly between them? Who are able to contract? None but them. What is the subject matter of the contract?—The execution of certain powers of the Constition by the bank, for certain privileges granted to that institution. Now, will any one contend that the Secretary was able to contract, did contract, passed or received any consideration?—Had he any powers to be executed by the bank? The thing is preposterous. It may as well be contended that the other persons and agencies mentioned in the charter were all parties to the contract, such as the cashiers and officers of the bank, commissioners of loans, the President of the United States and the Federal Court, for they are all mentioned as having something to do in the execution of the contract. Why should the Secretary alone believe he is a party and beneficiary of the contract? Can any one believe that Congress was so stupid as to make a contract by which a third person, not interested, should immediately come into the control of the people's funds for twenty years? Who does not perceive that the Secretary could have withheld the deposites, upon any reasons he might choose to give, on the second day after the charter went into operation, and throughout the remainder of its existence, divided them among every merchant, may every man in America, for if he can do it with State banks, by contract, he can with any body else, they being nothing but persons in law. His other mistake is as to the character of the *reasons* he is bound to give for withholding the deposites. His interpretation of the law renders the exercise of the power perfectly unlimited, and therefore, a *capricious* form. Does any one believe this? Does any one, for a moment suppose, that Congress would invest an officer with unlimited *discretion*, with a power to be exercised *capriciously*; and yet, require *reasons* of him?—Reasons for one's whims! Congress has, to be sure, done many strange things, but they have generally had their design in it, this, however, is without design and what is worse without sense. If then the power is not a *capricious* one, if it has a boundary and I think all reasonable men will grant me this, what is that boundary? What the limit? Will the House be governed by rules of interpretation founded in the best of wisdom, free from interest and passion of contending parties, that have lasted through a long lapse of past, and intended to endure through all future, time? Then what are those rules? Listen to the sages of old; the concurrent opinion of all the ancient and modern authors on the interpretation of law.

"The fairest and most rational method to interpret the will of the legislature, is by explaining his intentions at the time when the law was made, by signs the most natural and probable. And these signs are either the *words*, the *contest* the *subject matter*, the *effects and consequences* or the *spirit and reason* of the law.

Words—In their usual signification, &c.

Contest—By what goes before and after.

Subject matter—Words are always to be understood as having a regard thereto: for that is always supposed to be in the eye of the legislature and all his expressions directed to that end.

Effects and consequences—The rule is, that when words bear either none or a very absurd signification, if literally understood, we must deviate from the received sense of them.

Reason and spirit of the law—The most universal and effectual way of discovering the true meaning of law, when the words are dubious, is by considering the reason and spirit of it; or the cause that moved the legislature to enact it."

Now let us apply some of these rules to the interpretation of the contract between the bank and the Government. What was the *"subject matter"* of the contract, so far as the Government was concerned? I have shewn that it was to assist in executing certain "expressed powers" of the Constitution, connected with the fiscal functions of the Government which it professed to believe, could not be done without the agency of a bank—viz: to collect and disburse its revenue—to borrow money—to regulate commerce and to establish an uniform currency. It could not possibly do any thing more. These were the *subjects*, and these alone entrusted to its management. What was the *"reason and spirit"* of the contract? The public revenue was wanted in every part of the Union—it was hazardous and expensive to transmit it to the place where it was required. It was very desirable to have a place of safe deposite and with a responsible agent who would keep it so and transfer it free of expense wherever wanted. This was one reason for the law. The late war had shewn how advantageous such an institution would have been in aiding the Government to negotiate loans, and this was another of the avowed reasons for the bank.—The same war and the period that suceeded it, shewed how necessary to commerce and the Government, that the currency should be uniform, millions were lost to both, by a miserable, valueless and irresponsible circulation, to correct which, and drive it from the ravages it was perpetrating upon the property of the community, the commerce and trade of the country, but more particularly upon the revenue of the Government, the bank was established; these were the reasons of the law, they are plain and obvious, none other can be given, because any others would transcend the ability of the contracting parties to enter into the contract. For all other purposes, the Government had sufficient capacity and means to execute its powers. The *"spirit"* of the law, is to have these special powers which it could not effect without aid, faithfully carried into execution. Here, then, is a plain field, and much the widest that has been allowed the Secretary in this debate, wherein which his *"resons to Congres"* should be circumscribed. If this was all that was contracted to be done by the bank and all that was required by the Government, and I have shewn it could require no more, even according to its own construction of the Constitution, for any thing more would have been *out* of that instrument, the Secretary cannot by any possible process of fair argument, mould his *reasons* to reach beyond the four "expressed powers" constituting the "subject matter" of the contract. For if this "is always supposed to be in the eye of the legislature," he is bound to keep it in his eye, his reasons therefore must relate to some breach of duty on the part of the bank in reference to the safety of the deposites connected with their transmission and disbursement—with reference to some failure or rather improper conduct in negotiating or promoting a loan—with reference to some capable interference in or disturbance of, the commerce or currency of the country having for its object some unlawful or immoral speculation or advantage, contrary to the true spirit and intention of its agreement with the Government. All other objections must belong to the *private* interest of the Government therefore falls within the jurisdiction of the stockholders generally to examine and correct through the agency of their directors.—Who does not perceive the reasonableness of such limits to the *reasons* of the Secretary? If he is permitted to wander beyond this orbit where is he to be restrained? He is launched into a shoreless ocean. One reason there will be as good as another, and it would be impossible for the bank so to shape its conduct as to avert the exercise of this boundless and arbitrary power—operating within its known obligations and the spirit of its contract. It would stand some chance to parry the blow of even a captious Secretary or a constantly fault-finding President. Not one of the Secretary's reasons is within the bounds I have prescribed, and therefore wholly groundless.

But, Mr. Speaker, I have been arguing the matter according to the view entertained by the parties themselves to the contract, as to their rights and powers. I do not believe myself that Congress had any such authority to part with the powers of the Government to a private corporation, for while they are in the corporation they are out of the Government. And I cannot believe the powers of government are transferable on the proper objects of contract. A grant, and such is a charter, extinguishes the right of the grantor, and implies a contract not to re-assert that right, until the end of the charter, yet it is not competent for the Secretary nor the President to take advantage of that defect, unless, indeed, they have given in their adhesion to the doctrine of Nullification and are trying an amusing experiment to see how it works upon the bank. If so, being a little better acquainted with that science, and I hope a thousand times more honest in its use, I can tell them this is not a legal subject for its operation. If by possibility the law affects the sovereign and reserved rights of a *State*, the *State* may nullify, but the General Government, one of the contracting parties is estopped by its own deed from setting up such a plea. Nullification is the proper remedy as between the General Government and the State Governments because, for their respective objects they are entirely different and independent, having no common arbiter, but as betwren the General Government and its own acts, the idea of nullification *is a perfect absurdity*. Its own constitution has provided the Judiciary Department to determine the constitutionality of its own laws. It must recollect that rights have been vested in private individuals and they have agreed that their Courts shall be a *common arbiter* in all controversies, in relation to property and private rights, as between themselves and its citizens. It has been said of me that I ought to nullify, inasmuch as I believe the law unconstitutional. I will as a private citizen of Georgia, if my State believes her sovereign rights invaded, and she chooses to act, but I will not as a *member of this* Government, that has made a fair bargain and had eighteen years advantage of it. I am individually opposed to a standing army in a free Government and greatly wish that ours was abolished, especially since I have seen the unconstitutional use made of it against the gentleman's (Mr. MARDIS) own State, but this would not justify me in withholding the proper supplies for it if the Government is determined to keep it up, and has pledged its faith to the enlisted soldier. Mr. Jefferson himself, than whom no one was more opposed to the bank upon constitutional grounds, gave his sanction to an act for establishing a branch of the United States' Bank, and stated that as the charter had incorporated the Company he considered the faith of the Government pledged and therefore he would not disturb it during the period of its existence.

I have considered this case with reference to the Secretary of the Treasury and as if he really acted upon his own responsibility, but this is such a farce, such a mockery of every thing like independent action and so utterly void of even a decent respect for public discernment, that I choose to dismiss him, and go to the true author of all this mischief. The President is the person who has "taken the responsibility" and by it, presents this question which the people alone shall determine. Whether he or Congress has the right to keep and control the public treasure? This is the question.

It is one of *constitutional power* between the executive and legislative departments of Government.

I need not go to the history of the Government, particularly as to the organization of the Treasury Department, contrasted with the formation of the departments of State, of War, and of the Navy, than which, nothing can be more convincing that it belongs to the entire control of the Legislature. I need not consult the spirit and genius of the Constitution, which seems so studiously to guard the people's money by the people's immediate representatives. Let all this pass. But it is enough for my purpose, to ask, where was the public money when the bank was chartered? In whose possession was it? Was it in the possession of the President, and subject to his care and control? If so, what right had Congress to make a contract with the bank to take charge of it? To take it away from the Executive? It cannot belong to both—one or the other must exclusively manage it. Could the President have made such a bargain with the bank? No one will affirm this. How, then, can he do it with State banks? Recollect, I said these were *legislative* powers, and, consequently, the *Executive* has nothing to do with them. If they belong to Congress, there is no doctrine better established than that they are entitled to all the means "necessary and proper" to carry them into execution; but, if the *Executive* can control the *instrument* which they have selected to effect these powers, who does not perceive that the powers, themselves, are wrested from them? And this is the more palpable since the *Executive* has undertaken to execute these very legislative powers through the agency of other banks.

Well, then, upon the face of the charter there is enough to convince any reasonable man, and any other needs no conviction, that the money, at that time, was in the *possession* of Congress, or else it usurped a power belonging to the Executive. I assume, then, that the money *belonged* to Congress at the time of the charter; that it was first under the care of the Secretary of the Treasury, for a special purpose, holding him accountable to Congress for the faithful discharge of his trust. Now, how has Congress lost its right? If it possessed the control then, shew the act that has divested them of it. This is the shewing: The President seizes the money, and, to justify its retention, reason, thus: The Secretary is the officer of the Executive Department, appointed by him, and therefore, bound to do what he requires; and he requires him to withhold the public money from the bank, and place it, of course, wherever he directs; for the power that can make him remove it, can, certainly, make him dispose of it, in whatever manner he may think proper.

Now mark the consequence; according to this reasoning the Secretary's act is the President's act, and consequently involves this absurdity, that when Congress directed the Secretary to give *reasons* for his acts it meant nothing more nor less than that the *President* should give *reasons* to Congress for his conduct, for if the Secretary has no will of his own, and is thrust from office if he distroys the mandate of the President, it must follow that he who takes the place of him required to give the reasons, must himself obey that call. Does any one believe this? Did Congress believe it was making such a draft upon an independent branch of Government? What other law passed by Congress were required the Executive to give *reasons* for its acts to that body? Does any one believe they would be obeyed if directly required? Suppose, for instance, the charter had said the deposites shall be made in the bank, unless the President shall "otherwise order and direct, in which case" he shall immediately lay before Congress, "the reasons of such order and direction." Would the President have submitted to such a degradation of his department? Or would Congress have been so weak as to have enacted such a responsibility from the President in the face of his *veto* power? Of what use would his reasons have been with an almost absolute authority to have them respected? No one believes this. Then how ridiculous in Congress to have required a duty and the *reasons* for the discharge of that duty from a person who had no will of his own, completely the tool of another! Can the good hard sense of the community stand this? But there is another view of this point still more ridiculous, if that be possible. Congress by putting the public money in the bank for carrying into effect certain powers of the Government confessedly belonging to them, and directing an officer, which by law it could command, to see that it was used for that purpose; has actually lost the control of that money, together with the execution of undoubted legislative powers. They have passed into the hands of another department of Government, that claims them solely upon the ground, that Congress was silly enough to place them in the hands of one of its subordinate officers, who has no right to think for himself, and therefore, under the appointing and removing power that department now gives out that it will execute the powers of the Constitution intended to be performed by the bank, by a new "experiment" of its own altogether upon a new plan! Was there ever such a political trick before; and what is worse, it is now contended that it can not be remedied but by two thirds of Congress, a thing impossible, with the patronage of the Executive, and in the present high state of parties!

This measure is further attempted to be justified, upon the ground that the Treasury Department is not only a part of the executive branch of Government, but that the power of the appointment and removal of its Secretary, necessarily involves the right to control him and his judgment, in all things relating to his office. If this be true as to him, it is equally so as to all other officers, under like circumstances, whether in the army or navy, or indeed in all the civil branches of Government. Now what results from such a principle? In all the laws of Congress, passed in every administration, in which a given specified duty is required of an officer, the President can prevent its performance, if it does not happen to please him, by his removal, and obtaining a more complying instrument, who for the sake of office will disregard the required service. Take for example a case from this same officer, the Secretary of the Treasury. He is required by law to make his annual reports to Congress. Now, under the doctrine that he is an executive officer, and answerable to the power that appoints him, the President takes it into his head that the law is unconstitutional, and, by way of "experiment," requires him to make his reports to himself instead of Congress. Does any one believe, after what has happened, that Secretaries might not be found ready and willing to do this? And what makes this matter intolerable, the President throws the Legislature into such a position, that they cannot redress the mischief, unless they can obtain two-thirds of *each* branch of Congress to concur in the counteracting measure, or two-thirds of the Senate, if that measure should be impeachment. Will any one point out a sensible difference between such a state of things and an absolute despotism? If this is not doing what seemeth good unto a ruler, I know not what is.

But if the appointing and removing power effects so much for the Executive, it must equally do the same for the Legislative and Judiciary departments. Let us take an example from the latter, by way of illustrating this point. It will be admitted that the Congress which passed the bank charter, had the power to have selected any other officer than the Secretary of the Treasury, (and this proves the public funds were at their exclusive disposition) to perform what is therein required. Suppose then, they had chosen the Reporter of the Supreme Court to have done what was entrusted to the Secretary, (being a high legal character, and seeing the duty to be performed, was principally the construction of a charter, intended to effect constitutional powers, it would not have been a very inappropriate choice,) does any one believe that because the Supreme Court has the appointment and removal of this officer, they would dare to control him in the exercise of his honest judgment in relation to his trust? Would they seek to rob the Congress of the management of the public funds, and their legislative powers, because they had required a certain service to be done by an officer, appointed and removable by them? And if they did, who does not see at once, what an overwhelming indignation would burst from every quarter of this union?

This illustration, then, clearly proves, that if Congress could select an officer, acknowledged by all to belong *exclusively* to the Judiciary department, to perform an act *for them*, which that department could not control, why might they not do precisely the same thing in relation to an executive officer, even supposing he was the exclusive agent of that department? But if he be a legislative officer, at least so far as the finances are concerned—or, an instrument to carry into effect certain *legislative* powers,—and this, the subject matter of the charter, the character of his trust, the history of his creation, the genius of the Government, and the spirit of the Constitution, all seem to confirm, who can doubt that the attempt to control such officer, merely by virtue of the appointing power, is not only a gross *abuse* of that power, but a wanton *usurpation* of the rights of Congress?

What are some of the consequences of this act? I. As relates to Congress, it has lost a clear constitutional right to control and manage the public funds, and nothing remains to them now but to pass simple tax appropriation laws, without any control of said funds for any of the constitutional purposes to which they were pre-