

The North Carolina Standard.

THE CONSTITUTION AND THE UNION OF THE STATES.....THEY "MUST BE PRESERVED."

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Capital Prize, 30,000 Dollars,—10,000, 5,000, 4,000, 3,440, 30 of 3,600, 30 of 1,000, 100 of 500, &c. &c.

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Tickets \$10, Halves 5, Quarters 2 50.

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No. 9, for 1835.

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- 1 do 20,000 Dollars,
- 1 do 10,000 Dollars,
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- 1 do 4,000 Dollars,
- 1 do 3,000 Dollars,
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- 1 do 2,500 Dollars,
- 1 do 2,000 Dollars,
- 1 do 1,610 Dollars,
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- 1 do 1,000 Dollars,
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WILLIAMS HAYWOOD & Co.
are now receiving from New York and Philadelphia, their full supply of Drugs, Medicines, and Chemicals, Paints, Oils, and Dye Stuffs, Hairdressing Materials, &c. &c. All of which may be relied upon as being of the most pure and genuine qualities.

Set of the following:

- Hydrated Potash
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An ounce of the last named article, added to the quart of water, instantly forms the compound decoction of Sarsaparilla, of the London Pharmacopoeia.

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Dr. Oldridge's Balm of Columbia,
the best and cheapest preparation for the Hair, ever offered to the public. It seldom fails to produce Whiskers and Eye Brows in a very short time, though there were none on the face before, and has been found to excel every article that has been sold as a Curling fluid.

Indian Vegetable Cerate; Kephalia,
a general assortment of pure French, German, and American Colognes; Lavender, Hungary, Honey, Hermitage Extract, Eau de Cologne, and Florida Waters; with a great variety of Fancy Soaps.

Ivory Tooth Brushes, London make
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Chlorine Tooth Powder and Wash,
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As their assortment is more complete than it ever been, they feel confident that general satisfaction will be given to all who may favor them with a call. They also return their thanks to the public for the very liberal share of patronage which has been extended to them, and request a continuance of the same.

As they have purchased their goods principally with cash, they would invite Country Merchants and Physicians to call and examine themselves, as they are determined to sell for cash, or to punctual customers.

Daily, Oct. 26, 1835.

EXPUNGING.

SPEECH OF MR. BENTON, OF MISSOURI.

In the U. States Senate, March 18, 1836.

(CONTINUED.)

II Having shown, Mr. President, that the proceeding against President Jackson was illegal and unconstitutional, I take up my second proposition, which affirms the injustice of that proceeding, and makes an issue of fact upon the truth of the sentence pronounced upon him. This proposition is in these words:

"And whereas, the said resolve, in all its various shapes and forms, was unfounded and erroneous in point of fact, and, therefore, unjust and unconstitutional; because the said President Jackson, neither in the act of dismissing Mr. Duane, nor in the appointment of Mr. Taney, as specified in the first form of the resolve, nor in taking upon himself the responsibility of removing the deposits, as specified in the second form of the same resolve, nor in any act which was then, or can now, be specified under the vague and ambiguous terms of the general denunciation contained in the third and last form of the resolve, did do or commit any act in violation or derogation of the laws and constitution, or dangerous to the liberties of the people."

The condemnatory resolution, as first drawn up, contained two specifications of supposed violation of law and constitution; 1, the dismissal of Mr. Duane from the Treasury Department because he would not remove the public moneys from the Bank of the United States; and 2, the appointment of Mr. Taney to make that removal. The second form of the resolution contained a single specification, namely, taking upon himself the responsibility of removing the deposits; and the third and ultimate form of the same resolution was utterly destitute of any specification whatever.

Having remarked that these specifications were copied from the proceedings of the Bank of the United States, and in the very words used by that institution, such as he had read them at the opening of this debate, Mr. B. said, we join issue upon each of these specifications, as far as they are made under the first and second forms which they bear, and are ready to join issue upon any specification which can be assigned under the vague terms of the third form.

We deny, out and out, that there was any violation of the laws or constitution in the dismissal of Mr. Duane, or in the appointment of Mr. Taney, or in taking upon himself the responsibility of removing the deposits, or in any proceeding whatever, either late or early, in relation to the public revenue.

All these denials we made at the time, and every specification ventured upon by the mover of the resolution, was promptly met, and fully overthrown by us. Shall I repeat the arguments we then used? or shall I limit myself to a recapitulation of points which mark our reasoning, and to an enumeration of proofs which attest our victory? I prefer the latter, and shall proceed accordingly.

First, then, the dismissal of Mr. Duane, because he would not remove the deposits. In answer to this specification we showed, first, that the right of the President to dismiss this Secretary, resulted from his constitutional obligation to see the laws faithfully executed; secondly, from the recognition of the right in the first act of Congress establishing the Treasury Department.

Here is the law: "Whenever the Secretary (of the Treasury) shall be removed from office by the President of the United States, or in any other case of vacancy in the office of Secretary, the assistant shall, during the vacancy, have the charge and custody of the records, books, and papers, appertaining to the said office." That is the seventh section of the act entitled, An act to establish the Treasury Department, passed September 2d, 1789. It is an express, and as the debates of the time will show, a purposely expressed recognition of the right of the President to dismiss his officer. And here I might dismiss this specification; but it is right to recall the recollection of the fact, that the mover of the resolution gave it up, and was compelled to give it up, or lose the whole resolution; for it was well known throughout the Senate that not even a party majority, at the end of a hundred days' debate, could be got to vote for it.—that several members of the opposition openly admitted the right of the President to make the dismissal, and could not vote for the resolution with that specification in it.

The second specification was for appointing Mr. Taney to make the deposits, which Mr. Duane would not. This requires no consideration, and admits of no notice. It was scarcely noticed in debate; and being wholly dependant on the first specification, it was withdrawn with it, and never mentioned since. It was given up by the mover without a vote, because even a party majority could not be got to vote for it; and it cannot be resuscitated now for the sake of a posthumous discussion.

The third specification was, for taking on himself the responsibility of removing the deposits. This specification, like the two former, was found to be too weak to stank a vote. It was withdrawn by the mover without a vote, because it was known that not even a party majority could be induced to vote for it. Being thus given up and abandoned, it can no longer claim the honor of a notice.

An allegation, twice repeated by way of aggravation, also graced the first and second forms of the resolution, which disappeared from the third: it was, that the

President's conduct was dangerous to the liberties of the People. This allegation also shared the fate of the three specifications. It was given up and withdrawn without a vote, because not even a party majority could vote for it; and thus it was clearly admitted that the President's conduct was not dangerous to the liberties of the People.

The resolve as adopted was void of specification, and contains no allegation whatever on which an issue of fact or of law could be taken. It was a vague, indefinite denunciation, without a reference to any act, at any time, in any place, or to any law, or any clause in the constitution supposed to be violated. Against such a condemnation, argument is impossible, for issues are impracticable. I limit myself to the broad, emphatic denial of the truth and validity of any thing that can be specified under this vague denunciation. I pronounce myself and my friends to be now standing ready, challenging and defying any specification under this resolution, and waiting to impale and transfix it the moment it is produced. And here I conclude this head, and hold my second proposition to be completely established, namely, that the charge of violating the laws and constitution was unfounded and erroneous in point of fact, and that the condemnation of the President was, therefore, as unjust and unrighteous, as it was illegal, irregular, and unconstitutional.

III. I pass on to the third proposition which affirms the vagueness and ambiguity of the resolve as adopted, and presents some of the evils resulting from such an indefinite mode of condemnation. It is in these words:

"And whereas, the said resolve, as adopted, was uncertain and ambiguous, containing nothing but a loose and floating charge for derogating from the laws and constitution, and assuming ungranted power and authority in the late Executive proceedings, or what part of the public revenue, was intended to be referred to, or to take any issue upon them. All is uncertain, ambiguous, problematical; nothing is clear but the abandonment of all that related to Mr. Duane, Mr. Taney, the removal of the deposits, the responsibility of removing them, the danger to the liberties of the people, and the complete cutting loose from all connexion with the Bank of the United States, whose wrongs had solely occupied the two previous forms of the resolution, and had figured so inconspicuously in the speeches of all its friends. All this is abandoned; all mention of the Bank is dropped. Instead of it, the vague is substituted, which has been so often pointed out to the notice of the Senate; and under this general denunciation, a general accusation is made, something like a subscription list, or money purse of accusation, which each one put in according to his will and his means.

Mr. B. said, he had adduced this instance of criminal accusation, this charge against General Hamilton, for the purpose of showing, that precise allegations were indispensable in such cases; but it was also available and eminently applicable for another purpose; for the purpose of showing that corrupt, wicked, or improper motives were not necessary to be alleged in proceeding against an officer for an impeachable offence. The design of Mr. Giles, was to impeach General Hamilton; and for that purpose, he charges him with a naked violation of law, without the slightest imputation of an improper motive, and without the smallest allegation of injury to the public. It is a case in point; and added to the cases of the Judges Chase and Pickens, is conclusive to show, that even where a regular and formal impeachment is intended, no avowment, under our constitution, of criminal motives, or public detriment, need be alleged.

Mr. President, the public, and even the Senate, have heard much of late years of certain doctrine in politics, called non-committal, and it has generally been presented in a very unenviable and undesirable point of view. Some have even gone so far as to say, that they scorned the character of an uncommitted man, and a certain gentleman that you and I wot of, has conspicuously paraded in speeches and gazettes, as the founder of the non-committal school, and the original of the portrait which has been drawn of an uncommitted man. Of the justice, the propriety, the truth, and the decency, of what has been said and published of that gentleman, on that point, it is not my purpose, in this place, to make a question, nor would I, I presume, be your pleasure to decide. I premit that labor; and proceeding upon the assumption of his opponents, that the aforesaid gentleman was actually the founder of the aforesaid school, I have to remark that it seems to me, that like other great inventors, he is in danger of being robbed of the glory of his discovery by the improvements which are made by others upon his invention. So far as I understand the institutes of the original school, the right of non-committal extended no further than to problems in politics; it did not embrace cases of law and morality, nor extend to the conduct of judges and senators! But who can stop the march of improvement? Who can limit the genius of the scholar? Who can baffle the art of the cunning imitator? Already the doctrine of non-committal has made its way to the judgment seat—to this chamber—and to this very case. The Senate refuses to commit itself upon the question, of what it is, that they have condemned President Jackson for! They not only refuse to commit themselves for the grounds of their judgment, but they revoke the committal

1. By applying a certain portion of the principal borrowed in the payment of interest falling due upon the principle, which was not authorized by that, or any other law.

2. By drawing a part of the same moneys into the United States, without the instructions of the President of the United States.

Here all is open, manly and intelligible. Mr. Giles tells what he means, and commits himself upon the issue. General Hamilton knows what he is charged with; the House knows what to proceed upon; and the public knows for what to hold the accused to his defence, the accuser to his proofs, the House to its justice, and all the parties to their official accountability to their constituents. Compare this resolve against President Jackson, with the resolve of Mr. Giles, and see how different in the essential particulars of criminal accusation. The general charge is the same in both cases, that of violating law, and acting without authority; yet the resolves are totally different; one, all precision, the other, all ambiguity. In one, every word a declaration of fact or law, on which precise issues might be taken; in the other, every word a problem, and susceptible of as many meanings as there were tongues to debate it. Like the oracular responses of the Pythian Apollo, they seemed to be selected for their amphibology, and because any meaning and every meaning which might be required or forbid, might be affirmed or denied under them. Try them by their sense and impost. "Late Executive proceedings." Here are three words, and three ambiguities. 1. "Late." How late? one year, two years, five or ten year ago? 2. "Executive." What part of the executive? the Chief Magistrate, or one of the heads of department? 3. "The public revenue." What part of it? That in the Bank of the United States, or in the deposit banks, or in a state of collection in South Carolina? I defy any man to affix any definite idea to either of these terms, or to take any issue upon them. All is uncertain, ambiguous, problematical; nothing is clear but the abandonment of all that related to Mr. Duane, Mr. Taney, the removal of the deposits, the responsibility of removing them, the danger to the liberties of the people, and the complete cutting loose from all connexion with the Bank of the United States, whose wrongs had solely occupied the two previous forms of the resolution, and had figured so inconspicuously in the speeches of all its friends. All this is abandoned; all mention of the Bank is dropped. Instead of it, the vague is substituted, which has been so often pointed out to the notice of the Senate; and under this general denunciation, a general accusation is made, something like a subscription list, or money purse of accusation, which each one put in according to his will and his means.

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which they had partly made. They withdrew every thing upon which they could be held to their accountability. They brul in, back out, cut loose, and run away from their own attempt to specify the guilt of President Jackson; and then condemn him in a general verdict, made up by compromise, and unable to bear the test of any one specification whatever. Yes sir! made up by compromise! for whom of us, that were then in this chamber that does not remember the extraordinary circumstances of the closing scene? the peripatetic movements which took place among members? the crossing to and fro on this floor? the consultations and the whisperings? the fixing and altering, the writing and rubbing out, the offering and withdrawing, the tearing up and beginning anew, which went on in this chamber, until a set of phrases were collected, by contribution from different parts of this floor, sufficiently non-committal to embrace all who were willing to condemn the President, without being able to tell for what? I speak as an eye witness, when I describe the closing scene in these terms; and I appeal to forty senators then, and now present, to affirm my statement. And what say the laws of the land to the verdicts obtained by compromise? Utterly reprobated; the jury reprimanded, who gives them; their verdict set aside, and a new trial ordered.

Sir, said Mr. B., examine this sentence of condemnation as it stands. Examine it word by word, and see if it is located to any one place, limited to any time, or confined to any one act? Will it not cover the "late" Executive proceedings relative to the revenue in South Carolina, as well as the "late" Executive proceedings relative to the deposits in Philadelphia? Will it not cover the orders to Commodore Elliott to proceed to Charleston, just as well as it will cover the order to Mr. Duane to quit the cabinet? Would it not cover the removal of troops to the South, to ensure the collection of the revenue, just as well as it would cover the removal of the deposits from the Bank to prevent the mischiefs of their remaining there? Were not the two measures equally complained of at Charleston and in Philadelphia? and is it not notorious, that when distinguished sons of South Carolina, immediately after the condemnation of the President, denounced the lawless tyranny of his conduct in public speeches in Philadelphia, meaning all the while his conduct in relation to the revenue in South Carolina, that the friends of the Bank, who had previously applauded the President for that conduct, clapped and shouted, and flung their caps into the air, in a delirium of exultation, under the delusion that all this denunciation found its exergo in the wrongs of the Bank, and not in the wrongs of South Carolina? Certain it is, that the criminal resolve which, in its first and second form, was all Bank, in its third form, cut loose from the Bank entirely! that Mr. Duane, Mr. Taney, the responsibility, the deposits, the mother Bank and its branches, which figured exclusively in the first and second forms, were all expunged in the third form! and not one word retained which could commit the supporters of the resolve to the name, to the cause, or to the complaints of the Bank!

I have described the scene, faintly described it, as it took place in this Senate, in the face of all then present and while the call for the yeas and nays was delayed to give time for making up the phraseology of the resolution. It now becomes my duty to explain the reason why it came to pass that this business of fixing the non-committal phrases of the resolve was postponed to the last moment, and then had to be transacted by consultations and whisperings in the Senate. The reason, sir, was this: At the commencement of the session of 1833 '34, the Bank of the United States, and the Senate of the United States, appear to have commenced an attack upon the people, the property, and the government of the United States. The Bank created a pressure; the Senate excited a panic; and the spring elections in New York and Virginia were the first and principal objects of both. The Bank sent out her orders to call in debts and break up exchanges; the senate brought in its resolution to condemn President Jackson for a violation of the laws and constitution; and under the combined action of this double process, the price of all property was sunk, and the public mind agitated and alarmed, until a fictitious panic was produced. The operation was kept up, the Bank screwing tighter, and the alarm gun firing, and the tocsin ringing faster and louder in the senate, until the pressure had reached its lowest point of culmination, and the important elections of New York and Virginia were just at hand, and every thing was ripe for the final blow. The condemnation of the President before those elections, and at the moment of their commencement, was this final blow, and the exact moment for striking it had arrived on Friday, the 28th day of March. That was the day, for it was the last day that it could be done in time to leave its effect. Monday was the first day of April, and the great elections were to begin; it was therefore indispensable that the news of the condemnation of the President should leave Washington a few days before the first of April, in order to reach in time the more remote election grounds in the great states of New York and Virginia, and to have its effect upon those elections. This is the reason why

the debate on the condemnatory resolution was delayed, protracted, prolonged, and spun out from the 26th of December to the 25th of March, and then passed in the hurry and precipitation which produced that scene of consultation and of whispering, of running to and fro, of putting in and striking out, of offering and withdrawing, which was then witnessed in the senate, and which ended in the engendering of that unrivalled specimen, that *ne plus ultra* production, of the non-committal policy, which now stands upon your journal as a judgment of condemnation against President Jackson!

Mr. B. said he was an enemy to monopolies, and must express his dissatisfaction to them, in whatsoever shape they were presented to his view. Here was a monopoly, a new and strange monopoly; it was a monopoly of non-committal and irresponsibility, and that by friends present to the prejudice of their friends absent. The Kentucky legislative resolve, all the state legislative resolves, all the resolves of all the public meetings, and all the petitions of the 120,000 petitioners sent into the senate, were direct and specific in their charges against the President. They all charged in a direct terms the violation of the laws and constitution, and all grounded their charges upon the dismissal of Mr. Duane, the appointment of Mr. Taney, the assumption of the responsibility, the removal of the deposits, and the danger to the liberties of the people. They all specified these acts, and therefore fully committed themselves, and now stand committed upon them. So did their friends and leaders on this floor. All were even at the start.—All were in the same predicament up to the memorable 28th day of March, 1834. Up to that day all were together in the *Cassidine Forks*; but now the leaders and the followers are divided. The leaders exoriated themselves; they uncommitted themselves; they cut loose from the Bank and all its griefs and complaints. They dropped every thing which could connect them, upon the record, with the Bank and its cause; esconced themselves in the mystification of amphibological phrases; and now stand untrammelled, unpledged, uncommitted, uncommitted and non-committed upon one single allegation of law or fact on which responsibility can be incurred, or an issue can be taken. This is wrong. The leaders should never desert their followers; they should never leave their deluded associates in the lurch. The military man shares the fate of his soldiers; he saves them, or dies with them! The politician should do the same. No monopoly of escape is allowed to one any more than to the other. Here is a case for sympathy and relief—for interposition and help. The followers should be allowed to escape with the leaders; they should be allowed to cut loose from the Bank; they should be permitted to uncommit themselves; and for that purpose should have leave to withdraw and amend to amend, by striking out every thing that relates to the deposits, the secretaries, the liberties of the people, the responsibility, &c. and float at large upon the undefinable and intangible denunciation of the LATE EXECUTIVE PROCEEDINGS IN RELATION TO THE REVENUE!!!

IV. My fourth proposition applies to the doctrine of legal implications, and affirms that what has been withdrawn upon objection, cannot afterwards be understood, by implication, to remain a part of the record. The proposition, for its better understanding, will be read. It is in these words:

"And whereas the specifications contained in the first and second forms of the resolve, having been objected to in debate, and shown to be insufficient to sustain the charges they were added to support, and it being well believed that a majority could be obtained to vote for the said specifications, and the same having been actually withdrawn by the mover in the face of the whole Senate, in consequence of such objection and belief, and before any vote taken thereupon, the said specifications could not afterwards be admitted by any rule of parliamentary practice, or by any principle of legal application, secret reservation, or mental reservation, to remain and continue a part of the written and public record from which they were thus withdrawn; and, if they could be so admitted, they would not be sufficient to sustain the charges therein contained."

The proposition contains three points: 1. An affirmation: 2. A rule of law: 3. An issue offered. The affirmation, in part, is proved by the record, namely, that the specifications of President Jackson's supposed illegal and unconstitutional conduct, were all withdrawn; and the remainder of it, namely, that they were withdrawn because no majority, not even a party one, could be got to vote for them, can be proved by the Senators then and now present. The rule of law is too clear for argument. It is known to every apprentice to the law, that what is given upon the face of the record, cannot be retained, as a part of the case, by any fiction of pleading, legal intendment, constructive implication, mental reservation, or supposititious reintegration whatsoever. The issue is open and bold, that if the specifications can be saved by implication, they are insufficient to justify the condemnation; and to the trial of this issue, we challenge and defy the whole power of the opposition.

V. My fifth proposition affirms the total impropriety, and the particular unconstitutionality of the Senate's proceeding against President Jackson. It is in these words:

"And whereas the Senate being the constitutional tribunal for the trial of the President when charged by the House of Representatives with offences against the laws and the constitution,

the debate on the condemnatory resolution was delayed, protracted, prolonged, and spun out from the 26th of December to the 25th of March, and then passed in the hurry and precipitation which produced that scene of consultation and of whispering, of running to and fro, of putting in and striking out, of offering and withdrawing, which was then witnessed in the senate, and which ended in the engendering of that unrivalled specimen, that *ne plus ultra* production, of the non-committal policy, which now stands upon your journal as a judgment of condemnation against President Jackson!

Mr. B. said he was an enemy to monopolies, and must express his dissatisfaction to them, in whatsoever shape they were presented to his view. Here was a monopoly, a new and strange monopoly; it was a monopoly of non-committal and irresponsibility, and that by friends present to the prejudice of their friends absent. The Kentucky legislative resolve, all the state legislative resolves, all the resolves of all the public meetings, and all the petitions of the 120,000 petitioners sent into the senate, were direct and specific in their charges against the President. They all charged in a direct terms the violation of the laws and constitution, and all grounded their charges upon the dismissal of Mr. Duane, the appointment of Mr. Taney, the assumption of the responsibility, the removal of the deposits, and the danger to the liberties of the people. They all specified these acts, and therefore fully committed themselves, and now stand committed upon them. So did their friends and leaders on this floor. All were even at the start.—All were in the same predicament up to the memorable 28th day of March, 1834. Up to that day all were together in the *Cassidine Forks*; but now the leaders and the followers are divided. The leaders exoriated themselves; they uncommitted themselves; they cut loose from the Bank and all its griefs and complaints. They dropped every thing which could connect them, upon the record, with the Bank and its cause; esconced themselves in the mystification of amphibological phrases; and now stand untrammelled, unpledged, uncommitted, uncommitted and non-committed upon one single allegation of law or fact on which responsibility can be incurred, or an issue can be taken. This is wrong. The leaders should never desert their followers; they should never leave their deluded associates in the lurch. The military man shares the fate of his soldiers; he saves them, or dies with them! The politician should do the same. No monopoly of escape is allowed to one any more than to the other. Here is a case for sympathy and relief—for interposition and help. The followers should be allowed to escape with the leaders; they should be allowed to cut loose from the Bank; they should be permitted to uncommit themselves; and for that purpose should have leave to withdraw and amend to amend, by striking out every thing that relates to the deposits, the secretaries, the liberties of the people, the responsibility, &c. and float at large upon the undefinable and intangible denunciation of the LATE EXECUTIVE PROCEEDINGS IN RELATION TO THE REVENUE!!!

IV. My fourth proposition applies to the doctrine of legal implications, and affirms that what has been withdrawn upon objection, cannot afterwards be understood, by implication, to remain a part of the record. The proposition, for its better understanding, will be read. It is in these words:

"And whereas the specifications contained in the first and second forms of the resolve, having been objected to in debate, and shown to be insufficient to sustain the charges they were added to support, and it being well believed that a majority could be obtained to vote for the said specifications, and the same having been actually withdrawn by the mover in the face of the whole Senate, in consequence of such objection and belief, and before any vote taken thereupon, the said specifications could not afterwards be admitted by any rule of parliamentary practice, or by any principle of legal application, secret reservation, or mental reservation, to remain and continue a part of the written and public record from which they were thus withdrawn; and, if they could be so admitted, they would not be sufficient to sustain the charges therein contained."

The proposition contains three points: 1. An affirmation: 2. A rule of law: 3. An issue offered. The affirmation, in part, is proved by the record, namely, that the specifications of President Jackson's supposed illegal and unconstitutional conduct, were all withdrawn; and the remainder of it, namely, that they were withdrawn because no majority, not even a party one, could be got to vote for them, can be proved by the Senators then and now present. The rule of law is too clear for argument. It is known to every apprentice to the law, that what is given upon the face of the record, cannot be retained, as a part of the case, by any fiction of pleading, legal intendment, constructive implication, mental reservation, or supposititious reintegration whatsoever. The issue is open and bold, that if the specifications can be saved by implication, they are insufficient to justify the condemnation; and to the trial of this issue, we challenge and defy the whole power of the opposition.

V. My fifth proposition affirms the total impropriety, and the particular unconstitutionality of the Senate's proceeding against President Jackson. It is in these words:

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