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From the Standpoint of the
Operating Officer

By LEWIS MERIAM

THIS is not another book dealing exclusively with the merit system and civil service control. Its objectives are (1) to attempt to see public personnel administration as a whole, (2) to view it primarily but by no means exclusively from the standpoint of an operating officer immediately responsible for getting a specific task done, and (3) to deal with the subject as simply and as realistically as possible, making free use of illustrative cases. It is not designed to make, or attempt to make, personnel technicians but rather to promote better understanding of the broad problems of personnel in American governments. Discussions of techniques and technical problems are not carried further than seems necessary to give that understanding.

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**CONTROL OF FEDERAL EXPENDITURES:
A DOCUMENTARY HISTORY, 1775-1894**

CONTROL OF FEDERAL EXPENDITURES

A DOCUMENTARY HISTORY · 1775-1894

Compiled by
FRED WILBUR POWELL



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WASHINGTON, D.C.

1939

X791.73.M94

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13546

Printed in the United States of America

George Banta Publishing Company

Menasha, Wisconsin

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INTRODUCTION

Within the last few years there has been an awakening of public interest in the matter of control over the expenditures of the national government and a revival of interest within the group of special students of public administration and of public finance. There are few books on the subject; and the basic materials are widely scattered through numerous official publications which are out of print and available in few libraries. Bibliographical aids and indexes are unsatisfactory.

These materials cover a period of well over a century. They constitute an almost continuous record of what was thought, or at least said, by the men who participated in debates on financial and accounting bills, of the facts and arguments presented by legislative committees, and of the results achieved by officials responsible for administering the system which was evolved through a long series of statutes.

It is not a complete record. Important measures have been sometimes introduced and enacted without adequate reports or recorded discussion. It is not a perfect record. Discussion has been sometimes ill-informed, insincere, prejudiced, partisan, or irrelevant; reports in some cases have been the same.

When one attempts to subject the official records to the test of comparison with the personal papers of the men who have participated in financial legislation or administration, the result is often disappointing, for the subject of finance has seldom been the major interest of biographers, "literary executors," and compilers of "works" and "writings."

It is the purpose of the present compilation to bring together in a single volume the significant materials, official and unofficial, underlying the financial history of the United States on the disbursement side, from the beginning to 1894, when the Cockrell-Dockery Act introduced fundamental changes in the system. Such a volume, it is believed, will serve the legislator and the administrator as a work of refer-

ence, and the special student as a source of essential data. Its availability to instructors as a book of readings for class use is also indicated.

Included in the scope of the volume are: proceedings, resolutions, orders, and ordinances of the Continental Congress as shown by its *Journals*; pertinent and informative remarks, speeches, and debates in Congress, as reported in its proceedings—*Annals, Register, Globe, Record*; congressional committee reports; and reports of administrative officers. Supplementing them are excerpts from unofficial papers of men whose experience as participants in legislation or administration gave value to their words. Excluded from the volume are the federal statutes, court decisions, opinions of the Attorneys General, and comptrollers' decisions. Everything included has been printed before but, with two exceptions, is now out of print. The exceptions are the excerpts from the *Journals of the Continental Congress* and from Hamilton's *Works*.

The materials are arranged in seventy-five numbered sections and presented in chronological order, with such topical sub-grouping as has been considered advisable. Continuity between sections, where it exists, has been indicated in footnotes. Footnote reference is also made to resultant statutes. Most section titles have been supplied; but center heads in the body of the text are reproduced in the words but not necessarily in the style of the original. The text itself is reproduced in facsimile, except for the insertion of new matter in brackets and the elimination of archaic type in some instances and of differences in type sizes in others. Original page references, bracketed in the text, refer to the pagination of the first item given in the bibliographical footnotes appended to section titles.

CONTROL OF FEDERAL EXPENDITURES:
A DOCUMENTARY HISTORY, 1775-1894

NO. I

THE OFFICE OF TREASURER, 1775-89

July 29, 1775

Resolved, That Michael Hillegas, and George Clymer, Esqrs. be and they are hereby appointed joint treasurers of the United Colonies: that the Treasurers reside in Philadelphia, and that they shall give bond, with surety, for the faithful performance of their office . . . in trust for the United Colonies.¹

September 29, 1775

Resolved, That when any accounts are laid before the Congress and ordered to be paid, the orders be drawn on the treasurers and signed by the president.²

August 6, 1776

Mr. [George] Clymer, one of the joint treasurers, being appointed a delegate to Congress, by the convention of Pennsylvania.

Resolved, That, for the future, there be only one continental treasurer.³

November 3, 1778

Congress proceeded to the election of officers for the treasury,⁴ and, the ballots being taken . . . Michael Hillegas was elected treasurer.⁵ . . .

¹ *Journals of the Continental Congress*, Library of Congress edition (hereinafter cited as "*Journals*"), Vol. 2, p. 221.

² *Journals*, Vol. 3, p. 265.

³ *Journals*, Vol. 5, p. 634.

⁴ Under Resolution of Sept. 26, 1778. *Journals*, Vol. 12, p. 956.

⁵ *Journals*, Vol. 12, p. 1096. Hillegas continued as Treasurer until 1789.

NO. 2

COMMITTEE FOR RIFLEMEN'S ACCOUNTS,
1775⁶*August 1, 1775*

Resolved, That the sum of ten thousand dollars be placed in the hands of the delegates of Pennsylvania, or any three of them, for contingent services, and that out of the same, be paid the expences incurred for raising and arming the riddle companies, and for expresses and other small charges, of which the Congress have not been able to procure exact Accounts; and that the said committee⁷ do lay before the Congress, at their next meeting, an account of their proceeding in that matter.⁸

September 14, 1775

The delegates for Pennsylvania appointed, at the last session, a committee to settle and pay the expences incurred for raising and arming the riddle companies, as well as those incurred in consequence of the resolve for raising a company of Hussars,⁹ and for expresses, &c., having informed the Congress, that, on account of sundry difficulties, they had not executed that service, and desiring that some members from other colonies, where debts have been contracted, may be added,

Resolved, That . . . [five delegates designated by name] be added to the delegates for Pennsylvania [making a total of thirteen], and that any five of them be a quorum to settle

⁶ Enlarged Sept. 14, 1775.—*Journals*, Vol. 2, p. 250; discharged and succeeded by Committee of Accounts, Sept. 25, 1775.—*Journals*, Vol. 2, p. 252.

⁷ Various referred to as the "committee to settle the accounts of the riddlemen,"—*Journals*, Vol. 2, p. 254; the "committee of accounts,"—*Journals*, Vol. 3, pp. 257-61; and the "Committee for Riflemen's Accounts."—*Journals*, Vol. 3, p. 475. There were eight Pennsylvania delegates.

⁸ *Journals*, Vol. 2, p. 237.

⁹ July 11, 1775.—*Journals*, Vol. 2, p. 173.

and pay the above accounts, and that they report their proceedings to the Congress.¹⁰

NO. 3

COMMITTEE OF ACCOUNTS (OR CLAIMS),
1775-77¹¹

September 25, 1775

As Accounts are brought in different from those committed to the foregoing Committee to liquidate, and as it is proper that the accounts of the Continent be put into a [261] proper train of liquidation and settlement, in order for payment,

Resolved, That a Committee of accounts or claims be now raised to consist of one member from each of the United Colonies, to whom all accounts against the Continent are to be referred, who are to examine and report upon the same, in order for payment, seven of them to be a quorum.

* * * *

That the former Committee deliver to the Committee now appointed, all the books, accounts, and papers in their hand.¹²

[262]

¹⁰ *Journals*, Vol. 2, p. 250.

¹¹ Discharged July 30, 1776.—*Journals*, Vol. 5, p. 620. Succeeded by Commissioners of Claims, Mar. 13, 1777.—*Journals*, Vol. 7, p. 175.

¹² *Journals*, Vol. 3, pp. 261-62.

"*Sherman* moved that a committee be appointed, of one member from each Colony, to receive and examine all accounts. *S. Adams* seconded the motion.
* * * *

"*Paine* thought that justice and honor required that we should carefully examine all accounts and see to the expenditure of all public moneys; that the minister would find out our weakness, and would foment divisions among our people; he was sorry that gentlemen could not hear methods proposed to settle and pay accounts, in a manner that would give satisfaction to the people, without seeming to resent them. *Harrison*. Now the gentlemen have explained themselves, he had no objection; but when it was proposed to appoint a new committee, in place of the former one, it implied a reflection.

"*Willing*. These accounts are for tents, arms, clothing, etc., as well as expenses of the riflemen, &c.

"... *S. Adams* ... still hoped that some time or other a committee would

October 28, 1775

Resolved, That five of the Committee of Claims be empowered to act, of which the chairman is to be one.¹³

July 30, 1776

Resolved, That all public claims and accounts, that are, at this time, unsettled, be referred to the Committee of the Treasury,¹⁴ and that the Committee of Claims be discharged from proceeding further upon any claims or accounts; and that all the books and papers now in the hands of the committee of claims, be delivered to the auditor general.¹⁵

NO. 4

STANDING COMMITTEE FOR SUPERINTENDING THE TREASURY (OR BOARD OF TREASURY), 1776-79¹⁶

February 17, 1776

Resolved, That a standing committee of 5 be appointed for superintending the treasury:

That it shall be the business of this committee,

To examine the accounts of the treasurers, and, from time to time, to report to Congress the state of the treasury;

* * * *

To employ and instruct proper persons for liquidating the public accounts, with the different pay masters and commissaries in the continental service, and the conventions, committees of safety and others who have been or shall be en-

be appointed, of one member from each Colony, to examine all accounts, because he thought it reasonable."—John Adams, "Notes of Debates," *Journals*, Vol. 3, p. 475.

¹³ *Journals*, Vol. 3, p. 310.

¹⁴ Feb. 17, 1776. *Journals*, Vol. 4, pp. 156-57.

¹⁵ *Journals*, Vol. 5, p. 620. Auditor general's office created Apr. 1, 1776.—*Journals*, Vol. 4, p. 244.

¹⁶ Abolished and succeeded by a second Board of Treasury, July 30, 1779.—*Journals*, Vol. 14, p. 903. See also No. 5.

trusted with the public money; and, from time to time, to report the state of such accounts to Congress. . . .¹⁷

February 23, 1776

Resolved, That the committee, for superintending the treasury, be authorized to employ one or more clerks for stating, keeping, and liquidating the public accounts, under their direction, and to provide books and a suitable office for that purpose:

That they have power to call upon the different committees of Congress, assemblies, conventions, councils or committees of safety, continental officers, and private persons, who have been or shall be entrusted with public money, for their accounts and vouchers, and for such other materials and information, as the said committee on the treasury shall judge to be useful, in stating, checking and auditing the public accounts.¹⁸

NO. 5

TREASURY OFFICE OF ACCOUNTS, 1776-78¹⁹

April 1, 1776

The Congress having, on the 17th of February last, appointed a standing committee for superintending the treasury, with power, among other things, to employ and instruct proper persons for liquidating the public accounts; and the said resolution not being sufficiently explicit, with respect to the manner and place of settling those accounts, and nothing being of greater consequence, than that the public accounts should be regularly stated and kept, and justly liquidated and settled; [243]

Resolved, therefore, That a treasury office of accounts

¹⁷ *Journals*, Vol. 4, p. 156.

¹⁸ *Journals*, Vol. 4, p. 170.

¹⁹ Subordinate to Board of Treasury. Abolished Sept. 26, 1778.—*Journals*, Vol. 12, p. 956. See also No. 4.

shall be instituted and established, and that such office shall be kept in the city or place, where Congress shall, from time to time, be assembled and hold their sessions:

That the said office of accounts shall be under the direction and superintendence of the standing committee for the treasury:

That an auditor general, and a competent number of assistants or clerks, shall be appointed by Congress, and employed, for stating, arranging, and keeping the public accounts:

That all accounts and claims against the United Colonies, for services or supplies, where the rates or prices have not been ascertained by Congress, shall be presented to the Committee of Claims, liquidated by them, and reported to and allowed by Congress, previous to their being passed and entered at the treasury office; that all other accounts and claims, consisting of articles, the price or value of which shall have previously been fixed by contract, or otherwise ascertained by Congress, shall be liquidated and settled at the treasury office, and reported for the allowance of Congress, by the committee for superintending the treasury, and then passed and entered at the treasury office.

That all contracts, securities, and obligations, for the use and benefit of the United Colonies, shall be lodged and kept in the treasury office of accounts; and that all persons to whom public monies have been or shall be advanced or paid, shall be charged with the same in the books of the said office, for which purpose every warrant on the treasury, which shall issue after the said office shall be opened, shall, previous to its being paid, be entered at the treasury office, and the entry certified on the warrant, by one of the committee of the treasury, the auditor general, or one of his assistants or clerks; pro- [244] vided, however, that all orders or warrants issued by committees appointed and authorized by Congress to draw on the treasurers for particular purposes, shall be paid and

charged to the account of the said committees respectively, until they shall settle and have their accounts passed by Congress, when the debits against them shall be discharged in the treasury office, by such credits as Congress shall agree to and allow:

That all assemblies, conventions, councils, and committees of safety, commissaries, pay masters, and others, entrusted with public monies, shall, within a reasonable time, after being called upon for that purpose by the committee of the treasury, produce their accounts and vouchers at the treasury office, in order to their being settled and adjusted in the manner before directed:

That the committee for superintending the treasury shall be authorized to apply to the commanding officers and others, in the continental service, for such materials and information, as the committee may judge to be useful, for stating, explaining, or checking the public accounts in order to their being fairly and justly settled:

That the auditor general and his assistants or clerks, before entering upon their offices, shall, respectively, take an oath, to be administered by one or more of the committee of the treasury office (a certificate whereof shall be filed in the treasury office) well and faithfully to execute the trust reposed in them, as auditor, assistant, or clerk, (as the case may be,) of the office of accounts, established by Congress, according to the best of their skill and judgment, and to disclose no matter, the knowledge of which shall be acquired in consequence of such their office, which they shall be directed to keep secret:

That the committee for superintending the treasury shall be authorized to hire suitable places, and procure books of accounts and other necessaries at the public [245] expence, for the establishing and doing the business of the said office.²⁰
[246]

²⁰ *Journals*, Vol. 4, pp. 243-46.

NO. 6

COMMISSIONERS OF CLAIMS, 1777-79²¹*March 13, 1777*

The Board of Treasury brought in a report, which was taken into consideration; Whereupon,

Resolved, That three commissioners be appointed to examine such claims against the United States, as may be presented to Congress for payment:

That they constantly keep their office in the city or place where Congress shall, from time to time, be assembled and hold their session:

That they carefully avoid passing any accounts that ought to be adjusted in other departments, unless directed thereto by Congress or the Board of Treasury, in which cases, they are to send to the office or department where the same should have been settled, a copy of such accounts, and the allowance made thereon by Congress:

That they certify the sums to be allowed on accounts examined by them, and render the same to the auditor general, to be by him reported to Congress.²²

*April 9, 1777**Resolved*, . . .

That the commissioners to be appointed "to examine such claims against the United States as may be presented to Congress for payment," when a necessary attention to their other duties will admit thereof, shall adjust the accounts of any public bodies, person or persons whatever, to whom money has been advanced by the United States, which may be referred to them by Congress or the Board of Treasury.²³

²¹ Abolished July 30, 1779,—*Journals*, Vol. 14, p. 903 (query?).

²² *Journals*, Vol. 7, p. 175.

²³ *Journals*, Vol. 7, p. 249.

NO. 7

TREASURY REORGANIZATION, 1778

April 15, 1778

The Committee on the Treasury brought in a report respecting the establishment of a new Board of Treasury, which was read:

The Board of Treasury agree to Report the following Plan of a New Board:

That a Board to consist of five Members, not of Congress, be appointed to superintend the affairs of the Treasury, and that three be a quorum.

That it be the Duty of the Board to examine from time to time the State of the Treasury, prepare Estimates of the Publick expence and report thereon to Congress. [349]

* * * *

To see that the publick accounts are properly liquidated and kept.

To transact such other matters as may be referred to them by Congress and keep fair Records of all their proceedings.

That for these purposes the Board of Treasury shall keep an office in the City or place where Congress shall from Time to Time hold their Sessions, the necessary Expences of which shall be defrayed by the Publick.

That an Auditor and Deputy Auditor General be appointed by Congress.

That it be the Duty of the Auditor, or in his absence of the Deputy Auditor General, to direct the stating, arranging and keeping the publick accounts subject to the controul of the Board of Treasury.

That the Board be authorised to appoint a sufficient Number of Commissioners, Auditors and Clerks for liquidating the publick accounts, and instruct them in the Duties of their respective offices; and that they discharge from time to time such of the said officers as they may judge expedient, report-

ing to Congress the Names of the Persons so appointed or discharged.

That all Contracts, Securities and obligations entered into or taken by Congress or the Board, shall be lodged or kept in the Treasury office of accounts, and that all persons to whom publick Monies have been or shall be advanced or paid by Congress, shall be Charged with the same in the Books of the office, for which purpose every warrant on the Treasurer, or any of the Commissioners of the Loan offices, which shall Issue after the Treasury office shall be opened, shall previous to its being paid be entered at the said office, and the entry certified on the Warrant by a Member of the Board, the Auditor, or Deputy Auditor General.

That no receipt of the Treasurer for publick Monies shall be admitted as a Voucher before it is entered at the Treasury office, and the Entry certified thereon, as aforesaid.

That all Assemblies, Conventions, Councils and Committees of Safety, Commissioners, Paymasters, and others entrusted with publick Money, shall, within a reasonable time after being called upon for that purpose by the Board of Treasury, produce their Accounts and Vouchers in order to their being adjusted and settled.

That the Board of Treasury shall be authorised to call on any officer of the United States for such Materials and Information as the Board may judge useful in stating, explaining or settling the publick accounts.²⁴ [350]

[Oath of Office, 351]

May 19, 1778

The committee, to whom was referred the letter from Major General Mifflin, report, "that they have had a conference with General Mifflin and the auditor general upon the subject of the said letter, and having heard General Mifflin's observations upon his peculiar situation as quarter master general, and his objections to being held strictly to ac-

²⁴ *Journals*, Vol. 10, pp. 349-50.

count in cases where, from the nature of the business and particular circumstances attending it, he was incapable of direct agency and the necessary superintendence; that the committee delivered to him and to the said auditor general their opinion, that the great servants of the public are generally to be accountable; that if, in the course of adjusting the public accounts, deficiencies shall appear, Congress will, in every special case, determine upon the circumstances as they arise, whether the party shall, or shall not be discharged; that the committee had no doubt, but such favourable allowance would be made as justice should require; but that Congress could not, consistent with their duty to the United States, by any general resolutions, hold up the maxim that payment of money to deputies or assistants in a department should discharge the principal."

Resolved, That Congress agree to the said report.²⁵

August 13, 1778

The Committee to whom was referred the Report from the Treasury of the fifteenth of April last beg leave to report:

That it appears necessary to organize the several Treasury Departments immediately, for the following Reasons:

1st. Because the Adjustment of the Finances of the United States, now much deranged, cannot be made without arranging that Office, which will in all Instances more or less affect them.

2dly. Because until this be done, it will be impracticable to call the several States to account, and even Individuals, much less to have those frequent Accounts, which can alone check Fraud and regulate the Expences of a Community.

3dly. Because the Attention which Congress are under the Necessity of paying to the particular Disbursements of the public Money, together with the Variety of other Business, which as well as this ought to be transacted elsewhere, pre-

²⁵ *Journals*, Vol. 11, p. 511.

vent them from applying to the greater Affairs of the Continent. And, [779]

4thly. Because the Arrangement of every Department should have an ultimate Reference to the Manner of doing Business at the Treasury, and therefore until that be fixed, the other cannot be adjusted.

That it appears to your Committee the following Particulars should be attended to in the Business referred to them:

1st. That no more Persons should be appointed than are necessary: Since Numbers increase the Expence, delay Business, and give greater Room for Corruption and for the Concealment of Frauds, Indolence or Inattention.

2dly. That there be proper Checks devised to prevent as much as possible those who are intrusted with the public Monies from converting it to their own Use. And those who are to examine the public Accounts from Collusion with the Creditors of the public, or with its Debtors.

3dly. That Congress may be enabled to see with Precision the Manner of Expenditures, and the Amount. And know the state of the public Debts, and the Produce of the public Revenue.

Under these Ideas your Committee submit to the Consideration of Congress the following Arrangement, viz:

That for conducting the Affairs of the Treasury there be three principal Officers, a Comptroller, a Treasurer, and an Auditor; That each of them be allow the sum of _____ Dollars per Annum, and the sum of _____ Dollars per Annum for the Expence of an Office and Clerk.

That it shall be the Duty of the Comptroller to keep the Seal of the Treasury. That he shall receive the Accounts transmitted to him by the Auditor with the Vouchers, which he shall examine, and thereon shall determine to whom the several Sums audited are payable, and whether the same are payable by the United States; in which case he shall draw a Bill on the Treasurer in the following form annexed, and marked A., to which he shall affix the Treasury Seal: and if

the same are not payable by the United States, then he shall redeliver the Vouchers thereof to the Auditor and mark them "not passed." That he shall keep regular Books containing the Accounts by him passed, in which Books a separate Account shall be opened between the United States and each Individual or State, and shall transmit monthly Accounts to Congress of the Monies by him drawn for and in whose [780] favor. That he shall affix the Treasury Seal to all Loan Office Certificates, and shall deliver them to the Treasurer, whose Receipt for the same he shall file; and shall transmit monthly Accounts thereof to Congress specifying therein the Dates and Amount of such Certificates. That he shall receive from the Treasurer Receipts for the Monies by him received and shall thereon give a Discharge in the Form annexed and marked B., which he shall sign and affix thereto the Treasury Seal, and transmit the same to the Auditor to be indorsed, rendering a monthly Account as aforesaid. That he shall receive of the several Loan Officers monthly the Certificates which shall not have been by them employed, and shall give thereof a Receipt in the Form annexed and marked C., which he shall sign and transmit to the Auditor, to be indorsed, rendering monthly Account as aforesaid. That where a Resolution of Congress shall direct the Payment or Application of Monies he shall from Time to Time draw Bills on the Treasurer agreeable to such Resolutions in the Form annexed and marked D., which he shall sign and thereto affix the Treasury Seal, and transmit the same to the Auditor to be indorsed, rendering monthly Accounts thereof as aforesaid. . . . [781]

* * * *

That it shall be the Duty of the Auditor to audit all Accounts brought against the United States, and also to call all Persons to account who may be indebted to the said States; that for these Purposes there be two chambers of Accounts, the one to be called the Chamber of Claims, and the other the Chamber of Debts, each to be composed of three Persons,

be accountable for the conduct of their clerks respectively:
[956]

That the auditor shall receive all accounts brought against the United States for money lent, expended, or advanced; goods sold or purchased; services performed or work done, with the vouchers, and shall refer them to one of the chambers of accounts, endorsing them in the manner marked A:

That the commissioners of the chamber to whom an account shall be referred shall deliver the same to their clerks, to be properly stated:

That the clerks shall state the accounts referred to them by the commissioners, number and arrange the vouchers, examine the castings, and make necessary copies:

That the clerks, to whom an account shall be delivered, after they have completed the same, shall endorse it in the manner marked B:

That the commissioners to whom an account is referred as aforesaid, shall carefully examine the authenticity of the vouchers, (rejecting such as shall not appear good,) compare them with the articles to which they relate, and determine whether they support the charges; that they shall reduce such articles as are overcharged, and reject such as are improper, and shall endorse the accounts in the manner marked C, and transmit them, with the vouchers, to the auditor, and cause an entry to be made of the balances passed:

That the auditor shall receive the vouchers and accounts from the commissioners to whom he referred them, and cause them to be examined by his clerks. He shall compare the several articles with the vouchers, and if the parties concerned shall appeal from the judgment of the commissioners, he shall call before him the commissioners and the party, and hear them, and then make determination, from whence no appeal shall lie, unless to Congress. That after a careful examination of the account as afore- [957] said, he shall endorse it in the manner marked D, of which endorsement he

shall send a duplicate, to be filed in the same chamber of accounts, and shall transmit the account and vouchers to the comptroller:

That the comptroller shall keep the treasury books and seal, and shall file all the accounts and vouchers on which the accounts in the said books are founded, and shall direct the manner of stating and keeping the public accounts. He shall draw bills under the said seal, on the treasurer, for such sums as shall be due by the United States, on accounts audited, which, previous to the payment, shall be countersigned by the auditor, and also for such sums as may, from time to time, be ordered by resolutions of Congress, which previous to the payment, shall be countersigned by the Secretary of Congress, in the form marked E. That when monies are due to the United States, on accounts audited, he shall notify the debtor, and, (after hearing him, if he shall desire to be heard,) fix a day, for payment, according to the circumstances of the case, not exceeding ninety days, of which he shall give notice to the auditor, in writing, in the form marked F.

That it shall be the duty of the treasurer to receive and keep the moneys of the United States, and to issue them on bills drawn by the comptroller as aforesaid, filing duplicates thereof with the auditor, day by day, as he shall make payment: that, on receipt of monies, he shall give a receipt therefor, and transmit the same to the comptroller; and that he shall draw out and settle his accounts quarterly, giving the same in to the auditor for examination, by one of the chambers of accounts, to be from thence transmitted, through the auditor, to the comptroller, who shall compare the same with the treasury books, ascertain the balance, and return a copy of the same to Congress; . . . [958]

That the comptroller shall receive from the treasurer all receipts by him signed, and after making due entry thereof, by charging the treasurer and crediting the proper accounts, he shall endorse the same in the manner marked G, and de-

liver them to the party who made payment: that he shall, every quarter of a year, cause a list of the balances on the treasury books to be made out by his clerks, and lay it before Congress. That, where any person hath received public monies, which remain unaccounted for, or shall be otherwise indebted to the United States, or have an unsettled account with them, he shall issue a summons in the form marked H, in which a reasonable time shall be given for the appearance of the party, according to the distance of his place of residence from the treasury, of which he shall notify the auditor:

That, in case a party summoned to account shall not appear, nor make good essoign, the auditor, on proof made of service in due time or other sufficient notice, shall make out a requisition in the form marked I, which he shall send to the comptroller's office where the same shall be sealed, and then it shall be sent to the executive authority of the State in which the party shall reside:

That it be recommended to the several states to enact laws for the taking of such persons, and also to seize the property of persons who, being indebted to the United States, shall neglect or refuse to pay the same; notice whereof shall be given by the auditor to the executive authority of the respective states, in the form marked K, under the treasury seal:

[Oath of office, 959]

* * * *

That in the blanks of the forms above written, no figures be used either for dates or sums; but that the same be distinctly and plainly set in words at length, and without erasures or interlineations.²⁷ [961]

February 11, 1779

Resolved, That a secretary of the treasury be appointed,

. . .²⁸

²⁷ *Journals*, Vol. 12, pp. 956-61.

²⁸ *Journals*, Vol. 13, p. 177.

NO. 8

SECOND BOARD OF TREASURY, 1779-81²⁹*April 13, 1779*

The Committee on the Treasury beg leave to report

That having taken into consideration the late arrangement for the Treasury, and consulted Mr. [Jonathan] Trumbull [of Connecticut], appointed to the Office of Comptroller, and Mr. [John] Gibson Auditor General thereon, the latter made his report which is annexed.

That your Committee conceive it will be sufficiently obvious from the said report that the present arrangement cannot be carried into practice.

* * * *

AUDITOR GENERAL, HIS REPORT ON THE ARRANGEMENT OF
THE TREASURY

One of the greatest objections to the arrangement is perhaps that it by no means takes in the whole of the business incidental to the Treasury. It is confined merely to accounts, and leaves untouched, all that variety of business, which has hitherto employed the attention of the Treasury Board, and which would take up too much of the time of Congress if carried there. Therefore of necessity it follows that a Treasury Board must still exist for the despatch of these matters.

Another great objection seems to be, that for the sake of checks on the *Superior Officers*, the machine is so clogged, as to defeat in a great measure the intention of having the public accounts speedily settled. There are many accounts the Investigation of which will take up a set of Commissioners from three to six months, they must pass the like Examination in the Auditors Office, and will take up the same or nearly the same time; and consequently there cannot be more

²⁹ Abolished Sept. 11, 1781.—*Journals*, Vol. 21, p. 948. Succeeded by Superintendent of Finance.

than from two to four of such settled in the course of a year.

It will be of little avail to the public in the *present* situation of the public accounts, which are now prodigiously aggregated, and indeed will be so far from diminishing the Mass, that at the end of the year (if the war proceeds) it will be found to have greatly increased.

It should seem that the mode of doing business hitherto practised, is liable to the objection, that frauds might be committed by the *Superior Officers*. The new [445] arrangement don't seem to afford additional security; for by the first the same sum or balance appears in three different Offices, viz in the Commissioners, the Auditor General's and the Secretary of Congress; and by the last the like appears, viz in the Chambers of Accounts, the Auditors and Comptrollers offices. To detect Frauds in either an enquiry must be set on foot.

It is observable also, that the Commissioners are the sole Judges of Accounts; after they have passed them however exceptionally in his opinion, the auditor has no power to interfere, unless by an appeal from the Accomptant. Add to this the situation of the Auditor is humiliating. He is made the greatest of all Drudges, the Examiner of vouchers, and comparing them with the charges they are adduced to support; and this too after his Clerks have done the same Work. Another objection, and it may not be the least, is, that the duties required of the Comptroller and Auditor constrain their constant attendance otherwise business must be wholly suspended; and as often as either of them may be by sickness or necessity, called away; either Congress must interfere and supply a Remedy or disagreeable Inconveniences arise. But what is the proper duty of the Auditor General according to his original appointment. He was appointed to undertake the employment of "stating arranging and keeping the public accounts," and I should suppose as a matter incidental to this office he had the right of rejecting any improper charge in

accounts presented for settlement, after they may have passed the Chambers, and to instruct the Commissioners in cases of difficulty.⁸⁰—March 31, 1779. [446]

April 22, 1779

The Committee on the Treasury reported, that, according to the order of the House, they have had the reports of the Board relative to finance printed for the use of the members; and that, in the opinion of the Board, the public business cannot be conducted under the present arrangement of the treasury, and that it is necessary the reports now submitted be taken into consideration as soon as possible. [491]

(No. II.)

Resolved, That it appears to this Committee that a general opinion prevails that one cause of the alarming expences in these Departments, arises from allowing commissions to the numerous persons employed in purchasing for the Army; and that a very general dissatisfaction has taken place on that account, among the citizens of these United States.

Resolved, That in the opinion of this Committee it is necessary to put the said Departments on a different footing, with respect to the expenditure of public money.

* * * *

(No. III.)

Whereas it is indispensibly necessary, that the greatest oeconomy should be introduced in the public expenditures:

Resolved, That a Committee be appointed to make strict enquiry into the establishments and contingent expences of the respective Boards and Departments, and to consider and report the retrenchments and reformatations which shall appear to be practicable and expedient: And that they have power to call for returns from the officers; and for informa-

⁸⁰ *Journals*, Vol. 13, pp. 445-46.

tion from the Officers of any Department, and to confer thereupon with the Commander in Chief.³¹—March 31, 1779. [492]

July 30, 1779

ORDINANCE FOR ESTABLISHING A BOARD OF TREASURY, AND
THE PROPER OFFICERS FOR MANAGING THE FINANCES
OF THESE UNITED STATES

The principal officers of the Board shall consist of three commissioners, not members of Congress, and two members of Congress, any three of whom to form a Board for the despatch of business. The commissioners shall be annually appointed by Congress, and continue in office until a new election: No member of Congress shall continue to serve as a member of the said Board longer than six months by virtue of one appointment, nor shall there be more than one member of the said Board at any one time belonging to the same State. The Board to have a seal of office, a secretary, a clerk and messenger; the secretary to be annually appointed by Congress, the clerk and messenger by the Board.

That there be the following offices: the auditor general's, the treasurer's, two chambers of accounts, and six auditors for settling claims and accounts arising in the army.

That in the auditor's office there be an auditor general, and assistant annually appointed by Congress, and two clerks appointed by the auditor general.

That in the treasurer's office there be one treasurer annually appointed by Congress, and one clerk appointed by the treasurer.

That each chamber of accounts shall consist of three commissioners and two clerks.

That the Board of Treasury be authorized to discharge the auditors of the army or any of them whenever they shall find it expedient.

That the commissioners and clerks of the chamber of ac-

³¹ *Journals*, Vol. 13, pp. 491-92.

counts, and auditors for the army, be annually elected by Congress; and that the auditor general, treasurer and auditors for the army, be respectively accountable for the conduct of their clerks. [903]

That apartments be provided for the accommodation of the several offices of the treasury, in the city or place where Congress shall hold their sessions.

That the duties of the several offices be as follows:

THE COMMISSIONERS OR BOARD OF TREASURY

The commissioners or Board of Treasury to have the general superintendence of the finances of the United States, and of all officers entrusted with the receipt and expenditure or application of the public money, bills of exchange or loan office certificates: to inspect the treasury: to lay before Congress estimates of the public expences, and necessary supplies: and to call on public officers for information: to carry into effect all acts and resolutions of Congress for emitting bills of credit and of exchange, loan office certificates or other securities, and establishing lotteries: to deposit in the proper offices, such bills, certificates and securities when emitted; and all monies arising from loans, taxes and lotteries: to see that the public accounts are regularly stated in the auditor's office, and all public debtors brought to account, frauds detected, and defaulters punished: to sue and prosecute for all debts, wrongs and injuries touching the finances or property vested in Congress: to instruct in their duty all officers concerned in the finances or accounts, and to suspend any of them for negligence or misdemeanor, till the pleasure of Congress can be known: to register and preserve all contracts and securities appertaining to the United States: to grant under their seal of office "a quietus" to accountants on a final settlement: where objections are discovered against the report of the commissioners or auditors, to rectify their respective errors and instruct them where they are in doubt: to determine on appeals by an accountant from the decision of any of the audi-

tors or commissioners on any charge or voucher which they may respectively reject: to examine into the merits of all requisitions for the advance of money for public services, and report thereon to Congress: to grant warrants under their seal on the treasurer for balances of accounts and partial payments. [904]

* * * *

And for such advances as Congress shall direct to be made for the public service: which being entered in the auditors office, and certified to be passed by him, shall be paid. And generally to perform all such duties as shall be assigned them by Congress.

THE AUDITOR GENERAL

All accounts and claims against the United States (except such as are proper to be adjusted in the field by the auditors of the army) shall be exhibited to him, and the nature or title and the amount of the claim or account being registered, the same shall be referred by him to one of the chambers of accounts for settlement; and being accordingly there adjusted, shall be reported to him: he is then with his assistant to examine the nature of the charges and vouchers, and to reject such as appear to him to be improper, allowing an appeal from his determination to the Board of Treasury, when demanded by the accountant. After examination and previous to their being entered in the books of the treasury, he is to present the accounts to the Board of Treasury for their final determination; he shall direct the method, not only of stating the public books of accounts of the treasury (which are to exhibit a comprehensive view of the finances and expenditures of the United States) but of all other books of [905] accounts of public offices connected with the treasury, and the manner of their respective returns and reports: and through him all orders and instructions to the chambers of accounts and auditors of the army are to be communicated. All warrants on the treasury or loan offices for issuing public money, are to be

entered in the auditor's office, and certified to be passed by him before they shall be paid, and he is forthwith to charge the amount of such warrants to the department or person who is accountable. In case of his absence by sickness or with leave of the Treasury Board, all the duties hereby assigned to him shall be executed by the assistant auditor general, who shall also be the principal accountant in keeping and stating the public books at the treasury.

THE TREASURER

The treasurer is to receive and keep the monies of the United States, and issue them on bills drawn by the President of Congress or Board of Treasury. On receiving money, he shall give a receipt, and on every payment take one to serve as his voucher: he is to render his accounts quarterly to the auditor general, for examination by one of the chambers of accounts, and being reported to and approved by the auditor and presented by him to the Board of Treasury, and no objections appearing to them, a copy shall be transmitted to Congress. All loan officers shall make monthly returns to him as well as to the Board of Treasury, of the monies in their hands arising from loans, taxes or other means; on which returns he shall charge such officers in his books: when a warrant is drawn on him and he finds it convenient that it should be paid out of the money in any loan office, he shall endorse on the warrant an order to the loan officer, requiring him to discharge it accordingly; but before it is transmitted he shall produce the endorsements to the auditor general, who shall register and certify it to have been passed by him, and the loan officer is authorized and directed to pay it; and both the auditor general and the treasurer are to credit the loan officer with the sum which he is required to pay by such warrant and order. [906]

* * * *

THE CHAMBERS OF ACCOUNTS

The chambers of accounts, on the reference of the auditor general, shall carefully examine claims and accounts against

the United States; compare the charges with the allowance by Congress, and the vouchers to support them; reduce such articles as are overcharged, and reject such as are groundless or unjust, as well as the vouchers which shall appear to them incompetent; they shall have power to examine witnesses, being first sworn or affirmed by them, or one of them, and to call for any books or papers in the public offices, or in the custody of any public officer. When they reduce or reject a charge, or set aside a voucher, they shall allow the accountant or claimant an appeal to the auditor general if demanded.

THE AUDITORS OF THE ARMY

The auditors of the army shall respectively reside in the main army or detachment of the army, for which they shall be appointed by the Board of Treasury, and not be absent without leave of the Commander [907] in Chief or commanding officer. It shall be his duty to call to account all regimental officers indebted to the public: to receive the pay rolls and abstracts of the army from the pay master general or his deputies, who shall previously examine and certify the sum due; to settle all other accounts of the army, excepting those in the departments of the quarter master, pay master, directors, clothier, barrack master, or commissaries of provisions, prisoners, or military stores; but when any articles in any of those departments are mixed with charges within the immediate duty of the auditor, he shall settle the whole account notwithstanding. He shall also adjust all other accounts which he shall be instructed by the Board of Treasury to do. He shall present the accounts settled by him, and the abstracts, with certificates of what is due, to the Commander in Chief or commander of a detachment, having a military chest, who shall thereupon, unless he have reasons to the contrary, issue warrants on the pay master, or deputy pay master general, in discharge thereof. He shall make report of all his settlements and transactions to the auditor general, at such times and in such forms as shall be directed by the auditor general. In all other respects he shall execute his duty as

prescribed by act of Congress, dated the 6th day of February, 1778, and such instructions as he shall, from time to time, receive from the Board of Treasury.³² [908]

December 17, 1779

* * * *

Resolved, That the duty of keeping and stating the public books at the treasury be assignable, as often as necessary, to the first clerk in the auditor general's office, that the assistant auditor general may be the better enabled to attend to other parts of his duty.³³

June 12, 1780

Congress took into consideration the report of the committee, respecting the settlement of outstanding accounts, and thereupon came to the following resolutions:

Whereas large accounts in the several staff departments in the army are outstanding and unsettled, and it is necessary that they be speedily and finally adjusted, in order that all disbursements may be clearly ascertained and arrears discharged;

Resolved, therefore, That two extra chambers of accounts, consisting of two commissioners each, be appointed, to continue in office as long as may be necessary, for the settlement of the said accounts, or any others which may be referred to them.

That the commissioners of the said chambers of accounts, be respectively under the direction of the Board of Treasury, to repair to such posts or places as the public service may from time to time require, for the purpose of examining and adjusting any of the said accounts.³⁴ [504]

* * * *

³² *Journals*, Vol. 14, pp. 903-08. The "act" referred to, the resolution of Feb. 6, 1778, appears in the *Journals*, Vol. 10, pp. 132-37. It supplanted a resolution of Apr. 29, 1777, which appears in Vol. 7, pp. 309-12. Both are omitted from this compilation.

³³ *Journals*, Vol. 15, p. 1390.

³⁴ *Journals*, Vol. 17, p. 504.

June 24, 1780

That the Board of Treasury are made immediately responsible for the settlement of the public accounts, and that they are invested with a general superintending power over the chambers of accounts; that it is necessary to the execution of this high trust, that reasonable hours of office be assigned by the chambers, and publicly notified, that the Board of Treasury, as well as the public accountants, may know when to have recourse to them for the despatch of business; that the Board of Treasury, being expressly required to call public debtors to account, and to detect frauds, authority to direct the settlement of one account in preference to another, is necessarily implied, and it is the duty of the chambers to inform the Board of Treasury, whenever required, of their progress in the settlement of any of the public accounts.

. . . That the said chambers are bound to observe such general instructions, for correcting errors, removing doubts, and facilitating the settlement of the public accounts, as shall be given to them by the Board of Treasury, conforming themselves, as far as possible, to fixed and established rules for administering justice equally and impartially between accountants and the public,

Resolved, That Congress agree to the said report.³⁵

August 25, 1780

The committee to whom was referred the letter from F. Hopkinson, treasurer of loans, delivered in a report.

The Committee to whom was referred the letter from the Treasurer of Loans respecting the Board of Treasury, &c. beg leave to report.

That the indisposition of Mr. Foreman one of the Commissioners of the Treasury delayed the Committee for some time from proceeding in the business to them submitted; but that on the 7th Inst. due notice was given to the Commissioners of the Treasury, who had received a copy of the letter from

³⁵ *Journals*, Vol. 17, p. 557.

the Treasurer of loans three weeks before, that the Committee would meet in the Committee room of Congress in the State House on the Thursday following at nine o'clock in the morning on that business; that the commissioners, altho' they received a second notice from your Committee after they had met avoided attending upon them, whereupon they proceeded *ex parte* (as they informed the Commissioners they would do in case they did not attend) and heard the Treasurer of loans, the Commissioners of the Chambers of Accounts the Auditor General, the Treasurer, and Paymaster General; and thereupon they find, that there is great uneasiness in that Department and that the public business is likely to suffer great prejudice therefrom which is chiefly to be attributed to the following Causes, viz.

That the Board of Treasury have prohibited all access to them between the hours of nine and twelve in the forenoon, even by the officers in the Department, with whom they transact the most trivial affairs in writing only, not suffering the Commissioners of the Chambers to speak to them. That some time ago, when the treasurer of loans came upon public business to the door of the room, where the Treasury board sits between the hours nine and twelve, Mr. Foreman shut the door in his face, and has also treated him with unmerited indignity on other occasions. [779]

That the orders issued by the Board have been often incorrect, and sometimes unintelligible and impracticable to be executed, and that in particular one standing order to the Treasurer not to pay money on the Warrants of Congress without the special direction of the Board, is a dangerous usurpation of power, opens a door to partialities and resentments and has a tendency to destroy the honor and credit of the United States.

That the behavior in office of Messrs. Foreman and Gibson two of the Commissioners of the Treasury and of Mr. Lee Secretary of the Board, to the Executive officers in that Department, and also to others who have frequent business to

transact with the Board is very reprehensible, extremely disgusting, and has destroyed all friendly Communications of councils and harmony in the execution of public affairs. That your Committee observe great inconveniences have arisen from the mode of appointing the Clerks of the Chamber of accounts

Whereupon your Committee propose the following Resolutions viz.

Resolved,

That Gentlemen be put in nomination as Commissioners of the Treasury in the room of Ezekiel Foreman and John Gibson Esqurs. on ——— next, and that two be elected on the day after.

That a Secretary to the Board of Treasury be nominated and elected at the same times in the Stead of Mr. Charles Lee.

That the Commissioners of the respective chambers of accounts have the appointment, removal and direction of their own clerks.³⁶ [780]

October 2, 1780

The committee to whom was referred the report of the Board of Treasury, of 3 August last, respecting the settlement of the public accounts, report,

That it appears to them that the Board of Treasury have been attentive to their duty, in taking such measures as seemed advisable for procuring a settlement of the public accounts; that several of the accountants have alledged difficulties and impediments, arising from the former mode of producing their vouchers, which are removed by the resolutions of Congress of 12 June last; and that sufficient time has been allowed for every necessary preparation; Whereupon,

Resolved, That the Board of Treasury immediately proceed to put in execution the resolutions of the 12 June last, [888] in order that all outstanding accounts may be settled and adjusted without delay.³⁷ [889]

³⁶ *Journals*, Vol. 17, pp. 779-80.

³⁷ *Journals*, Vol. 18, pp. 888-89.

November 24, 1780

The Committee to whom the report on the letter of Francis Hopkinson Esq. Treasurer of loans was recommitted begs leave to report,

That upon the recommitment Messrs. Forman and Gibson two of the Commissioners of the Treasury attended the summons of your Committee.

That your Committee has met with great difficulties in the course of this Enquiry, the Commissioners of the Treasury having in sundry instances attempted to dictate to them, the manner in which the Enquiry should be made, which has laid your Committee under the necessity of repeatedly enjoining the said Commissioners to forbear that attempt and to permit the Committee to exercise their own judgment in the case referred to them.

That great jealousies and animosities have arisen amongst the officers of the Treasury Department from a variety of orders and regulations proposed or issued by the Board of Treasury, and from the manner in which those orders have been executed, and those jealousies and animosities have considerably increased the difficulties of your Committee.

That it appears on examination, those orders have passed, when a majority of the Board consisted of members of Congress, and therefore the Commissioners of the Treasury may be considered as responsible only for the execution of those orders so far as comes within their particular duties.

That it is not within the duty of this Committee to determine upon the propriety or impropriety of orders and Regulations adopted by any other Committee of Congress; but your Committee is clearly of opinion, that it required much more delicacy and attention than were used on the occasion to carry those orders into execution, without giving just cause of offence.

That the several errors in accts. which have been laid before your Committee by the Treasurer of loans and the Com-

missioners of the [1091] Treasury are all of such nature as might have been readily adjusted without the least injury to the public, had not the Demon of Discord pervaded the whole Department.

That it is the opinion of your Committee, the Treasury should be under the direction of a single officer, accountable to Congress for the Conduct of his Department; but that the arrangement of the Executive Departments having been referred to a Special Committee, it is not within the duty of this Committee to propose an arrangement for this purpose.³⁸
[1092]

NO. 9

SUPERINTENDENT OF FINANCE, 1781-84³⁹

February 7, 1781

The committee to whom was re-committed part of their report on a plan for the arrangement of the civil executive departments of the United States, delivered in another report. [125]

Congress then resumed the consideration of the plan for the arrangement of the civil executive departments of the United States; and thereupon,

Resolved, That there be a Superintendent of Finance, a Secretary at War, and a Secretary of Marine:

That it shall be the duty of the Superintendent of Finance, to examine into the state of the public debt, the public expenditures, and the public revenue, to digest and report plans for improving and regulating the finances, and for establishing order and economy in the expenditure of the public money; to direct the execution of all plans which shall be adopted by Congress respecting revenue and expenditure; to superintend and control the settlement of all public ac-

³⁸ *Journals*, Vol. 18, pp. 1091-92.

³⁹ Office abolished and succeeded by Third Board of Treasury, May 28, 1784.—*Journals*, Vol. 27, p. 469. Robert Morris, Superintendent, Gouverneur Morris, Assistant Superintendent.

counts; to direct and control all persons employed in procuring supplies for the public service, and in the expenditure of public money; to obtain accounts of all the issues of the specific supplies furnished by the several states; to compel the payment of all moneys due to the United States, and in his official character, or in such manner as the laws of the respective states shall direct, to prosecute on behalf of the United States, for all delinquencies respecting the public revenue and expenditures; to report to Congress the officers which shall be necessary for assisting him in the various branches of his department.⁴⁰ [126]

April 27, 1781

In order that the superintendant of finance may be at liberty to devote his time and attention to the more immediate duties of his office,

Resolved, That he be, and hereby is, authorised to appoint by letter of attorney, or otherwise, such person or persons as he may think proper, to prosecute or defend for him in his official capacity, or on behalf of the United States, in all places where the same may be necessary.⁴¹ [455]

July 24, 1781

Whereas the superintendant of finance, upon entering on his office, has represented that it would be proper that the Board of Treasury should continue to exercise the powers [783] entrusted to them, until such time as he shall have made his arrangements, and is prepared to take up the business:

Resolved, That until the business be regularly transferred over to the superintendant of finance, the Board of Treasury continue in the discharge of the duties heretofore entrusted to them.⁴² [784]

⁴⁰ *Journals*, Vol. 19, pp. 125-26.

⁴¹ *Journals*, Vol. 20, p. 455.

⁴² *Journals*, Vol. 21, pp. 783-84.

September 11, 1781

AN ORDINANCE FOR REGULATING THE TREASURY, AND
ADJUSTING THE PUBLIC ACCOUNTS

Be it ordained by the United States in Congress assembled, that from and after the 20th day of September, 1781, the functions and appointments of the commissioners of the treasury, chambers of accounts, auditor general, auditors and extra commissioners of accounts, their assistants, under offi- [948] cers and clerks, shall cease and determine; that for the more effectual execution of the business of the treasury, and the settlement of the public accounts, the following officers shall be appointed in aid of the superintendant of finance, his assistant, secretary and clerks, namely, a comptroller, a treasurer, a register, auditors and clerks. The comptroller shall be appointed by Congress, with general authority to inspect and superintend the settlement of public accounts, and all subordinate officers concerned therein; it shall be his immediate duty to see that the public accounts are expeditiously and properly adjusted, and accurately and safely kept. And, that it may be done with the greater facility, he shall direct a general form in which all the public accounts shall be stated and rendered. He shall take care that the balances of public moneys are punctually deposited in the hands of the treasurer. The comptroller shall commit every account to such clerk for examination, as he shall judge most proper for that purpose, naming also the auditor to whom the clerk shall transmit it. When an account is audited in the manner herein after described, it shall be reported to the comptroller, and any person who shall think himself aggrieved by the judgment of the auditor, shall have a privilege of appealing, within fourteen days, to the comptroller. In all such appeals the comptroller shall openly and publicly hear the parties, and his decision shall be conclusive. The account being finally adjusted, shall be transmitted by the comptroller to the register, to be entered of record; and a note of the balance shall be certified

by the comptroller to the superintendant of finance, to make out the proper warrants for payment.

The treasurer shall be appointed by Congress. It shall be his duty to receive and keep all moneys of the United States, and issue them on warrants drawn by the President of Congress, or the superintendant of finance. On receiving money [949] he shall give a receipt, and on every payment take one, to serve as his voucher. He shall render his accounts quarterly to the comptroller for examination and settlement, and transmit a copy, when audited, to the superintendant.

The register shall be appointed by Congress. He shall keep all the public accounts, both of receipts and expenditures, and every warrant on the treasurer or others shall be entered and countersigned by the register before it shall be paid. He shall have the appointment of the clerk or clerks necessary to assist him in his office.

The auditors, the number of whom shall be fixed by the superintendant of finance, shall be appointed by Congress. After an account shall be examined by the clerk, in the manner herein after directed, it shall be delivered to the auditor, who shall hear the party and the clerk, and determine upon the objections, and being satisfied that the account is properly adjusted, shall pass it as audited, and transmit it to the comptroller.

The clerks, the number of whom shall also be regulated by the superintendant of finance shall be appointed by the comptroller: it shall be their duty, respectively, to examine all accounts which shall be committed to them by the comptroller, to correct all errors, and to note in writing what may appear exceptionable, either as to the propriety of the charges, or the validity of the vouchers; and transmit the accounts with his remarks, to the auditor; and the party, for himself, and the clerk, on behalf of the public, shall be heard before the auditor.⁴⁸ [950]

[Oath of office, 950; salary rates, 951]

⁴⁸ *Journals*, Vol. 21, pp. 948-50.

June 17, 1783

Congress took into consideration the report of the committee appointed to enquire fully into the proceedings of the office of finance; and the same being read:

Ordered, That it be entered on the journal, as follows:

“The committee appointed to examine into the transactions of the office of finance, having compleated that enquiry to the 1 January, 1783, report,

“That it appears to them the business of that office has been conducted with great ability and assiduity, in a manner highly advantageous to the United States, and in conformity with the system laid down by Congress. [396]

“In the course of this enquiry, the committee have found, that since the appointment of the Superintendant of finance, the public accounts of receipts and expenditures have been regularly and punctually kept; that many of the accounts which preceded this institution have already been settled, and most of the others put into a train of adjustment.

“That all the persons who have been intrusted with public money, under the present appointment, have been regularly called upon for an account of its expenditure, and that their accounts have all been furnished, excepting only the quartermaster general, the purveyor of the hospitals, the late commissary general of prisoners, and the account of issues of cloathing from the cloathier general. The reasons which have prevented the settlement of their accounts will appear in their correspondence with the Superintendant on that subject.

“The committee find, by the correspondence of the office, that the states have all been called upon for an account of the specifics by them respectively supplied for the use of the continent, but that no answers have yet been given nor any accounts furnished; and that a number of people who have heretofore been intrusted with public money do still neglect or refuse to settle their accounts, and that for want of laws in the several states, the Superintendant has it not in his power to compel them to a proper settlement.

"In examining the reforms which have been made in the public expenditures, the attention of the committee was necessarily called to the expenditures of former years, for the particulars of which they refer to the papers C, No. 1 to 7. In comparing these expenditures with the present, and making every allowance for the difference of times and circumstances, the committee are of opinion, that the order and economy which has been introduced since the establishment [397] of this office, has been attended with great savings of public money, as well as many other beneficial consequences.

"Among other reforms they find, that in the department of commissary of issues, no less than 250 persons were discharged, whose pay (exclusive of rations for themselves and their horses) amounted to 126,300 dollars per annum. That in one instance, a demand was made for one thousand tons of hay for the post of Philadelphia, of which ten tons only were granted, the residue being rendered unnecessary by the new arrangement.

"They find, that under the present administration the whole sum which has been brought into the public treasury, from the 14th day of May, 1781, to the 1st of January, 1783, amounts to 2,726,344 dols.

That the whole expenditure for that period,	
amounts to	3,131,046
Out of which has been paid to the army	439,574
That there was expended for rations for the	
army in 1782	617,152
That the quarter-master general's department	
in 1782, is charged with	343,697
And the medical department in that year . . .	22,629

"That the expenditures in 1782 exceeded the receipts 404,713 dollars, which was supplied by a circulation in the notes of the Superintendent of Finance.

"Upon comparing the accounts of the public receipts and expenditures (exhibited to Congress) with the books of the treasury, they found that they had been fairly and regularly stated; and it appears to them that the business of that office

is conducted with great diligence and accuracy, and in conformity with the rules laid down by Congress.

“With respect to the foreign money transactions, the committee confined their enquiry principally to what respected [398] the Superintendent of finance, and find that the bills of exchange which he has drawn are duly credited at the treasury.”

* * * *

Ordered, That a committee be appointed to consider what further measures may be necessary to compel persons who have received public monies to account.⁴⁴ [399]

NO. 10

THIRD BOARD OF TREASURY, 1784-89⁴⁵

May 28, 1784

AN ORDINANCE FOR PUTTING THE DEPARTMENT OF FINANCE
INTO COMMISSION

Be it ordained by the United States in Congress assembled, That a board consisting of three Commissioners to be appointed by Congress, be instituted, to superintend the treasury and manage the finances of the United States, which shall be stiled, *The Board of Treasury*.

That the said Commissioners, or any two of them, shall have Authority to exercise all the powers vested in the [469] Superintendent of finance, by the act of Congress of the seventh day of February, 1781, or by any subsequent acts.

That the said Board shall have authority to provide a convenient office, and employ as many clerks therein as they shall find necessary, reporting their names and appointments,

⁴⁴ *Journals*, Vol. 24, pp. 396-99.

⁴⁵ Succeeded by Treasury Department, Sept. 2, 1789.—1 Stat. L., 65. Commissioners: Samuel Osgood of Massachusetts, and Walter Livingston of New York, elected Jan. 25, 1785; Arthur Lee of Virginia, July 27, 1785.—*Journals*, Vol. 28, p. 18; Vol. 29, p. 582.

“I am sorry to see a possibility of A.L.’s being put into the Treasury. He has no talents for the office, and what he has will be employed in rummaging old accounts to involve you in eternal war with R.M.”—Jefferson to Monroe, June 17, 1785, in Jefferson, *Writings* (Ford), Vol. 4, p. 419.

from time to time, to Congress, or to the Committee of the States in the recess of Congress.

That the said commissioners and clerks, previous to entering on the duties of their several offices, shall take and subscribe the oath of fidelity to the United States, and also an oath to the due execution of the duties of their respective offices; certificates of which several oaths shall be filed with the Secretary of the United States in Congress assembled.

That all the books and papers pertaining to the office of finance, shall be lodged in the Office of the said Board of Treasury.

That on the tenth day of November next, or sooner, if the Superintendent of finance, agreeable to his expectation, shall quit the office, the said Board being formed, shall proceed to business.

That each of the said commissioners shall be allowed an Annual salary of two thousand five hundred dollars.

That each clerk employed in the said office, shall receive such salary as the said Board shall allow, not exceeding five hundred dollars per annum; the said salaries to commence at the time that the said officers shall enter on the duties of their Office.

That no person to be appointed, by virtue of this Ordinance, a commissioner of the treasury of the United States, shall be permitted to be engaged, either directly or indirectly, in any trade or commerce whatsoever, on pain of forfeiting his Office as a commissioner. [470]

That the said commission shall continue in force for three years, unless sooner revoked by the United States in Congress assembled.⁴⁶ [471]

June 20, 1785

Resolved, That the administration of the board of treasury be examined, and the accounts thereof adjusted annually, in the manner directed for the investigation and adjustment of

⁴⁶ *Journals*, Vol. 27, pp. 469-71.

the accounts of the treasury, under the administration of the late superintendent of finance.⁴⁷

December 28, 1785

Resolved, That the board of Treasury be, and hereby are declared to be vested with full authority to superintend and examine the conduct of all Officers employed in the Department of the Treasury, and of the several Commissioners appointed, or that hereafter may be appointed for the settlement of the public accounts, as well those of the Five great departments, as those authorized to adjust the accounts between the United States and individual States. And in case any of the said Officers, or Commissioners, shall unnecessarily absent themselves from their respective Offices, or shall engage in any business inconsistent with, or that may hinder a constant discharge of the duties of their several appointments, it shall be the duty of the board of Treasury to make immediate report thereof to Congress, that such measures may be adopted thereon, as Justice and the public interest may require.⁴⁸

September 21, 1787

Resolved Unanimously that Samuel Osgood, Walter Livingston and Arthur Lee, Commissioners of the board of treasury appointed in pursuance of the Ordinance of Congress passed May 28, 1784 for putting the department of finance into commission with all the powers and duties appertaining to the said board and commissioners be and the same are hereby continued to the tenth day of November 1789. [509]

Resolved That the Offices of the comptroller and Auditor and the clerkships pertaining thereto from and after the first day of November next shall cease and determine And the powers and duties thereof shall be transferred to the board of treasury and after the same period shall vest in and be

⁴⁷ *Journals*, Vol. 28, p. 471.

⁴⁸ *Journals*, Vol. 29, p. 905.

exercised and discharged by the said board and by persons appointed by the said board; and the said Board for the dispatch of the business thus transferred shall have authority to employ an Accountant, whose salary shall not exceed the rate of eight hundred dollars per annum and not more than two clerks.

Resolved That when the said Offices shall cease as aforesaid, that all the books and papers pertaining thereto shall be lodged in the Office of the board of treasury and that all the returns directed to be made to the said comptroller and auditor shall after the said first day of November be made to the said board.

Resolved That the said accountant and clerks shall respectively take an oath of fidelity to the United States and the oath of Office. And the commissioners of the said board shall severally before the tenth day of November next renew their bonds given to the United States in pursuance of the resolutions of Congress of February the 3d and March the 15th 1785, or give bonds and security to the United States, of the same tenor force and effect, as those directed by the said resolutions, for the faithful execution of the trust reposed in them by these resolves, or any other Acts of Congress; and shall also take an Oath of fidelity to the United States and the Oath of Office, certificates of which shall be filed with the Secretary of Congress.⁴⁹ [510]

NO. 11

APPROPRIATION TO PRECEDE EXPENDITURE.
CONSTITUTION, 1787⁵⁰

No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

⁴⁹ *Journals*, Vol. 33, pp. 509-10.

⁵⁰ Article I, section 9.

NO. 12

TREASURY BOARD OR TREASURY
DEPARTMENT? DEBATE, 1789⁵¹

House of Representatives, May 19, 1789

Mr. [ELIAS] BOUDINOT [of New Jersey].—I rise, Mr. Chairman, with diffidence, to introduce a subject to the consideration of the committee [of the whole], which I had hopes would have been brought forward by an abler hand; the pressing necessity of it must alone be my excuse. The great Executive departments which were in existence under the late Confederation, are now at an end, at least so far as not to be able to conduct the business of the United States. If we take up the present Constitution, we shall find it contemplates departments of an Executive nature in aid of the President: it then remains for us to carry this intention into effect, which I take it will be best done by settling principles for organizing them in this place, and afterwards appoint a select committee to bring in a bill for the same. I need say little to convince gentlemen of the necessity which presses us into a pursuit of this measure. They know that our national debt is considerable; the interest on our foreign loans, and the instalments due, amount to two millions of dollars. This arrearage, together with the domestic debt, is of great magnitude, and it will be attended with the most dreadful consequences to let these affairs run into confusion and ruin, [368] for want of proper regulations to keep them in order.

I shall move the committee, therefore, to come to some such resolution as this: That an office be established for the management of the finances of the United States, at the head

⁵¹ *Annals of Congress*, Vol. 1: 368-71, 383-96, 592-607, 611-14. See Act of Sept. 2, 1789, "To establish the Treasury Department." 1 Stat. L., 65. See also Nos. 4, 7-10. Of the 23 participants in this debate, 16 had served as delegates to the Continental Congress: Baldwin, Benson, Bland, Boudinot, Fitzsimons, Gerry, Laurance, Livermore, Madison, Partridge, Sedgwick, Sherman, Tucker, Vining, Wadsworth, and White. Five had been delegates to the Federal Convention: Baldwin, Fitzsimons, Gerry, Madison, and Sherman.

of which shall be an officer to be denominated the Secretary of Finance. I am not tenacious of the style, perhaps some other may be proper, but the object I have in view is to establish the department; after which we may go on to narrate the duties of the officer, and accommodate the name to the acts he is to perform. The departments under the late Constitution are not to be models for us to form ours upon, by reason of the essential change which has taken place in the Government, and the new distribution of Legislative, Executive, and Judicial powers.

If gentlemen then agree with me so far, I shall proceed to restrain the Secretary of Finance, and all persons under him, from being concerned in trade or commerce, and make it his duty to superintend the treasury and the finances of the United States, examine the public debts and engagements, inspect the collection and expenditure of the revenue, and to form and digest plans for its improvement. There may be other duties which gentlemen may add, as I do not pretend to have perfectly enumerated them all . . . but, for the present, I would wish to confine ourselves to the Department of Finance.

Mr. [EGBERT] BENSON [of New York] wished the committee to consider what he judged to be a previous question, namely, how many departments there should be established? . . .

* * * *

Mr. [ALEXANDER] WHITE [of Virginia] wished gentlemen had been more particular in bringing this question forward, and [369] had pointed out the nature and extent of the powers proposed to be given, so that his mind might be able to embrace the whole subject.

Mr. BOUDINOT . . . conceived the necessity of having such an office was indisputable; the Government could not be carried on without it; but there may be a question with respect to the mode in which the business of the office shall be conducted; there may also be a question respecting the constitu-

tion of it, but none with respect to the establishment of either of the three departments he had mentioned.

Mr. [GEORGE] PARTRIDGE [of Massachusetts] wished the committee to attend to one object at a time. If they had determined upon the propriety of the Department of Finance, they could go on to the next, and so on until they had decided upon all they conceived necessary; for his part, he could not see any reason for determining there should be three or five great departments; or what was the object of such a question, unless it was to decide the whole business at once.

* * * *

Mr. BOUDINOT wished to confine the question to the Department of Finance.

* * * *

Mr. [JAMES] MADISON [of Virginia] . . . moved, that it is the opinion of this committee, that there shall be established an Executive Department, to be denominated the [370] Department of Foreign Affairs, at the head of which there shall be an officer, to be called the Secretary to the Department of Foreign Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate; and to be removable by the President.

That there shall be a Treasury Department, &c.

That there shall be a War Department, &c.

* * * *

Mr. [SAMUEL] LIVERMORE [of New Hampshire] was not prepared to decide on the question even as now brought forward, nor did he see a reason why the Department of Foreign Affairs was placed at the head of the list. He thought the Treasury Department of more importance, and consequently deserved the precedence. [370]

* * * *

The committee then proceeded to the consideration of the Treasury Department.

Mr. [ELBRIDGE] GERRY [of Massachusetts] knew nothing of the system which gentlemen propose to adopt, in ar-

ranging the Treasury Department. He thought they were hurrying on business too rapidly. Gentlemen had already committed themselves on one very important point; he hoped the honorable mover of this proposition would explain his intentions, [383] before the committee decided the question. He could not see where it might lead.

The late Congress had, on long experience, thought proper to organize the Treasury Department, in a mode different from that proposed by the resolution. He would be glad to know what the reasons were that should induce the committee to adopt a different system from that which had been found most beneficial to the United States. He hoped gentlemen would give time for considering the subject maturely; . . .

Mr. BOUDINOT rose, to express his surprise that gentlemen should say that they were not prepared, when the subject had been often mentioned to the House, and its necessity was self-evident . . . and hoped the business would not be unnecessarily delayed.

Mr. [BENJAMIN] GOODHUE [of Massachusetts] admitted the necessity of having a Treasury Department, as said by the gentleman last up, was self-evident; but it was not obvious whether the Department should be placed under one man, or a Board of Commissioners. . . .

Mr. BENSON said, . . . he would declare his sentiment to be in favor of a single head of this Department, rather than three; but he would have the principal officer well checked in the execution of his trust.

May 20, 1789

Mr. GERRY.—We are now called upon, Mr. Speaker, to deliberate, whether we shall place this all-important Department in the hands of a single individual, or in a Board of Commissioners. I presume the gentleman, who has brought forward this string of propositions, means, that this officer shall have power to examine into the state of the public debt and expenses, to receive and disburse the revenue, to devise

plans for its improvement and expansion, and, in short, to superintend and direct the receipts and expenditure, and govern the finances of the United States; having under him officers to do the subordinate business of registering and recording his transactions, and a Comptroller to control his operations with respect to the accounts and vouchers. [384]

Before this committee proceed one step farther in this business, they ought seriously to consider the situation of this country, and what will be the consequence of appointing such an officer; consider how it will affect the public in general, the revenue, and even the Government itself. He is declared, in the list of duties assigned him in the paper read yesterday by the gentleman from New York, (Mr. BENSON), to have the power to form and digest the accounts, and to control all the officers of the Department. It is evident, that we put his integrity to the trial, by such an arrangement. If he is disposed to embezzle the public money, it will be out of the power of the Executive itself to check or control him in his nefarious practices. The extension of his business to the collectors of at least fifty seaports, (over whom the naval officer can have no control, with respect to the money received,) will furnish abundant opportunities for speculation. In addition to the moneys arising from the impost, he may have to do with large sums derived from other quarters, for the sale of the vacant lands, the money of defaulters now due to the United States, and the revenue arising from taxes and excises. Admit these innumerable opportunities for defrauding the revenue, without check or control, and it is next to impossible he should remain unsullied in his reputation, or innocuous with respect to misapplying his trust.

Other great opportunities may arise in case of an anticipation of the public revenue; or, if it is necessary to prevent the injury which a rapid depreciation of the securities occasion to public credit, he may be employed in purchasing them, in order to advance the credit of the Union. But what is to pre-

vent the greatest imposition in this business? Charging them to the public at their nominal value, it is not in the power of the Government to check this species of speculation; what then is the situation of your officer? He must subject himself to suspicion: indeed, it is as much as his reputation is worth to come into a place of this kind; he can hardly preserve his integrity. His honor, credit, and character, must inevitably be injured. He cannot prove himself innocent of the suspicion, because it is the negative side of the question. He can offer nothing more in his defence than a mere denial of the crime.

There is another point which ought to be well considered: This officer is to digest and form the accounts. He can consequently give the business such complexity, as to render it impossible to detect his impositions; and as the inferior officers, who might discover the fraud, are to be appointed by the principal, will they not consequently be men after his own heart?

Taking these circumstances together, it must be very disagreeable to the person appointed, provided he is an honest, upright man; it will be disagreeable also to the people of the Union, who will always have reason to suspect, that a partiality is shown to the collectors, and other officers of the State to which he belonged. This has absolutely been the case, and was productive of very [385] great dissatisfaction. I would be glad to know of the gentlemen, who are for vesting these powers in a single person, where they will find the man who is capable of performing the duties of a financier? For it is not the mere calling him a financier, and giving him a large salary, that will enable him to perform his functions in such a manner as to give satisfaction. We had once a gentleman who filled such a department, and I believe the only one in the United States who had knowledge and abilities by any means competent to the business; but that gentleman is now employed in another branch of the Government, and cannot be called to this trust. During the late war, Congress think-

ing it necessary to employ a financier, were led to inquire for a proper character to fill such an office; but not being able to discover such a one in this country, in whose abilities they had sufficient confidence, they wrote to Doctor Price a letter, to induce him to come to America, and accept of an appointment under them, for the superintendence of their finances. He wrote, in answer, that he felt with gratitude the honor which they had done him by their application, and signified, that he was desirous of rendering every service in his power to aid the glorious cause in which America was embarked; but, from his advanced situation in life, and infirmities of body, he was under the necessity of declining. This circumstance serves to show how difficult it is to get a proper person for so arduous an undertaking. But it appears to me, that if we could fix upon a person equal to the office, involving him in forming accounts, and such trifling business, would divert his attention from the more important duties he is called upon to perform. The proper business of finance, I take it, ought to be to consider of the means to improve the revenue, and introducing economy into the expenditures; to recommend general systems of finance, without having any thing to do with the actual administration of them, because, if he engages in the Executive business, we shall be deprived of his talents in more important concerns. If it should be granted that there is a person of abilities to be found, adequate to the duties of the office, I want to know where the advantage arises of appointing him alone in preference to a Board? If you have commissioners, you have an opportunity of taking one from each grand division of the United States, namely, the Eastern, the Middle, and Southern Districts. If this person is a member of the Board, is it not evident you will have every advantage from his abilities in such a situation, as you would if he were placed in office without control? If he was possessed of such genius, he could employ it more usefully as a Commissioner of the Board of Treasury, than when left to perform all the drudgery of the Executive part; because

while his fine imagination was busied in reducing a chaos to a beautiful system, his colleagues might perform those parts which required less elevation of thought; by dividing the burden, the business would be done with more regularity and facility. Surely no advantage to the public would arise from giving him the sole man- [386] agement of the business, but much inconvenience might; besides, it must unavoidably, as I said before, subject him to suspicions unfavorable to his reputation. This has absolutely been realized; it is not a mere chimera, a matter of speculation. We have had a Board of Treasury, and we have had a Financier. Have not express charges, as well as vague rumors, been brought against him at the bar of the public? They may be unfounded, it is true; but it shows that a man cannot serve in such a station without exciting popular clamor. It is very well known, I dare say, to many gentlemen in this House, that the noise and commotion were such as obliged Congress once more to alter their Treasury Department, and place it under the management of a Board of Commissioners. We have seen speculations excited from this quarter against the Government itself, and painful insinuations of design by his appointment to the Senate.⁸² I mention these circumstances to exhibit to your view the inconveniences to which an officer is subjected by constituting an office of this nature. If the gentleman I have alluded to had been a member of the Board of Treasury, he would not have been subjected to the charges which were brought against him. In such a situation, he could have rendered the services his great abilities enabled him to do, without exposing his character to be torn to pieces by malevolence or detraction.

We are to pay some attention to the prejudices and wishes of our constituents, especially when their sentiments have been strongly declared for or against this or that mode of administration. We find such an officer unprecedented in the several States; and I believe it would not be agreeable to

⁸² Robert Morris, Senator from Pennsylvania.

have a single officer, and his assistants, collecting the money, or controlling the revenue arising in those States; yet you make it one of his powers that money shall not be drawn without a warrant from the financier. There is no person of this kind mentioned in the Constitution; not even the President, nor Vice President and Senate, have a control over the Treasury; yet we put all this power into the hands of one great man, who is to be the head of the department. It appears to me, that by so doing, we shall establish an office giving one person a greater influence than the President of the United States has, and more than is proper for any person to have in a republican Government.

Perhaps it may be objected, that we should study economy. If we employ three persons to conduct this business, we shall have to pay them more than would be required for a salary for an individual. But this I take to be a very light consideration, compared with securing the public treasury. A single officer to have the command of three or four millions of money, possesses a power very unsafe in a republic; but I apprehend we may employ three commissioners for the same sum that we shall be obliged to pay for one financier; if we have great officers we must allow large salaries.

I am desirous of supporting the President; but the Senate requires to be supported also in their [387] Constitutional rights. To this body belongs the confidence of the States; while the President rests his support upon them he will be secure. They, with this House, can give him proper information of what is for the public interest, and, by pursuing their advice, he will continue to himself that good opinion which is justly entertained of him. If we are to establish a number of such grand officers as these, the consequences appear to me pretty plain. These officers, bearing the titles of minister at war, minister of state, minister for the finances, minister of foreign affairs, and how many more ministers I cannot say, will be made necessary to the President. If by this establishment we make them more respectable than the other branches

of the Government, the President will be induced to place more confidence in them than in the Senate; the people will also be led to consider them as more consequential persons. But all high officers of this kind must have confidence placed in them; they will in fact be the chancellors, the ministers of the nation. It will lead to the establishment of a system of favoritism, and the principal magistrate will be governed by these men. An oligarchy will be confirmed upon the ruin of the democracy; a Government most hateful will descend to our posterity, and all our exertions in the glorious cause of freedom will be frustrated: we shall go on till we reduce the powers of the President and Senate to nothing but a name. This surely, sir, does not comport with the conduct of the House. We have been very tenacious of giving a title to the President, lest it should be implied we desired to increase his power. We would call him by no other appellation than merely President of the United States. I confess I was not such a stickler about titles as all this, because I did not consider that the liberties of the people could be hurt by such means; but I am not clear that the Constitution authorizes us to bestow titles; it is not among the enumerated powers of Congress. But if the Constitution did authorize it—[A call to order was made by some of the members, and Mr. GERRY was desired to confine himself to the point; the subject of titles was not before the House.]⁵⁸ Mr. GERRY proceeded, and said the Senate were Constitutionally the highest officers of Government, except the President and Vice President; that the House was about to supersede them, and place over their heads a set of ministers who were to hold the reins of Government, and all this to answer no good purpose whatever; because the same services could be obtained from subordinate officers.

In short, a Board of Treasury would conduct the business of finance with greater security and satisfaction than a single officer. He had a very good opinion of the gentleman who

⁵⁸ Brackets in original text.

formerly administered the finances of the United States, and doubted if another of equal qualities could be found; but it was impossible for any person to give satisfaction in such a station. Jealousy would unavoidably be entertained; besides, no inconvenience resulted from the present arrangement of that department; therefore, there could [388] be no good reason to induce a change. If the House was truly republican and consistent, they would not admit officers, with or without titles, to possess such amazing powers as would eventually end in the ruin of the Government. Under these impressions, he moved to amend the resolution so as to read, "there shall be established a Treasury Department, at the head of which there shall be three commissioners, to be denominated the Board of Treasury."

Mr. [JEREMIAH] WADSWORTH [of Connecticut].—My official duty⁵⁴ has led me often to attend at the treasury of the United States, and, from my experience, I venture to pronounce that a Board of Treasury is the worst of all institutions. They have doubled our national debt. (I do not mean by this observation to censure any man who has been in that office: I presume they were honest men, and did as well as could be done under such a system.) But I do not remember a single instance, in any one board, that I found them to have a system that would give even tolerable satisfaction; there appeared a want of confidence in the members of them all: they seemed to have no fixed principles to guide them, nor responsibility for their conduct.

I have had also transactions at the treasury whilst it was managed by a Superintendent of Finance. As to what fell from the gentleman last up, (though without intention, I dare say, to affect or prejudice the character of that officer, it may possibly have such an effect,) I think it necessary to state my sentiments, which are formed from my own experience as well as from report. I had great transactions with him, and must say that there did appear to be system in his

⁵⁴ As Commissary General of Purchases.

management, and responsibility in his negotiations. I dare risk my fortune and character with him, because there was unity in the officer, and somebody in whom I could confide. The nature of the office is better calculated to give satisfaction than the other. I will not pretend to enumerate the savings he made, by introducing economy throughout the whole departments under Congress, because I do not know them all; but they were very considerable. The administration of the finances was clear to the meanest capacity. Receipts and expenditures were stated simply; they were published to the world. The heads of the Treasury Department, the Board of Commissioners, I do not believe have closed their accounts to this very day. I do not say it is for want of ability, will, or honesty, that this event has not taken place. I conceive it to be owing to their want of system in conducting their business. I wish the committee had before them the transactions of the board for one single month; they would find what I have remarked to be too well founded. Instead of system and responsibility, they would find nothing but confusion and disorder, without a possibility of checking their accounts. I know I am heard by one gentleman who is acquainted with these truths by experience.* [389]

I admit the truth of one of the gentleman's observations. He says, the officer must risk his reputation. Yes, sir, an officer who is highly responsible must always risk his character; but a patriot spirit will submit to this to save his country. I know that clamor was raised, as he has said, against the financier; and I know clamor may be excited by envy, as well as by prudence or justice. Clamor has been set up against the office of President, under the present Constitution. It is difficult to reconcile suspicious minds to a grant of power, lest it be employed against them. So many men have betrayed their trust, that they can have confidence in none but themselves. But notwithstanding all that has been said with respect to the

* It is presumable he alluded to MR. GERRY, a member of a Committee of Congress, appointed to superintend the Treasury. [Footnote in original.]

ouctry and disturbance, on account of the finances being directed by a superintendent, I will venture to assert, that it has not been greater than that which was raised against boards. But be that as it may, the public business was better conducted, and the general interests better served; our armies were supplied with certainty and moved with celerity, which was an important object at that period of the war.

I do not know that I have it in my power to justify all the transactions which took place under that administration; but those which came within my knowledge seemed to be directed with great precision to their object, namely, providing for the public defence and promoting the welfare of the Union. They bespoke their conductor to be master of the science in which he was engaged. The whole accounts of these transactions have been long delivered to Congress, and the reason why they are not decided upon is, because their Board of Treasury has been without power or system to determine on them. I do not wish to hurt the feelings of the gentlemen in that office; I have a high respect for them all, and think any one of them would be equal to the task, individually, which all three together cannot perform.

As to its being unpopular to have a Secretary of the Treasury I shall only set my opinion against his. I think it the most popular step we can take; it seems to be a prevailing sentiment among all conditions of men, that we ought to have the highest degree of responsibility in every department of Government. As to his being called a minister or a great man, I have little to fear. The people of America will not be scared by men who style themselves most sacred, most omnipotent; and surely the gentleman does not suppose that our Secretary of the Treasury will be the greatest man on earth! If we fear no other, I trust we shall not dread him. As to giving him a large salary, it is hardly possible it would be so much as three commissioners of the treasury would expect. For my part, I see no obligation we are under of giving him a large salary; we shall, I trust, give him a decent one. As to the

name of the officer, I shall give that up wholly to the gentleman: he may christen him as he pleases. I will never differ about words when I contend for substance.

I beg leave to repeat once more, that under boards of treasury, there never was a possibility [390] of the public knowing their situation; there is no possibility of getting on with the public accounts and closing them; there has not been the transactions of more than one of the great departments completely settled, owing to a radical defect in their constitution; they cannot proceed with that unity and decision necessary to insure justice. As to what the gentleman said, with respect to the difficulty of getting a proper officer to fill the department, I will just observe, that I do not believe it impossible, and am therefore prepared to attempt it.

Mr. GERRY asked, what he had said that induced the gentleman (Mr. WADSWORTH) to believe it tended to prejudice the reputation of the late financier?

Mr. WADSWORTH replied, that he (Mr. GERRY) had mentioned a clamor raised against him, and that it had not subsided, because his accounts were unsettled; he had therefore endeavored to show the cause to which these circumstances were owing.

Mr. GERRY stated, that if such powers were given to a financier, he would be obnoxious and the people suspicious. These suspicions would injure his reputation, because it would be out of his power to prove them groundless. I mentioned a fact said he, to prove this position; the fact is notorious; but I did not mention it with a view to prejudice the gentleman, because I believe the insinuations charged against him in the public papers are without good grounds.

Mr. WADSWORTH had understood the gentleman as he had explained himself, but nevertheless the expressions were so loose as to leave suspicion room to maintain its ground; he had recapitulated facts also with an intention to do justice to a character that had been, he apprehended, unjustly and wantonly aspersed.

Mr. BENSON stated, that in the year 1781, from the very great derangement of public affairs, Congress were induced to place the Treasury Department under the superintendence of an individual. It is true, after the conclusion of the war, in the latter end of 1783, or beginning of 1784, Congress again changed their system, and placed the department in the hands of three commissioners, to be taken as the gentleman has said, one from the Eastern, one from the Middle, and one from the Southern district; which regulation I think induced above twenty applications. Some gentlemen on this floor will doubtless recollect an observation that was made at that time, that if this trust had been to be reposed in one responsible individual, not perhaps more than three of the candidates would have had confidence to come forward as applicants for the office.

For his part, he conceived that it required the same abilities in every individual of the commissioners, as was necessary, if a single person was placed at the head of the Department. If men competent to the undertaking are so difficult to be found, you will increase the embarrassment of the President threefold by making the arrangement the gentleman contends for. The principle upon which the gentleman advocates the appointment of a board of treasury, [391] would apply in favor of a change in the Constitution, and we ought to have three Presidents of the United States instead of one, because their business might be done with more regularity and facility; but he did not think the argument to be well founded.

If it was the duty of the House to use economy in their establishments, one officer would certainly require less salary than three; however, he believed the arguments of the gentlemen were premature. He should not find fault with the duties of the officer before they were proposed to the consideration of the committee.

The motion under consideration proposed nothing more than that a Secretary should be placed at the head of the

Department. It said nothing of the duties which he was to perform. When the bill came forward, no doubt, proper checks would be provided to prevent this officer from abusing his trust.

Mr. [ABRAHAM] BALDWIN [of Georgia] thought that there were very few gentlemen, who had much to do with public business, but had turned their attention to this question. He had employed his reflection upon the subject for some time, and his sentiments were against the establishment of a board of treasury. He was persuaded there was not so much responsibility in boards as there was in individuals, nor is there such good ground for the exercise of the talents of a financier in that way. Boards were generally more destitute of energy than was an individual placed at the head of a Department. The observations of the gentleman from Massachusetts were of great weight, so far as they inferred the necessity of proper checks in the department having care of the public money; if they had system, energy, and responsibility, he should be in favor of them; but his experience had convinced him of the contrary. He was not an advocate for an unlimited authority in this officer. He hoped to see proper checks provided; a Comptroller, Auditors, Register, and Treasurer. He would not suffer the Secretary to touch a farthing of the public money, beyond his salary. The settling of the accounts should be in the Auditors and Comptroller; the registering them to be in another officer, and the cash in the hands of one unconnected with either. He was satisfied that in this way the treasury might be safe, and great improvements made in the business of revenue.

Mr. MADISON had intended to have given his sentiments on this subject; but he was anticipated in some things by the gentleman last up. He wished, in all cases of an Executive nature, that the committee should consider the powers that were to be exercised, and where that power was too great to be trusted to an individual, proper care should be taken so to regulate and check the exercise, as would give indubitable

security for the perfect preservation of the public interest, and to prevent that suspicion which men of integrity were ever desirous of avoiding. This was his intention in the present case. If the committee agreed to his proposition, he intended to introduce principles of caution, which he supposed would [392] give satisfaction on that point. As far as was practicable, he would have the various business of this important branch of the Government divided and modified, so as to lull at least the jealousy expressed by the gentleman from Massachusetts; indeed, he supposed, with the assistance of the committee, it might be formed so as to give satisfaction. He had no doubt but that the offices might be so constituted as to restrain and check each other; and unless an unbounded combination took place, which he could by no means suppose was likely to be the case, that the public would be safe and secure under the administration. He would favor the arrangement mentioned by the worthy gentleman from South Carolina [Georgia], (Mr. BALDWIN,) and after that was separated from the Secretary's duties, he believed the officer would find sufficient business to employ his time and talents in rendering essential services to his country. This arrangement he considered would answer most of the objections which had been urged.

If a board is established, the independent officers of Comptroller and Auditor are unknown; you then give the aggregate of these powers to the board, the members of which are equal; therefore you give more power to each individual than is proposed to be trusted in the Secretary; and if apprehensions are to be entertained of a combination, they apply as forcibly in the case of two or three commissioners combining, as they do in the case of the Secretary, Comptroller, and other officers. If gentlemen permit these sentiments to have their full weight, and consider the advantages arising from energy, system, and responsibility, which were all in favor of his motion, he had no doubt of their according with him on this question.

Mr. GERRY.—If an individual has a control over the Treasury Department; if no money can be received or expended but by him, or on his warrant, he did not see any check which could be provided to prevent a misapplication of such powers, nor any means by which a man could demonstrate he had preserved his integrity. He thought these things were better guarded under a Board, and therefore preferred one. Gentlemen, to be sure, had asserted there was no responsibility in a Board; he denied the fact. A Board of three commissioners are surely as responsible for their measures as an individual for his; each person of them is responsible for the act of the Board, or, if one of them should deny his acquiescence to the matter in question, the charge may be determined by having recourse to the journal of their transactions, because whenever an order or resolution takes place, they enter their names for or against the measure in their books. These circumstances show they are responsible; and undoubtedly there is more security in having three persons consulted, than confiding all to the uncontrolled caprice of a single individual. He did not see the necessity of an officer to improve the revenue; that he took to be the peculiar business of the Federal Legislature. He could answer to the gentleman (Mr. BENSON) who applied the [393] principles he urged in favor of a Board against the Constitution. It might with equal justice be said, that gentlemen, who contended for a Secretary of the Treasury, desired to have a single legislator; one man to make all laws, the revenue laws particularly, because among many there is less responsibility, system, and energy; consequently a numerous representation in this House is an odious institution.

Mr. BOUDINOT considered the question to be, whether the Department should be under the direction of one or more officers. He was against Boards, because he was convinced by experience that they are liable to all the objections which gentlemen have stated. He wished the committee had it in their power to turn to the transactions of this Department

since the Revolution, to examine the expenditures under former Boards of Treasury, and under the Superintendent of Finance; it would so confound them, that he was sure no gentleman would offer another argument in favor of Boards. He was not acquainted with the management under the present board. He had not been in the habit of doing business with them. But between the administration of the former and the Superintendent of Finance, there was an intolerable comparison. He was far from being astonished at the jealousy and suspicion entertained of that valuable officer; he rather wondered that the clamor was not more loud and tremendous. He could not repeat all the causes there were for accusation against him, but surely they were not inconsiderable. He remembered one hundred and forty-six supernumerary officers were brushed off in one day, who had long been sucking the vital blood and spirit of the nation. Was it to be wondered at, if this swarm should raise a buzz about him? The reform which daily took place made him no inconsiderable number of enemies. The expenditures under the Board of Treasury had been enormous. They were curtailed in the quartermasters, commissaries of provision and military stores, in the hospital, and every great department established by Congress; so that, besides those who were offended by a removal, every one who was affected by this economy, or parsimony, if they will call it so, were incensed against him. It was impossible to gain friends among those people by a practice of this kind. He would state a circumstance which might give the committee some small idea of what the savings under the Superintendent were. The expenditure of hay at a certain post was one hundred and forty tons; such was the estimate laid before him; yet twelve tons carried the post through the year, and the supply was abundant, and the post was as fully and usefully occupied as it had ever been before.

He wished gentlemen to examine whether the other arguments did not preponderate in favor of a single administration. He thought that there was certainly more responsibility

and system likely to be acquired in this way than in the other. He saw no weight in the objections stated by the gentleman, respecting the collusion between the Secretary and the Collectors; but if there was [394] any weight in them, he imagined they applied with equal force against Boards. The commissioners were men equally fallible and exposed as the Secretary, Comptroller, and Auditors.

The gentleman had asked, where a proper character for a financier was to be found? America has seen one man equal to the task; but he would not undertake to say that that gentleman was the only one fit for the business. If talents of this kind were hard to be found, he was for establishing the Department in this way, in order to bring up men to a knowledge of this science. He had no idea of sending to a foreign nation for a person; it would be dishonorable to the United States. But he could not believe any foreigner adequate to the business. The utility of this officer consists in his knowledge of the manners, habits, customs, wealth, and pursuits; the temper, genius, and disposition of the people. This cannot be acquired but by a long residence and actual observation. A foreigner has not this advantage, and therefore must be unfit to direct the finances of America.

Mr. [THEODORIC] BLAND [of Virginia] thought the decision of the House would depend upon the propriety of the powers which were annexed to the office, and the checks and restraints to which the whole of the department was subjected. Hence he thought they were taking the business up at the wrong end. He joined gentlemen in thinking the management of the public money was a matter of the most serious consideration, in which every citizen was more or less concerned. If a man were to be placed at the head of this department, without check or control, he would be a dangerous officer; but if his powers could be effectually restrained from doing the public an injury, he thought he might be rendered serviceable. Under these impressions, he had essayed to define the powers proper to be given. If they met the approba-

tion of the committee, he was ready to vote in favor of the clause, adding thereto a Board of Commissioners.

Mr. GERRY joined the gentleman last up: he thought the powers ought first to be determined, because, after the committee had consented to have such an officer, gentlemen might insist upon such powers as would render him improper; in which case, gentlemen will have committed themselves, and cannot decently retract.

Mr. [JOHN] VINING [of Delaware] thought there was an unnatural combination intimated by the gentleman from Virginia, (Mr. BLAND.) He could by no means think of uniting a Financier and Board of Treasury. He was sorry to hear the anecdote mentioned by the gentleman from Massachusetts. Is it to be supposed that we have no character in America fit for a place at the head of our Treasury? Are we to send to England for Doctor Price? Much as he valued and respected that character, he should be sorry to see him preside in one of the great departments of Government. He felt the humiliation so sensibly that he should never again boast of the genius or abilities of his country. But he believed that event took place for want of information; because experience had [395] convinced the world that America possessed a man equal to the arduous undertaking. He did not doubt that, on inquiry, many more might be found adequate to the business.

Mr. GERRY did not look upon it as derogatory to the dignity of the United States to look abroad for men of merit to perform their services. During the late war, they had employed useful officers in the army, who taught tactics to the troops. Finance was a system requiring time and attention in its acquirement. The kingdoms of Europe were not above seeking out and employing men of abilities in this way, although they were unqualified by law to hold any office: Did the King of France refuse the service of Necker because he was a Protestant, and his father an alien? He was equally tenacious of the honor of his countrymen with the gentleman from Delaware, but he thought it no disparagement to them

to say they were not well acquainted with the most abstruse science in the world, which they never had any necessity to study. [396]

June 25, 1789

... The second clause being under consideration—

Mr. [JOHN] PAGE [of Virginia] objected to the words making it the duty of the Secretary to “digest and report plans for the improvement and management of the revenue, and the support of the public credit;” observing that it might be well enough to enjoin upon him the duty of making out and preparing estimates; but to go any further would be a dangerous innovation upon the Constitutional privilege of this House; it would create an undue influence within these walls, because members might be led, by the deference commonly paid to men of abilities, who give an opinion in a case they have thoroughly studied, to support the minister’s plan, even against their own judgment. Nor would the mischief stop here; it would establish a precedent which might be extended, until we admitted all the ministers of the Government on the floor, to explain and support the plans they [592] have digested and reported: thus laying a foundation for an aristocracy or a detestable monarchy.

Mr. [THOMAS T.] TUCKER [of South Carolina].—The objection made by the gentleman near me is, undoubtedly, well founded. I think it proper to strike out all the words alluded to, because the following are sufficient to answer every valuable purpose, namely, “to prepare and report estimates of the public revenue and public expenditures.” If we authorize him to prepare and report plans, it will create an interference of the Executive with the Legislative powers; it will abridge the particular privilege of this House; for the Constitution expressly declares, that all bills for raising revenue shall originate in the House of Representatives. How can the business originate in this House, if we have it reported to us by the Minister of Finance? All the information that can be

acquired, may be called for, without adopting a clause that may undermine the authority of this House, and the security of the people. The Constitution has pointed out the proper method of communication between the Executive and Legislative departments; it is made the duty of the President to give, from time to time, information to Congress of the state of the Union, and to recommend to their consideration such measures as he shall judge necessary and expedient. If revenue plans are to be prepared and reported to Congress, here is the proper person to do it; he is responsible to the people for what he recommends, and will be more cautious than any other person to whom a less degree of responsibility is attached. Under this clause, you give the Secretary of the Treasury a right to obtrude upon you plans, not only undigested, but even improper to be taken up.

I hope the House is not already weary of executing and sustaining the powers vested in them by the Constitution; and yet it would argue that we thought ourselves less adequate to determine than any individual what burdens our constituents are equal to bear. This is not answering the high expectations that were formed of our exertions for the general good, or of our vigilance in guarding our own and the people's rights. In short, Mr. Chairman, I can never agree to have money bills originated and forced upon this House by a man destitute of Legislative authority, while the Constitution gives such power solely to the House of Representatives; for this reason, I cheerfully second the motion for striking out the words.

Mr. BENSON.—If the proposed amendment prevail, the bill will be nearly nugatory. The most important service that can be rendered by a gentleman who is at the head of the Department of Finance, is that of digesting and reporting plans for the improvement of the revenue, and supporting public credit; and, for my part, I shall despair of ever seeing your revenue improved, or the national credit supported, unless the business is submitted into the hands of an able

individual. I thought this subject was well understood, from the debate on the original motion. It was then insisted upon by an honorable gentleman, Mr. GERRY, who opposed the appointment of a Secretary of the Treasury, that his important duties [593] ought to be "to consider of the means of improving the revenue and introducing economy into the expenditures, and to recommend general systems of revenue." Now, what more than this is required by the clause?

For my part, I am at a loss to see how the privilege of the House is infringed. Can any of the Secretary's plans be called bills? Will they be reported in such a form even? But admitting they were, they do not become bills, unless they are sanctioned by the House; much less is the danger that they will pass into laws without full examination by both Houses and the President. From this view of the subject, so far is the clause from appearing dangerous, that I believe it discovers itself to be not only perfectly safe, but essentially necessary; and without it is retained, the great object of the bill will be defeated.

Mr. GOODHUE.—We certainly carry our dignity to the extreme, when we refuse to receive information from any but ourselves. It must be admitted, that the Secretary of the Treasury will, from the nature of his office, be better acquainted with the subject of improving the revenue or curtailing expense, than any other person; if he is thus capable of affording useful information, shall we reckon it hazardous to receive it? For my part, when I want to attain a particular object, I never shut my ears against information likely to enable me to secure it.

Mr. PAGE.—I can never consent to establish, by law, this interference of an Executive officer in business of legislation; it may be well enough in an absolute monarchy, for a Minister to come to a Parliament with his plans in his hands, and order them to be enregistered or enacted; but this practice does not obtain even in a limited monarchy like Britain. The Minister there, who introduces his plans, must be a member of the

House of Commons. The man would be treated with indignation who should attempt in that country to bring his schemes before Parliament in any other way. Now, why we, in the free Republic of the United States, should introduce such a novelty in legislation, I am at a loss to conceive. The Constitution expressly delegates to us the business of the revenue; our constituents have confidence in us, because they suppose us acquainted with their circumstances; they expect, in consequence of this knowledge, we will not attempt to load them with injudicious or oppressive taxes; but they have no such security, if we are blindly to follow perhaps an unskilful minister. It does not answer me, Mr. Chairman, to say the House has a right of deliberating and deciding upon these plans, because we may be told, if you prune away this part or that part of the system, you destroy its efficiency. Therefore we must act with caution; we must either take or reject the whole; but if we reject the whole, sir, we are to depend upon ourselves for a substitute. How are we to form one? For my part, I should not despair, that the united wisdom of this House could procure one; but if we are to do this in the second instance, why cannot we attempt it in the first? I have no objection to our calling upon this or any other officer for information; but it is certainly improper to have him authorized by law to intrude upon us whatever he may think proper. I presume, sir, it is not supposed by the worthy gentleman from New York (Mr. BENSON) that we shall be at a loss to conceive what information would be useful or proper for us to require, that we must have this officer to present us with what he chooses. When the President requires an opinion of him, the Constitution demands him to give it; so, under the law, let him send his opinion in here, when it is asked for. If any further power is given him, it will come to this at last: we, like the Parliament of Paris, shall meet to register what he dictates. Either these reports of the Secretary are to have weight, or they are not; if they are to have weight, the House acts under a foreign

influence, which is altogether improper and impolitic; if they are to have no weight, we impose a useless duty upon the officer, and such as is no mark of our wisdom.

Mr. [FISHER] AMES [of Massachusetts] hoped the subject might be treated with candor and liberality; he supposed the objections were made on those principles, and therefore required a serious answer. The worthy gentleman who first expressed his aversion to the clause seemed to be apprehensive that the power of reporting plans by the Secretary would be improper, because it appeared to him to interfere with the legislative duty of the House, which the House ought not to relinquish.

Whenever it is a question, Mr. Speaker, said he, whether this House ought, or ought not, to establish offices to exercise a part of the power of either branch of the Government, there are two points which I take into consideration, in order to lead my mind to a just decision; first, whether the proposed disposition is useful; and, second, whether it can be safely guarded from abuse. Now I take it, sir, that the House, by their order for bringing in a bill to establish the Treasury Department in this way, have determined the point of utility; and, if they have erred in adopting that opinion, I will slightly make an inquiry. How does it tend to general utility? The Secretary is presumed to have the best knowledge of the subject of finance of any member of the community. Now, if this House is to act on the best knowledge of circumstances, it seems to follow logically, that the House must obtain evidence from that officer; the best way of doing this will be publicly from the officer himself, by making it his duty to furnish us with it. It will not be denied, sir, that this officer will be better acquainted with his business than other people can be. It lies within his department to have a comprehensive view of the state of the public revenues and expenditures. He will, by his superintending power over the collection, be able to discover abuses, if any, in that department, and to form the most eligible plan to remedy or prevent the evil. From his

information respecting money transactions, he may be able to point out the best mode for supporting the public credit; indeed, these seem to me to be the great objects of his appointment.

It is, perhaps, a misfortune incident to public [595] assemblies, that from their nature they are more incompetent to a complete investigation of accounts than a few individuals; perhaps in a Government so extended, and replete with variety in its mode of expenditure as this, the subject may be more perplexing than in countries of smaller extent and less variety of objects to guard. The science of accounts is at best but an abstruse and dry study; it is scarcely to be understood but by an unwearied assiduity for a long time; how then can a public body, elected annually, and in session for a few months, undertake the arduous task with a full prospect of success? If our plans are formed upon these incomplete investigations, we can expect little improvement; for I venture to say, that our knowledge will be far inferior to that of an individual, like the present officer. Hence I contend, sir, that the Secretary is a useful and invaluable part of the Government.

I would not have it understood that I am against an inquiry being made in to this subject at every session of the Legislature. I think such a practice highly salutary, but I would not trust to a hasty, or perhaps injudicious examination of a business of this magnitude; on the contrary, I would take every precaution in ascertaining the foundation upon which our revenues are to stand.

If we consider the present situation of our finances, owing to a variety of causes, we shall no doubt perceive a great, although unavoidable confusion throughout the whole scene; it presents to the imagination a deep, dark, and dreary chaos; impossible to be reduced to order without the mind of the architect is clear and capacious, and his power commensurate to the occasion; he must not be the fitting creature of a day; he must have time given him competent for the successful exercise of his authority. It is with an intention to let a little

sunshine into the business that the present arrangement is proposed; I hope it may be successful, nor do I doubt the event. I am confident our funds are equal to the demand, if they are properly brought into operation; but a bad administration of the finances will prove our greatest evil.

But, is our proposed arrangement safe? Are the guards sufficient to prevent abuse? I am perfectly satisfied it can be made so, and hope the united exertions of both Houses will effect it. How is the power complained of by the honorable gentlemen over the way (Mr. PAGE and Mr. TUCKER) unsafe? We are told, the plans reported may have an undue influence. Upon what ground is this opinion rested? Do the gentlemen apprehend the facts will be fallaciously stated? If so, I would ask, cannot they be detected? If facts are faithfully stated, and the deductions are fair, no doubt the plan will be patronised; and will gentlemen say that it ought not? I believe there is little danger of imposition, for a person in this situation would hardly run the risk of detection, in a case where detection might be easy by an examination of the books and vouchers, and his reputation be destroyed.

What improper influence could a plan reported openly and officially have on the mind of any [596] member, more than if the scheme and information were given privately at the Secretary's office?

Nor, Mr. Chairman, do I approve what the gentlemen say with respect to calling on the Secretary for information; it will be no mark of inattention or neglect, if he take time to consider the questions you propound; but if you make it his duty to furnish you with plans of information on the improvement of the revenue and support of public credit, and he neglect to perform it, his conduct or capacity is virtually impeached. This will be furnishing an additional check.

It has been complained of as a novelty; but, let me ask, gentlemen, if it is not to an institution of a similar kind that the management of the finances of Britain is the envy of the world? It is true, the Chancellor of the Exchequer is a mem-

ber of the House that has the sole right of originating money bills; but is that a reason why we should not have the information which can be obtained from our officer, who possesses the means of acquiring equally important and useful knowledge? The nation, as well as the Parliament of Britain, holds a check over the Chancellor: if his budget contains false calculations, they are corrected; if he attempts impositions, or even unpopular measures, his administration becomes odious, and he is removed. Have we more reason to fear than they? Have we less responsibility or security in our arrangement of the Treasury department? If we have, let us improve it, but not abridge it of its safest and most useful power. I hope the committee will refuse their approbation of the present motion.

Mr. LIVERMORE.—I shall vote for striking out the clause, because I conceive it essentially necessary so to do. The power of originating money bills within these walls, I look upon as a sacred deposite, which we may neither violate nor divest ourselves of, although at first view it may appear of little importance who shall form a plan for the improvement of the revenue. Although every information tending to effect this great object may be gratefully received by this House, yet it behooves us to consider to what this clause may lead, and where it may terminate. Might it not, by construction, be said, that the Secretary of the Treasury has the sole right of digesting and reporting plans for the improvement of the revenue? This construction may appear a little extraordinary, but it is not more so than some constructions heretofore put upon other words; but however extraordinary it may be, it may take place, and I think the best way to avoid it, will be to leave out the words altogether. It is certainly improper that any person, not expressly entrusted by our constituents with the privilege of taking their money, should direct the quantum and the manner in which to take it.

But if there is not the danger I have mentioned, of giving power exclusively to this officer, I would ask gentlemen, and I submit it to their candor to say, whether it must not have a

tendency to render the minds of the members indifferent on the subject, if the business is to be arranged and conducted by another, who, we are told, is [597] better capable of understanding it than ourselves? Certainly, we shall hardly think it worth while to trouble our heads about the business. How far this will disappoint the object of our election, may be plainly seen. For my part, I think the power too great to be entrusted in any hands but those of the Representatives of the people, where the Constitution has deposited it, unless it be to a committee especially appointed by the House for that purpose.

Some allusions, Mr. Chairman, have been made with respect to the origin of this power. Gentlemen have intimated that it was copied from the powers vested in the First Lord of the Treasury. I am not of this opinion. I rather believe the committee, in searching for precedents, have turned to the former appointment of a Superintendent of Finance under the late Confederation, and, having discovered this enumerated among his powers, have copied it into the bill, not adverting to the different circumstances of the present and former Congress; for to them alone was not confined the power of originating revenue plans. Besides, it might be safe in them, because they possessed the Legislative and Executive power; they could abolish his plans and his office together, if they thought proper; but we are restrained by a Senate, and the negative of the President. We have no power over him, therefore we ought to be cautious of putting dangerous powers into his hands.

Mr. [THEODORE] SEDGWICK [of Massachusetts].—If the principle prevails for curtailing this part of the Secretary's duty, we shall lose the advantages which the proposed system was intended to acquire. The improvement and management of the revenue is a subject that must be investigated by a man of abilities and indefatigable industry, if we mean to have our business advantageously done. If honorable gentlemen will for a moment consider the peculiar circumstances of this

country, the means of information attainable by the individual members of this House, and compare them with the object they have to pursue, they will plainly perceive the necessity of calling to their aid the advantages resulting from an establishment like the one contemplated in the bill; if they weigh these circumstances carefully, their objections, I trust, will vanish. Coming, Mr. Chairman, as we do, from different parts of the Union, from States where the objects of revenue are different, where the circumstances and views of the people are different, and in a great degree local, it appears to me that no one member can be so fortunate as to possess the extensive knowledge attainable by this officer. Another circumstance induces me to draw the same conclusion. We shall find systems adopted to defeat the collection of the revenue, but it will be impossible for any of us to become so well acquainted with these machinations as to defeat their object; but from the advantageous position we give the Secretary of the Treasury, and the multifarious objects of his attention, he may watch over and detect their plans; he will have a better capacity to propose a remedy than any member of the Legislature. [598]

I do not apprehend any undue influence operating on the members of this House, because I am persuaded there will ever prevail an independent and indignant spirit within the walls of Congress, hostile to every venal attempt. Nor do I believe it possible to color, with a semblance of justice, either false or base measures against the public welfare; the wisdom of this House can never be thought so meanly of. I trust a majority will always be found wise and virtuous enough to resist being made the tools of a corrupt administration. I, therefore, with confidence, approve the object of the clause.

I will mention one other circumstance, of no inconsiderable force, in favor of the bill. Coming, as I said we do, from districts with different ideas, perhaps different objects to pursue, much time will necessarily be consumed before a current is found in which the mind of the majority will run; and even then, gentlemen will not be certain they have procured all

the information that could be obtained. It appears, therefore, to me, from the reason and nature of things, to be our duty, as wise legislators, to form such a reservoir for information as will supply us with what is necessary and useful at all times.

Mr. BOUDINOT.—A proper jealousy for the liberty of the people is commendable in those who are appointed and sworn to be its faithful guardians; but when this spirit is carried so far as to lose sight of its object, and instead of leading to avoid, urges on to the precipice of ruin, we ought to be careful how we receive its impressions. So far is the present measure from being injurious to liberty, that it is consistent with the true interest and prosperity of the community. Are gentlemen apprehensive we shall be led by this officer to adopt plans we should otherwise reject? For my part, I have a better opinion of the penetration of the representation of the people than to dread any such visionary phantom.

Let us consider whether this power is essentially necessary to the Government. I take it to be conceded by the gentlemen, that it is absolutely so. They say they are willing to receive the information because it may be serviceable, but do not choose to have it communicated in this way. If the Secretary of the Treasury is the proper person to give the information, I can see no other mode of obtaining it that would be so useful. Do gentlemen mean that he shall give it piecemeal, by way of question and answer? This will tend more to mislead than to inform us. If we would judge upon any subject, it would be better to have it in one clear and complete view, than to inspect it by detachments; we should lose the great whole in the minutix, and instead of a system, should present our constituents with a structure composed of discordant parts, counteracting and defeating the operation of each other's properties.

Make your officer responsible, and the presumption is, that plans and information are properly digested; but if he can secrete himself behind the curtain, he might create a noxious influence, and not be answerable for the information he gives.

I conceive this great principle of respon- [599] sibility to be essentially necessary to secure the public welfare: make it his duty to study the subject well, and put the means in his power; we can then draw from him all the information he has acquired, and apply it to its proper use. Without such an officer, our plans will be ineffectual and inconsistent. I have seen too much the want of a like officer in the State Legislatures, not to make me very desirous of adopting the present plan. It has been said, that the members coming from the different parts of the Union are the most proper persons to give information. I deny the principle. There are no persons in the Government to whom we could look with less propriety for information on this subject than to the members of this House. We are called from the pursuit of our different occupations, and come without the least preparation to bring forward a subject that requires a great degree of assiduous application to understand; add to this the locality of our ideas, which is too commonly the case, and we shall appear not very fit to answer the end of our appointment. Witness the difficulty and embarrassments with which we have hitherto been surrounded. If we had the subject digested and prepared, we should determine with ease on its fitness, its combination, and its principles, and might supply omissions or defects without hazard; and this in half the time we could frame a system, if left to reduce the chaos into order.

Mr. [THOMAS] HARTLEY [of Pennsylvania] rose to express his sentiments, as he did on every occasion, with diffidence in his own abilities; but he looked upon the clause as both unsafe and inconsistent with the Constitution. He thought the gentleman last up proved too much by his arguments; he proved that the House of Representatives was, in fact, unnecessary and useless; that one person could be a better judge of the means to improve and manage the revenue, and support the national credit, than the whole body of Congress. This kind of doctrine, Mr. Chairman, is indelicate in a republic, and strikes at the root of all legislation founded

upon the great Democratic principle of representation. It is true mistakes, and very injurious ones, have been made on the subject of finance by some State Legislatures; but I would rather submit to this evil, than, by my voice, establish tenets subversive of the liberties of my country.

Notwithstanding what I have said, I am clearly of opinion it is necessary and useful to take measures for obtaining other information than what members can acquire in their characters as citizens; therefore, I am in favor of the present bill; but I think these words too strong. If it was modified so as to oblige him to have his plans ready for this House when they are asked for, I should be satisfied; but to establish a legal right in an officer to obtrude his sentiments perpetually on this body, is disagreeable, and it is dangerous, inasmuch as the right is conveyed in words of doubtful import, and conveying powers exclusively vested by the Constitution in this House.

One gentleman (Mr. AMES) has said, that the Secretary would be responsible for the plans he [600] introduces. Very true; but how are we to detect the impositions they contain; for, he says, we require more time and leisure to make the scrutiny than falls to our lot, so that it does not afford the degree of responsibility which his observations supposed.

Mr. GERRY expressed himself in favor of the object of the clause; that was, to get all the information possible for the purpose of improving the revenue, because he thought this information would be much required, if he judged from the load of public debt, and the present inability of the people to contribute largely towards its reduction.

He could not help observing, however, the great degree of importance they were giving this, and the other Executive officers. If the doctrine of having prime and great ministers of State was once well established, he did not doubt but we should soon see them distinguished by a green or red ribbon, or other insignia of Court favor and patronage. He wished gentlemen were aware of what consequences these things lead to, that they might exert a greater degree of caution.

The practice of Parliament in Britain is first to determine the sum they will grant, and then refer the subject to a Committee of Ways and Means: this might be a proper mode to be pursued in this House.

Do gentlemen, said he, consider the importance of the power they give the officer by the clause? Is it not part of our Legislative authority? And does not the Constitution expressly declare that the House solely shall exercise the power of originating revenue bills? Now, what is meant by reporting plans? It surely includes the idea of originating money bills, that is, a bill for improving the revenue, or, in other words, for bringing revenue into the treasury. For, if he is to report plans, they ought to be reported in a proper form, and complete. This is giving an indirect voice in Legislative business to an Executive officer. If this be not the meaning of the clause, let gentlemen say what is, and to what extent it shall go; but if my construction is true, we are giving up the most essential privilege vested in us by the Constitution. But what does this signify? The officer is responsible, and we are secure. This responsibility is made an argument in favor of every extension of power. I should be glad to understand the term. Gentlemen say the Secretary of the Treasury is responsible for the information he gives the House. In what manner does this responsibility act? Suppose he reports a plan for improving the revenue, by a tax which he thinks judicious, and one that will be agreeable to the people of the United States; but he happens to be deceived in his opinion; that his tax is obnoxious, and excites a popular clamor against the minister—what is the advantage of his responsibility? Nothing. Few men deserve punishment for the error of opinion; all that could be done would be to repeal the law, and be more cautious in future in depending implicitly on the judgment of a man who had led us into an impolitic measure. Suppose the revenue should [601] fall short of his estimate, is he responsible for the balance? This will be carrying the idea further than any Government hitherto has done. What then is the officer to be

responsible for, which should induce the House to vest in him such extraordinary powers?

It was well observed by the honorable gentleman over the way, (Mr. PAGE,) that when his bill or plan is before the House, we must take or reject the whole; for if the individual members are so uninformed on the subject as they have been represented, it will be next to presumption to prepare an alteration; we should be told it was his duty officially to present plans, and our duty officially to pass them; that he is better informed than any other man, nay, better than the collective wisdom of the country. But this argument goes further still, and it may be justly asked, what occasion is there for a session of Congress? It incumbers the nation with a heavy expense, without rendering it any service. For, if we can neither alter nor improve the Secretary's plans, we can only consume our time to no avail. Under these circumstances, it will be patriotic to lay down our authority, and vest it in the great minister we have established.

Mr. [JOHN] LAURANCE [of New York].—I do not see consequences so dangerous as some gentlemen seem to apprehend; nor did they appear to them, I believe, when the subject was last under consideration. I recollect Mr. Chairman, that some difficulty was made about establishing this office, because it was feared we could not find men of sufficient abilities to fill it. The duties were then properly deemed of a high and important nature, and enumerated as those proposed in the bill. It was supposed by an honorable gentleman, that the powers here expressed might be lodged in a board, because an individual was incompetent to undertake the whole. But now we have the wonderful sagacity of discovering, that if an individual is appointed, he will have capacity to form plans for improving the revenue in such an advantageous manner, as to supersede the necessity of having the representatives of the people consulted on the business; he will not only perform the usual duties of a Treasury Board, but be adequate to

all purposes of legislation. I appeal to the gentleman for his usual candor on this occasion, which will assure us that he has wire-drawn his arguments.

I hope, sir, if we give this power to an individual, we shall have judgment enough to discover whether his plans are consistent with the public happiness and prosperity; and while we exercise this judgment, there can be no cause to apprehend the chimerical effects portrayed by the gentleman last up.

It is said to be giving him the power of legislation. Do we give him power of deciding what shall be the law? While we retain this power, he may give us all the information possible, but can never be said to participate in legislative business; he has no control whatever over this House. I see no danger, but a great deal of benefit, arising from the clause; by making it his duty to study the subject, we may reasonable expect information. [602]

How is it said, that the power of reporting plans for the improvement of the revenue, is the power of originating money bills? The Constitution declares that power to be vested solely in this House. Now, will gentlemen say a money bill is originated by an individual member if he brings it forward? It cannot be originated, in my opinion, until the sense of the House is declared; much less can a plan for the improvement of the revenue be said to be a money bill.

Mr. GERRY admitted that he gave it as his opinion, that it was not an easy thing to find a proper person for conducting the finances in this country; there were but few in Europe who possessed abilities equal to the undertaking. He said before, that he knew but one in America, and believed there were not many to be found. These were his sentiments then, and he had made no discoveries since that warranted a change of opinion. But perhaps the advocates of the bill are acquainted with a gentleman fit for the business; if they are, it is more than he pretended to be, unless, as he said before, it

was an honorable member of the Senate, who had made more progress in acquiring a knowledge of this difficult science, than any other person he had heard of.

He would not proceed on this subject, because the House had determined to appoint such an officer, and thereby put an end to the debate. By that vote, they supposed they could find a man equal to the task; he hoped they might, but he was really apprehensive of a disappointment, when he considered the confused and embarrassed state of our public debts and accounts; however, he submitted to the voice of his country.

The gentleman last up, said he, did me the honor of noticing what I said on a former occasion; but I appeal to himself whether my words were conveyed in the language of the bill. Did I advise any thing like this? Has not the gentleman sagacity enough to discover that my arguments went no further than this, that he was the proper person to give information respecting the public revenues and expenses, the mode of collecting, and the probable remedy for abuses?

But certainly this House contains more information relative to the proper means of supporting the national credit, and how far our constituents are capable of sustaining an increase of taxes, or which mode of assessment would yield more satisfaction. Yet gentlemen propose to give the power of advising the House, in all these cases, to the Secretary of the Treasury. It was always my opinion, that the representative body, from their sense of feeling, was a better judge of taxation than any individual, however great his sagacity, or extensive his means of information.

The gentleman says, we only give him power to give information; that is what I wish, but the clause goes further. Is digesting and reporting plans merely giving information? These plans will have to undergo the consideration of the House, I grant; but they must have some influence coming from such high authority, and if they have this in any degree whatever, it is sub- [603] versive of the principles laid down in the Constitution.

The gentleman says, a bill is not originated until it has obtained the sense of the House; what is it then? The bill now under consideration has not obtained the sense of the House, yet I believe that gentleman himself conceives it to be a bill; he uses the term when he is speaking of it, and will hardly deny that it has originated. I think, sir, whenever the House order a committee to bring in a bill, or give leave to a member to read one in his place, that by that order they originate the bill; and here it is that I am apprehensive of a diminution of our privilege. By this law you give the Secretary the right of digesting and reporting all plans, which is but another word for bills, for the management and improvement of the revenue, and supporting public credit. To what an extent these last words may reach, I shall not pretend to say; but certainly they may include the operations of more departments than one. If the clause will bear the construction I have mentioned, it is altogether unwarrantable. I said, I differed from the gentleman with respect to the origin of bills, but perhaps this phrase may be applicable to a bill on its passage; all bills, from the time they are admitted before the House, may be said to be on their passage; but they are originated, as I take it, at their introduction.

Mr. [THOMAS] FITZSIMONS [of Pennsylvania] was not certain that he understood the objections which were made against the clause; but if he did, it was a jealousy arising from the power given the Secretary to report plans of revenue to the House. No gentleman, he believed, had objected to his preparing a plan, and giving it in when it was called for. If this were the case, perhaps harmony might be restored to the committee by changing the word report into prepare; he would therefore move that amendment, in order to try the sense of the House.

Mr. MADISON.—After hearing and weighing the various observations of gentlemen, I am at a loss to see where the danger lies. These are precisely the words used by the former Congress, on two occasions, one in 1783, the other in a subse-

quent ordinance, which established the Revenue Board. The same power was also annexed to the office of Superintendent of Finance, but I never yet heard that any inconvenience or danger was experienced from the regulations; perhaps, if the power had been more fully and frequently exercised, it might have contributed more to the public good.

There is a small probability, though it is but small, that an officer may derive a weight from this circumstance, and have some degree of influence upon the deliberations of the Legislature; but compare the danger likely to result from this clause, with the danger and inconvenience of not having well-formed and digested plans, and we shall find infinitely more to apprehend. Inconsistent, unproductive, and expensive schemes, will be more injurious to our constituents than the undue influence which the well-digested plans of [604] a well-informed officer can have. From a bad administration of the Government, more detriment will arise than from any other source. The want of information has occasioned much inconvenience and unnecessary burdens under some of the State Governments. Let it be our care to avoid those rocks and shoals in our political voyage, which have injured, and nearly proved fatal to, many of our contemporary navigators.

A gentleman has asked, what is meant by responsibility? I will answer him. There will be responsibility in point of reputation, at least a responsibility to the public opinion with respect to his abilities; and supposing there is no personal responsibility, yet we know that men of talents and ability take as much care for the preservation of their reputation as any other species of property of which they are possessed. If a superior degree of wisdom is expected to be displayed by them, they take pains to give proofs that they possess it in the most unequivocal manner; this of itself will insure us no small degree of exertion.

With respect to originating money bills, the House has the sole right to do it; but if the power of reporting plans can be construed to imply the power of originating revenue bills, the

Constitution is inconsistent with itself, in giving the President authority to recommend such measures as he may think expedient or necessary; but the construction is too unnatural to require further investigation.

I have admitted there is a small probability of a small inconvenience, but I do not think it any more an argument against the clause, than it would be an argument against having windows in a house, that it is possible the wind and the rain may get in through the crevices.

Mr. LIVERMORE expressed an apprehension that the clause originated from a clause in an ordinance of the former Congress; he found now he was not mistaken; but he wished gentlemen to distinguish, in the manner he had attempted to do, between the properties of this Congress and that, from which they might discover the impropriety of adopting it.

He thought gentlemen had sufficiently extolled the excellence of this office, and its advantages. He remembered that the grant of this power to the officer who formerly presided at the head of the finances, had produced some morsels of this kind; the five per cent. impost, a poll tax, and a land tax, if his memory served him right, were submitted; how far these were likely to meet the approbation of the Union, he did not say; but certainly one of them would meet few patrons. From this specimen, he did not form so favorable an opinion as some gentlemen expressed of the revenue plans, prepared, digested, and reported by a Secretary of the Treasury.

Mr. PAGE added, that the late Congress were obliged to submit their plans to the State Legislatures; consequently, there was less danger of undue influence. As this was his principal fear, he would vote against every thing like giving him authority to bring his plans before the House. [605]

Mr. LIVERMORE declared the amendment proposed by Mr. FITZSIMONS unsatisfactory, and by no means removing the ground of complaint.

Mr. TUCKER likewise objected to the amendment, because its effect would be precisely the same with the words standing

in the bill. Why, said he, should the Secretary be directed to prepare plans, unless it is intended that the House should regularly call for them? The views of the gentleman are to have a uniformity in the system of finance; but how can this be effected, without the plans are always brought before us? Whatever the House shall presume to do on independent principles, may break in upon the Secretary's system, or make him vary his propositions, in order to accommodate them to what we have done. If we must adopt plans for the sake of uniformity, we must adopt them at all times, or lose our object.

However useful it may be to obtain information from this officer, I am by no means for making it a matter of right in him to intrude his advice. I admit, information may at all times be acceptable, but I think advice should never come but when required. Are we to be advised on all occasions, because we don't know when to require it? Are the members of this House incapable of asking for assistance when they want it? Why have we not affronted the other branches of the Government, as well as this House? Why have we not said that the Secretary of Foreign Affairs should prepare and digest plans for the formation of treaties, and report them to the President and Senate, who are exclusively to manage that concern? The cases are exactly similar; but we did not choose to offer them such an indignity. If it is right in one instance, it is equally so in every other. We ought to have given the Secretary at War an opportunity of exercising his ingenuity, in devising plans of fortifications to strengthen our shores and harbors; we ought, in every case, where we have to decide, appoint officers with the same view to aid our deliberations, and, in fine, to perform the whole duties for which we were elected.

Mr. HARTLEY expressed himself satisfied with the amendment proposed by Mr. FITZSIMONS.

Mr. [MICHAEL J.] STONE [of Maryland] was not afraid of giving the officer the power of reporting plans, because he was sure Congress would, in every case, decide upon their

own judgment. A future Congress would not pay such a deference, even to their predecessors, as to follow in their footsteps, unless they were convinced of the good policy of their measures. He thought, if the House wanted to make use of the information acquired by the Secretary, they ought to give him notice of their intention; consequently, something of this kind was proper in the bill.

Mr. [ROGER] SHERMAN [of Connecticut] thought the principle held up by the clause, was absolutely necessary to be received. It was of such a nature as to force itself upon them; therefore it was in vain to attempt to elude it by subterfuge. It was owing to the great abilities of a financier, that France had been able to make the exertions we were witnesses of a few years ago, without embarrassing the nation. [606] This able man, after considerably improving the national revenue, was displaced; but such was the importance of the officer, that he has been restored again.

The honorable gentleman, said he, from South Carolina, (Mr. TUCKER,) has asked why we did not make a similar provision in the case of the Departments of Foreign Affairs, and of War, to assist the President. If he had consulted the Constitution, he would have found it unnecessary, because it is there made the duty of the heads of department to answer the inquiries of the President in writing. It is the proper business of this House to originate revenue laws; but as we want information to act upon, we must procure it where it is to be had, consequently we must get it out of this officer, and the best way of doing so, must be by making it his duty to bring it forward.

I do not contend for a word; if the spirit of the clause is retained, I am satisfied.

Mr. BALDWIN.—I do not see what we are guarding against by striking out the words, unless gentlemen mean to go so far as to introduce a prohibitory clause, and declare that the Secretary of the Treasury shall be restrained from digesting or preparing plans for the improvement of the revenue.

If there is any evil in having him attend to this branch of the business, I cannot see how to avoid it. Suppose the officer is a bad man, and there are others like him in this House, (for this must be what the gentlemen are afraid of;) and suppose he has prepared a scheme for peculation, which he hopes to get adopted by making dupes of the honest part; how are you going to hinder it from being brought forward? Cannot his friends introduce it as their own, by making and seconding a motion for that purpose? Will you restrain him from having access to the members out of doors? And cannot he infuse his dangerous and specious arguments and information into them as well in the closet as by a public and official communication? But, Mr. Chairman, can this House, or if it can, will it, prevent any of their constituents from bringing before them plans for the relief of grievances or oppressions? Every individual of the community can bring business before us by petition, memorial, or remonstrance, provided it be done in a decent manner. How then do you propose to restrain the Secretary of the Treasury?

I think the clause is very well as it stands, and shall therefore be against the amendment. [607]

June 29, 1789

* * * *

. . . the House went into a Committee of the Whole, Mr. TRUMBULL in the Chair, on the Treasury bill.

On motion of Mr. VINING, the following words were struck out, being part of the powers assigned to the Secretary of the Treasury, "to conduct the sale of the lands belonging to the United States, in such a manner as he shall be by law directed;" and afterwards these were inserted, "to execute such services respecting the sale of the lands of the United States, as may by law be required of him."

Mr. [EDANUS] BURKE [of South Carolina] gave notice that he meant to bring in a clause to be added to the bill to

prevent any of the persons appointed to execute the offices created by this bill from being directly or indirectly concerned in commerce, or in speculating in the public funds, under a high penalty, and being deemed guilty of a high crime or misdemeanor.

Mr. MADISON observed, that the committee had gone through the bill without making any provision respecting the tenure by which the Comptroller is to hold his office. He thought it was a point worthy of consideration, and would, therefore, submit a few observations upon it.

It will be necessary, said he, to consider the nature of this office, to enable us to come to a right decision on the subject; in analyzing its properties, we shall easily discover that they are not purely of an Executive nature. It seems to me that they partake of a Judiciary quality as well as Executive; perhaps the latter obtains in the greatest degree. The principal duty seems to be deciding upon the lawfulness and justice of [611] the claims and accounts subsisting between the United States and particular citizens: this partakes strongly of the Judicial character, and there may be strong reasons why an officer of this kind should not hold his office at the pleasure of the Executive branch of the Government. I am inclined to think that we ought to consider him something in the light of an arbitrator between the public and individuals, and that he ought to hold his office by such a tenure as will make him responsible to the public generally; then again it may be thought, on the other side, that some persons ought to be authorized on behalf of the individual, with the usual liberty of referring to a third person, in case of disagreement, which may throw some embarrassment in the way of the first idea.

Whatever, Mr. Chairman, may be my opinion with respect to the tenure by which an Executive officer may hold his office according to the meaning of the Constitution, I am very well satisfied, that a modification by the Legislature may take place in such as partake of the judicial qualities, and that the

legislative power is sufficient to establish this office on such a footing as to answer the purposes for which it is prescribed.

With this view he would move a proposition, to be inserted in the bill; it was that the Comptroller should hold his office during ———— years, unless sooner removed by the President: he will always be dependent upon the Legislature, by reason of the power of the impeachment; but he might be made still more so, when the House took up the Salary bill. He would have the person re-appointable at the expiration of the term, unless he was disqualified by a conviction on an impeachment before the Senate; by this means the Comptroller would be dependent upon the President, because he can be removed by him; he will be dependent upon the Senate, because they must consent to his election for every term of years; and he will be dependent upon this House, through the means of impeachment, and the power we shall reserve over his salary; by which means we shall effectually secure the dependence of this officer upon the Government. But making him thus thoroughly dependent, would make it necessary to secure his impartiality, with respect to the individual. This might be effected by giving any person, who conceived himself aggrieved, a right to petition the Supreme Court for redress, and they should be empowered to do right therein; this will enable the individual to carry his claim before an independent tribunal.

A provision of this kind exists in two of the United States at this time, and is found to answer a very good purpose. He mentioned this, that gentlemen might not think it altogether novel. The committee, he hoped, would take a little time to examine the idea.

Mr. STONE thought it necessary to have time allowed the committee for considering the proposition; it was perfectly novel to him, and he dared to say the same of many other members; but, at the first view, he thought he saw several objec- [612] tions to it. As the Comptroller was an inferior

officer, his appointment might be vested in the President by the Legislature; but, according to the determination which had already taken place, it did not necessarily follow that he should have the power of dismissal; and before it was given, its propriety ought to be apparent. He did not know whether the office should be held during good behaviour, as the gentleman proposed; for if it was intended to be held during a term of years, and then the officer to be reappointed, if he had not been convicted on impeachment, it would be tantamount to holding it during all the time he behaved well. But he thought all officers, except the judges, should hold their offices during pleasure. He also thought it unnecessary to consider the Comptroller as a judge, and give, by an express clause in the bill, a right to the complainant to appeal from his decision. He considered this as the right of every man, upon the principles of common law, therefore securing it by the statute would be a work of supererogation.

Mr. [WILLIAM] SMITH, of South Carolina, approved the idea of having the Comptroller appointed for a limited time, but thought during that time he ought to be independent of the Executive, in order that he might not be influenced by that branch of the Government in his decisions.

Mr. SEDGWICK did not rise to oppose the measure, but to suggest some doubts of its effects. The first was, as mentioned by the gentleman from Maryland, (Mr. STONE,) that the officer would hold his office by the firm tenure of good behaviour, inasmuch as he was to be reappointed at the expiration of the first term, and so on.

Mr. MADISON begged the gentlemen would excuse him for this interruption, but he suspected he was misapprehended; he said the officer should be reappointable at the expiration of the term—not reappointed.

Mr. SEDGWICK acknowledged he had misunderstood the gentleman; but, as he had now explained himself, he did not see that the proposition came up to the intention he had

expressed: so far from making him independent, as a judge ought to be, it subjected him to more subordination than any other officer.

He also conceived that a majority of the House had decided that all officers concerned in Executive business should depend upon the will of the President for their continuance in office; and with good reason, for they were the eyes and arms of the principal Magistrate, the instruments of execution. Now the office of Comptroller seemed to bear a strong affinity to this branch of the Government. He is to provide for the regular and punctual payment of all moneys which may be collected, and to direct prosecutions for delinquencies; he is to preserve the public accounts, to countersign warrants, and to report to the Secretary. These are important Executive duties, and the man who has to perform them ought, he thought, to be dependent upon the President.

He did not mean, by what he said, to give a decided opinion, but merely to suggest for consideration some doubts which had arisen in his mind since the subject was introduced.

Mr. BENSON did not like the object of the motion, because it was, in some measure, setting afloat the question which had already been carried.

He wished there might be some certainty in knowing what was the tenure of offices; he thought they were well fixed now, if nothing more was done with the question. The judges hold theirs during good behaviour, as established by the Constitution; all others, during pleasure. He was afraid that the present motion would lead to a different construction from the one lately adopted; by devices of this kind, he apprehended the Legislature might overthrow the Executive power; he would therefore vote against it, if it were not withdrawn.

Mr. MADISON did not wish a decision on the subject, further than gentlemen were prepared.

When I was up before, said he, I endeavored to show that the nature of this office differed from the others upon which the House had decided; and, consequently, that a modification might take place, without interfering with the former distinction; so that it cannot be said we depart from the spirit of the Constitution.

Several arguments were adduced to show the Executive Magistrate had Constitutionally a right to remove subordinate officers at pleasure. Among others it was urged, with some force, that these officers were merely to assist him in the performance of duties, which, from the nature of man, he could not execute without them, although he had an unquestionable right to do them if he were able; but I question very much whether he can or ought to have any interference in the settling and adjusting the legal claims of individuals against the United States. The necessary examination and decision in such cases partake too much of the Judicial capacity to be blended with the Executive. I do not say the office is either Executive or Judicial; I think it rather distinct from both, though it partakes of each, and therefore some modification, accommodated to those circumstances, ought to take place. I would, therefore, make the officer responsible to every part of the Government.

Surely the Legislature have the right to limit the salary of any officer; if they have this, and the power of establishing offices at discretion, it can never be said that, by limiting the tenure of an office, we devise schemes for the overthrow of the Executive department.

If gentlemen will consult the true spirit and scope of the Constitution, they will perhaps find my propositions not so obnoxious as some seem to think. I did not bring it forward for immediate decision; I am very willing to let it lie over for further consideration. [614]

INQUIRY INTO THE OFFICIAL CONDUCT OF
THE SECRETARY OF THE TREASURY, ALEX-
ANDER HAMILTON. DEBATE, 1793-94⁵⁵

House of Representatives, February 22, 1793

The Appropriation Bill for the year 1793 was taken up, with some amendments of the Senate, one of which was, that in the bill sent to the Senate, the House of Representatives had specified all the items of each sum granted to the support of the War Department; but the Senate's amendment condenses the whole into one aggregate sum. This occasioned some debate; and it was observed that, by thus making one sweeping grant, the particular items are kept out of view, so as to render any future inquiries into the application of the public money extremely difficult, and leaves too much discretionary power in the [889] hands of the Head of the Department; for, although it would be expected that he should apply the money to each particular object of the many expressed in the estimate by him furnished, yet, if they were not also specified in the law, he would not be obligated to pursue this conduct; in fact, he might apply the whole to a few of the objects, perhaps to only one, and leave all the others unsupported. Indeed, it must be granted that there are discretionary powers which ought to be allowed, such as respect particular contingencies, &c., but this should never be permitted to extend to such an extravagant degree as the Senate's amendments would authorize. Several members spoke on the occasion; and it was argued that the items had been already examined and discussed in the House, and that, as the total was not altered by the Senate, there could not be any danger in concurring with the amendments. On the other hand, it was objected that, as there was an expectation

⁵⁵ *Annals of Congress*, Vol. 3: 889-90, 899-905, 907-12, 938-39; Vol. 4: 463-66. See also Nos. 14, 17, 25. For the partisan basis of this attack, see Henry Jones Ford, *Alexander Hamilton* (1920), pp. 260-77, 292, 300.

of peace with the Indians, and that therefore the recruiting service would be arrested, all these hopes of the public might be frustrated, in case the recruiting service was continued, and larger sums might be applied to it than would be proper, unless the law should expressly limit it. And there was no limitation of specific sums mentioned in the Senate's amendment but the sweeping total of nine hundred and sixty-three thousand dollars, and thirty thousand dollars for contingencies—nearly a round million. It was again urged by those who wished the House to concur with the Senate that a discretionary power lodged in the hands of the PRESIDENT OF THE UNITED STATES would be a sufficient check; and it was therefore suggested that a committee of conference be appointed between the two Houses, to introduce a clause in the law for this purpose. A discretionary power must be lodged somewhere to meet contingencies; for instance, it may be found expedient to mount the militia, or to vary the mode of carrying on the war, and therefore in some cases to apply the money, specifically appropriated for some of the objects which might upon trial be discovered unnecessary, to other objects of real utility. The debate was continued for a considerable time; and at length the question for concurring was negatived.

The question was then taken, that the House do agree to the said amendment, and passed in the negative. . . . [890]

February 28, 1793

The resolutions⁵⁶ brought forward yesterday by Mr. [WILLIAM B.] GILES [of Virginia], were called for by that gentleman. [899]

* * * *

. . . The resolutions were accordingly read by the Clerk, and are as follow, viz:

⁵⁶ Giles' biographer expresses doubt as to the truth of the common assumption that these resolutions were written by Madison at the suggestion of Jefferson.—D. R. Anderson, *William Branch Giles*, pp. 21-25 (1914).

1. *Resolved*, That it is essential to the due administration of the Government of the United States, that laws making specific appropriations of money should be strictly observed by the administrator of the finances thereof.

2. *Resolved*, That a violation of a law making appropriations of money, is a violation of that section of the Constitution of the United States which requires that no money shall be drawn from the Treasury but in consequence of appropriations made by law.

3. *Resolved*, That the Secretary of the Treasury has violated the law passed the 4th of August, 1790 [1 Stat. L., 138], making appropriations of certain moneys authorized to be borrowed by the same law, in the following particulars, viz: *First*, By applying a certain portion of the principal borrowed to the payment of interest falling due upon that principal, which was not authorized by that or any other law. *Secondly*, By drawing part of the same moneys into the United States, without the instructions of the President of the United States.

4. *Resolved*, That the Secretary of the Treasury has deviated from the instructions given by the President of the United States, in exceeding the authorities for making loans under the acts of the 4th and 12th of August, 1790 [1 Stat. L., 186].

5. *Resolved*, That the Secretary of the Treasury has omitted to discharge an essential duty of his office, in failing to give Congress official information in due time, of the moneys drawn by him from Europe into the United States; which drawing commenced December, 1790, and continued till January, 1793; and of the causes of making such drafts.

6. *Resolved*, That the Secretary of the Treasury has, without the instructions of the President of the United States, drawn more moneys borrowed in Holland into the United States than the President of the United States was authorized to draw, under the act of the 12th of August, 1790; which act appropriated two millions of dollars only, when borrowed,

to the purchase of the Public Debt: And that he has omitted to discharge an essential duty of his office, in failing to give official information to the Commissioners for purchasing the Public Debt, of the various sums drawn from time to time, suggested by him to have been intended for the purchase of the Public Debt.

7. *Resolved*, That the Secretary of the Treasury did not consult the public interest in negotiating a Loan with the Bank of the United States, and drawing therefrom four hundred thousand dollars, at five per cent. per annum, when a greater sum of public money was deposited in various banks at the respective periods of making the respective drafts.

8. *Resolved*, That the Secretary of the Treasury has been guilty of an indecorum to this House, in undertaking to judge of its motives in calling for information which was demandable of him, from the constitution of his office; and in failing to give all the necessary information within his knowledge, relatively to the subjects of the reference made to him of the 19th January, 1792, and of the 22d November, 1792, during the present session.

9. *Resolved*, That a copy of the foregoing resolutions be transmitted to the President of the United States.

Mr. Giles then moved that they should be referred to a Committee of the Whole House.

Mr. W[ILLIAM] SMITH [of South Carolina]⁶⁷ was decidedly opposed to refer- [900] ring those resolutions to the consideration of the Committee of the Whole House, because he neither viewed a discussion of them as necessary on the present occasion nor warranted by the nature of the inquiry into the Secretary's conduct. It was trifling with the precious time of the House to lavish it on abstract propositions, when the object of the inquiry ought to be into the facts. He was satisfied that should the House once involve itself in an investigation of theoretic principles of Government the

⁶⁷ This speech was written by Hamilton.—Ford, *Alexander Hamilton*, p. 276.

short residue of the session would be exhausted, and no opportunity remain for examining the charges themselves. Those charges being made, it became the House from a sense of duty to the public and justice to the accused to proceed immediately to consider them. If the mover intended to apply the principles of the two first resolutions to the facts contained in the subsequent ones, it was unquestionably proper first to substantiate the facts, and then establish the principles which were applicable to them; but it was surely a reversal of order to spend much time in establishing principles, when it might happen that the charges themselves would be totally unsupported. He did not like this mode of proceeding, because it might tend to mislead the House; it was sometimes a parliamentary practice to endeavor to lead the mind to vague and uncertain results, by first laying down theorems from which no one could dissent, and then proceeding by imperceptible shades to move unsettled positions, in order ultimately to entrap the House in a vote which in the first instance it would have rejected. This mode of conducting public business, he considered as inconsistent with fair inquiry. The question was, had the Secretary violated a law? If so, let it be shown; every member was competent to decide so plain a question. He could examine the proofs, read the law, and pronounce him guilty or innocent without the aid of these preliminary metaphysical discussions.

If it were urged that the propositions are so plain and obvious that no time would be lost in considering them, he then begged leave to observe that all antecedent discussions of constitutional questions had never failed to occupy a large portion of their time, and that however self-evident the resolutions might at the first glance appear, a more critical attention would satisfy a mind not much given to doubt that they were by no means so conclusive as to be free from objections.

Though the position contained in the first resolution, as a general rule, was not to be denied; yet it must be admitted, that there may be cases of a sufficient urgency to justify a

departure from it, and to make it the duty of the Legislature to indemnify an officer; as if an adherence would in particular cases, and under particular circumstances, prove ruinous to the public credit, or prevent the taking measures essential to the public safety, against invasion or insurrection. In cases of that nature, and which cannot be foreseen by the Legislature nor guarded against, a discretionary authority must be deemed to reside in the PRESIDENT, or some other Executive officer, to be exercised for the public good; such exercise instead of [901] being construed into a crime, would always meet the approbation of the National Legislature. If there be any weight in these remarks, it does not then follow as a general rule, that it is essential to the due administration of the Government, that laws making specific appropriations should in all cases whatsoever, and under every public circumstance, be strictly observed. Before the Committee could come to a vote on such a proposition, it would be proper to examine into the exceptions out of the rule, to state all the circumstances which would warrant any departure from it, to whom the exercise of the discretion should be entrusted, and to what extent. Did any member wish at this period to attempt this inquiry? He supposed not. Let every deviation from law be tested by its own merits or demerits.

The second resolution was liable to stronger objections. It might with propriety be questioned whether, as a general rule, the position was well founded. A law making appropriations may be violated in various particulars without infringing the Constitution, which only enjoins that no moneys shall be drawn from the Treasury but in consequence of the appropriations made by law. This is only to say, that every disbursement must be authorized by some appropriation. Where a sum of money is paid out of the Treasury, the payment of which is authorized by law, the Constitution is not violated, yet there may have been a violation of the law in some collateral particulars. There may even have been a shifting of funds, and however exceptionable this may be on other ac-

counts, it would not amount to that species of offence which is created by the Constitution. The Comptroller of the Treasurer must countersign every warrant, and is responsible that it be authorized by a legal appropriation; yet it cannot be supposed that he is to investigate the source of the fund.

One of the alleged infractions stated in the subsequent resolution, namely, the drawing part of the loans into the United States without the instructions of the PRESIDENT, evinces that the opposite construction is not a sound one. For, suppose the fact proved, and suppose it a violation of the law, it certainly would be a very different thing from drawing money out of the Treasury without an appropriation by law, for, in this case, there would be no drawing money from the Treasury at all, the money never having been in the Treasury.

Mr. S. then said, he should also object to referring the last resolution, which is in these words,

“Resolved, That a copy of the foregoing resolutions be transmitted to the PRESIDENT.”

The object of this resolution went clearly to direct the PRESIDENT to remove the Secretary from office; the foregoing were to determine the guilt, the last to inflict the punishment and both the one and other without the accused being heard in his defence. When the violation of the Constitution was so uppermost in our minds, it would be indeed astonishing that we should be so hoodwinked as to commit such a palpable violation of it in this instance. The principles of that Constitution, careful of the lives and liberties of the citi- [902] zens, and what is dearer to every man of honor, his reputation, secure to every individual in every class of society, the precious advantage of being heard before he is condemned.

That Constitution, peculiarly careful of the reputation of great public functionaries, directs that when accused of a breach of duty, the impeachment must be voted by a majority of the House of Representatives, and tried by the Senate, who are to be on oath, and two thirds of whom must concur before a sentence can pass, by which the officer is to be deemed

guilty. The officer is to be furnished with a copy of the charge, and is heard by himself or his counsel in vindication of his conduct. Such are the solemnities and guards by which they are protected, and which precede a sentence, the only effect of which is a removal from office. But if the House proceed in the manner contemplated by this resolution; if they first vote the charges, and send a copy of them to the PRESIDENT, as an instruction to him to remove the officer, they will violate the sacred and fundamental principles of this, and every free Government. They will condemn a man unheard, nay, without his having even been furnished with the charges against him; they will condemn to infamy a high and responsible officer convicted by the Representatives of the people, of a violation of the important trusts committed to him, without affording him one opportunity of vindicating his character and justifying his conduct.

Mr. [WILLIAM V.] MURRAY [of Maryland] said he was opposed to the reference of the resolutions to the Committee of the Whole. He had, as far as the time permitted, examined the several reports on which the examination depended, and was then ready to vote on them, though he confessed, from the intricacy which was inherent in such a subject, as well as from the vast variety of the detail involved, he had not had sufficient time for a complete investigation. Nor did he imagine that any man who had not previously meditated on the subject for a length of time, and made choice of his ground of attack, could say he was completely master of the subject. Some vote, however, was now rendered essential to the character, not only of Government, but of the gentleman who presided over the finances of the country. But three days were left for this inquiry, and to finish a great deal of other business; and he thought that despatch which was usual in the House ought to be used in preference to the indulgence which a Committee afforded. As to the abstract propositions, if it were necessary now to go into them, he thought it would be proper to decide on them first. He thought it most logical

to lay down principles of reasoning before facts were developed. Were they agreed to by the House, it would be under provisions and restrictions. They could not have the implicit force of axioms, but at most must be yielded to as wholesome maxims, the application of which must be frequently modified by a certain degree of discretion. With respect to all the other resolutions, he imagined they would, on examination, be found to be unwarranted by facts. He hoped the movers and supporters of the resolutions would [903] not be gratified at so late a season by the House in resolving itself into a Committee of the Whole. The mode in which they were brought forward did not entitle them to much confidence. He said a more unhandsome proceeding he had never seen in Congress. It had been a practice, derived from the lights of common liberty, common right, and the first principles of justice, that whoever was charged with a violation of law on which a punishment ensued, should have some mode of answering to the charge. It had, in a recent instance, been the practice of Congress, when an officer's conduct was even in the first instance inquired into, to afford the officer an opportunity of attending upon the examination on which his offence or his freedom from blame was to appear. He alluded to the conduct of the House when an examination took place relatively to the failure of General St. Clair's expedition. Suspicions were entertained that blame lay somewhere. A committee was appointed to examine. The three officers particularly concerned were, he understood, invited, as it were, to come before the committee, to explain, to interrogate, and to give information. Though the Secretary of War was not permitted to explain on this floor, justice and delicacy, and the most common principles of jurisprudence, to which we attempted to hold some analogy, demanded that he should be heard somewhere, and the committee was renewed for this purpose. The Quartermaster General asked to be heard on this floor. Though refused, he was permitted to attend that committee, on whose examination his character as a Quartermaster de-

pended. Were any man responsible as an officer to this House to fall under the suspicion of its members, a regard to decency and to the established rights of citizenship, would teach gentlemen to inquire formally before they hastily laid a charge on the table, to which they might move the assent of the House. But in this proceeding a Legislative charge was gone into before inquiry had been instituted. Every rule of justice, and all that delicacy which ought ever to attend her progress, had been disregarded, and in the very first instance, a number of charges are brought forward, not for inquiry, but conviction, which, if sanctioned by a majority of the House, are to be followed by the dismissal of one of the highest officers in the Government. This mode was as tyrannical as it was new, and, if any thing could throw a bias against the resolutions, independent of inquiry, it was the partial and unjust form in which the proceeding had commenced. Resolutions of conviction might rise out of the report of a committee of inquiry, who would act as a Grand Jury to the House, but could never precede it. He hoped the House would not refer to a Committee of the Whole what might be decided in the House with more despatch.

Mr. [JOHN] PAGE [of Virginia] in reply to Mr. Smith, spoke, in substance, as follows:

Mr. Chairman: The more precious our time, the more readily shall I vote for a consideration of the first resolution; for I think it of more consequence that we should decide on it, than on any [904] other before us. We find, from the inquiry which has been set on foot, into the conduct of the Secretary of the Treasury, that he differs from the mover of the resolution in opinion respecting his powers, and the constitutional obligation he may be under of regarding acts of appropriation; it, therefore, must be the wish of the Secretary himself, whether we agree with him or not; and it is our duty, as soon as possible, I conceive, to let our constituents know whether we approve, or not, of his opinion. The Secretary himself, I think, confesses "that a strict adherence to

appropriations, in certain cases, would be pusillanimity." He preferred, no doubt, the public good, which he thought he had in view, to a strict compliance with an act of appropriation. It becomes us, then, to determine whether we wish that the Secretary shall hereafter be bound by our acts of appropriation or not.

I cannot conceive that the rejection of the first resolution can alter the nature of the case before us, or in any manner confirm or invalidate the truth of facts which some gentlemen seem so apprehensive may lead to an impeachment. For my part, I keep in view the first resolution, without thinking a moment of the last, or the intermediate propositions. When they shall come under consideration, I shall be ready to show a proper attention to them. How the first resolution can be called an abstract proposition, I know not—when the nature of the last before us requires a decision on it. The Secretary himself should desire it, and our constituents must expect it. If the Committee of the Whole shall be of opinion that appropriations ought to be sacredly regarded, they will agree to the resolution; if they think they may be dispensed with "in certain cases," they may amend the resolution; and qualify it so as to justify the conduct of the Secretary. To call the resolution a preamble, and to object to it as such, appears to me as extraordinary as to call it an abstract proposition; for I have always thought it inconsistent with Republican principles to object to preambles. I have remarked, sir, when they have been objected to, it became the Representatives of a free people to show on what principles and with what views their laws are enacted, and, not in a dictatorial manner enact that it shall be so and so. The framers of our Constitution have set us an example of an excellent preamble; and, as it has been remarked by several members, this House has occasionally used them; I think, therefore, that none of the objections to the commitment of the first resolution are of sufficient weight to induce the House to agree to the motion for striking out the two first resolutions.

The question was now taken on committing the two first resolutions, and negatived. . . . On the question of referring the last [the ninth], only fourteen members voted in the affirmative.

Ordered, That the third, fourth, fifth, sixth, seventh, and eighth resolutions contained in the said motion be committed to a Committee of the Whole House immediately.

The House accordingly resolved itself into the said Committee; and, after some time spent therein, the Committee rose, and had leave to sit again. [905]

March 1, 1793

Mr. [ROBERT] BARNWELL [of South Carolina].—Mr. Chairman, before I proceed to discuss the observations which yesterday fell from the gentleman who introduced the resolutions now before us, I cannot refrain from saying that I am extremely happy that, in passing through the medium of that gentleman's examination, this subject has changed its hue from the foul stain of peculation to the milder coloring of an illegal exercise of discretion, and a want of politeness in the Secretary of the Treasury. I feel happy, because I always am so when any man charged with guilt can acquit himself; and the more so now, when a man in a high responsible office, and high in the estimation of his countrymen, can reduce a charge from a quality calculated to have excited an alarm, even in Pandemonium, to such a shape as I fancy will scarce serve to satisfy the uncommon curiosity which it appears to have excited. As I have never been in the habit of taking notes, I shall depend upon memory in answering the gentleman from Virginia; although I imagine, as that gentleman usually sticks very close to his point, whatever it [907] may be, that, in pursuing his charges, I shall substantially answer his arguments. [908]

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Really, Mr. Chairman, I cannot but believe that if suspicion had not led the gentleman from Virginia astray, the usual

correctness of his understanding would have prevented him from pursuing such an *ignis fatuus* as this. . . . Before I proceed, Mr. Chairman, I would wish to remark that, whilst I consider no principle in legislation more correct than that money shall be drawn from the Treasury only under appropriations by law, yet I consider both as impracticable and mischievous the doctrine that the money arising from a special tax shall, in no instance, be used for any other than that special purpose for which the tax was imposed, but am of opinion that the sums raised ought rather to be considered as an aggregate fund, applicable to aggregate purposes; and, indeed, if a rigid adherence to the precise letter of the law is necessary, there has been no occasion to go abroad to search for violations; for our Government at home has been able to act only by this violation. . . . Indeed, Mr. Chairman, if the acts of common life bear any analogy with public management, which I believe, what could be considered as being more extraordinary than that an individual should appropriate the proceeds of one farm to purchase bread, of another drink, and to declare, in the face of contingencies, that, happen what may, he would starve, should the bread crop fail, rather than use the surplus of that appropriated to purchase drink for its purchase. . . . [909]

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Mr. W. SMITH regretted that so important an inquiry had been instituted at the very close of the session, when the members were thronged with business of an indispensable nature, and it was scarcely possible for them to bestow that attention and deliberation which the nature of the subject called for. But, while he expressed this regret, he assured the Committee that it was mingled with much satisfaction, in finding that the vague charges of mismanagement, with which the public had long been alarmed, were at length cast into a shape susceptible of investigation and decision. Previous to an examination of the specific charge then under consideration, he claimed the indulgence of the Committee in offering a few preliminary

remarks, which, though they did not bear precisely upon the charge itself, yet were intimately connected with the subject-matter of the inquiry, and were justified by the general remarks of gentlemen who had preceded him.

In recurring back to the origin and progress of this examination, it must appear somewhat surprising that that which, in the commencement of the session, was sounded forth as gross speculation, now turned out to be nothing more than a mere substitution of funds, and that that which was announced as abominable corruption, was dwindled away into a mere drawing of money from Europe into this country, to be applied here according to law.

Whatever credit might be due to the motives which had originated this inquiry, every member [910] would concur in the sentiment, that in a Government constituted like that of the United States, which had nothing but the public confidence for its basis, premature alarms and groundless suspicions respecting the conduct of public officers were pregnant with the most injurious consequences. This opinion was more peculiarly applicable to the important station of Secretary of the Treasury. Intrusted with the management of a large revenue, and necessarily clothed with some latitude of discretion, it was to be expected that he would excite the jealousy of the public vigilance; but as long as he kept in view the injunctions of law, and the public good, his reputation was entitled to that security which is due to every citizen.

An officer, intrusted with the care and distribution of public moneys, is generally looked at with a watchful eye; mankind are too prone to suspect the purity of his conduct; slight insinuations are but too often sufficient to injure him in the public estimation. Such being the natural propensity of things, it doubtless behoved those who wished for tranquility in the country to withhold charges not clearly warranted by proof—to suspend animadversions which were not likely to terminate in conviction. A contrary proceeding had an inevitable tendency unnecessarily to alarm the public mind, to instil into it

suspensions against the integrity of men in high stations, to weaken their public confidence in the Government, and to enervate its operations.

There was something remarkable in the nature of the present allegations against the Secretary. Taking them all into view, they presented nothing which involved self-interested, pecuniary considerations; and in this, they essentially differed from accusations against financiers in other countries, to whom motives of interest were generally ascribed as the source of their peculations. To the Secretary, no such motive was imputed; notwithstanding former insinuations against his integrity, the sum of all the charges now amounted to nothing more than arrogance, or an assumption of power, or an exercise of unauthorized discretion.

With respect to discretion, Mr. S. observed that, though in the present inquiry it was not necessary to say much on that topic, being firmly persuaded the Secretary had strictly pursued the injunctions of law, yet, while on the subject, he took occasion to insist that in all Governments a discretionary latitude was implied in Executive officers, where that discretion resulted from the nature of the office, or was in pursuance of general authority delegated by law. This principle was so obvious that it required no illustration; were it contradicted, he would appeal to the conduct of the Secretary of State, who, though directed to report to the House on the commercial intercourse with foreign nations, had, in the exercise of a warrantable discretion, judiciously withheld his Report. He would appeal to the Report of the Committee on the failure of St. Clair's expedition, wherein that failure was in part attributed to the Commanding General's not being invested with a discretion to act according to circumstances.

[911]

There was one more observation which he thought proper to premise, before he entered into a discussion of the charges; and that was the disadvantageous situation in which the financier of this country was placed, when compared with that of

similar officers in other nations. The Minister of Finance in Great Britain being always a member of the Legislature, and on a footing with other members, was prepared to defend himself when attacked. No charge could be made against his administration which he had not an immediate opportunity of repelling; and the charge and the refutation went out to the world together. The Secretary of the Treasury was, on the contrary, not even permitted to come to the bar and to vindicate himself. Through the imperfect medium of written reports he was compelled, when called upon for information, to answer, as it were by anticipation, charges which were not specific, without knowing precisely against what part of his administration subsequent specific charges would be brought to bear.

If in his reports he was concise, he was censured for suppressing information; if he entered into a vindication of the motives which influenced his conduct, he was then criminated for stuffing his reports with metaphysical reasonings. A gentleman from Pennsylvania (Mr. [William] Findley) had said that the Secretary's reports were so voluminous that he was quite bewildered by them, and that instead of their throwing any light on the subject, he was more in the dark than ever. It was true, the reports were voluminous, but not more so than the imputations on the Secretary's conduct and the order of the House justified. He did not think that any member, who had attentively perused them, could justly complain of want of information, or of being more in the dark than before; he, on the contrary, believed that so much light had been thrown on the whole of the Secretary's fiscal operations, that if any member could not see, it must be owing to the glare of light being too strong for his eyes. Having made these observations, Mr. S. said he should proceed to examine the first charge, which, after much reflection bestowed on it, appeared to him to contain nothing that was not perfectly authorized by the strict letter of the law. [912]

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Mr. [JAMES] MADISON [of Virginia]—. . . He concluded that appropriations of money were of a high and sacred character; that they were the great bulwark which our Constitution had carefully and jealously established against Executive usurpations. He meant only to take notice of the different plans into which appropriations might be moulded, and of the particular operation which ought to be given to them.

One of the plans was that of appropriating specified funds to specified objects, in which the supposed certainty of the funds was adjusted to the supposed importance of the objects.

The other plan formed all the branches of revenue into an aggregate fund, on which the several objects should have a priority of claim according to their superiority of importance. It was evident that in both these cases, the Legislature alone possessed the competent authority. The exclusive right of that Department of the Government to make the proper regulations, was the basis of the utility and efficacy of appropriations.

There was a third question incident to the doctrine of appropriations, viz: Whether, under specific appropriations, such as had been adopted by Congress the Executive authority could, without special permission of the law, apply the excess of one fund to the aid of a deficient one, or borrow from one fund for the object of another. On this question, there might perhaps be a difference of opinion. He would only remark, that, admitting such a discretion to be implied in the trust of executing the laws, it would still be requisite that the due sanction of the Executive should be given, that a regular account should be kept between the different funds, and that all advances from one to the other should be replaced as soon as possible. This was equally necessary to the preservation of [938] order in the public finances, and to a proper respect for the authority of the laws. [939]

February 24, 1794

Mr. GILES called up his resolution, laid on the table in the early part of the session, which resolution is in the following words:

“Resolved, That a committee be appointed to examine the state of the Treasury Department, and that they be instructed to report to the House, generally, thereon; and, among other things, more particularly:

“1st. Whether the form of keeping the accounts be calculated to effectuate the disposition of the public moneys, as prescribed by law.

“2d. Whether the cash receipts, from the domestic resources, have exceeded, equalled, or fallen short of the domestic cash expenditures, from the establishment of the Government to the first day of January, one thousand seven hundred and ninety-four; remarking the dates and amount of any excess, or deficiency, quarterly. . . .”

* * * *

Mr. GILES observed, that very shortly after the meeting of Congress, he had laid this resolution on the table, under a conviction of the propriety of the measure, and the hope of a speedy decision upon it. An occurrence took place a few days afterwards, which produced a temporary delay. An individual presented a memorial to Congress, [463] containing some suggestions against the official conduct of the gentleman at the head of the Department; and to have pressed the inquiry into the general state of the Treasury, during the pendency of those suggestions, might have been deemed a violation of delicacy and propriety. Very soon after the imputations from that source were done away by report of a committee, he had called up the resolution, but the House, acting under the impressions produced by the delicate crisis of our external affairs, refused to enter into the consideration of the subject at that time.

Mr. G. remarked, that while on the one hand he was

desirous of looking into a subject which he deemed important to the public welfare, as well as to gratify an officer in a request which he conceived had been impelled by the delicacy of his situation, he was not unwilling, on the other hand, to yield to the opinion of the House, which induced an immediate attention to our affairs with foreign nations. The subjects of commercial regulations, and the naval armament, being now out of the view of the House, at least for some days, he hoped the chasm would be filled by the consideration of the resolution he had proposed. He could not help remarking, that at an early period of the session this resolution had been termed the torch of discord. He thought if it could be viewed with impartiality, and according to its own design, it would not be found to possess that character. The primary object of the resolution is, to ascertain the boundaries of discretion and authority between the Legislature and the Treasury Department. To effect this object, it becomes necessary to have a knowledge of the state of the Treasury Department. This appeared to him an obvious duty of the House of Representatives, operating equally upon every individual of whom it is composed; it therefore seemed strange to him, that an attempt to discharge an essential duty should be construed into a design to interrupt the harmony of deliberation.

If to require a full and comprehensive view of the public finances, and the modes in which they are contributed and distributed, be construed into an effort at discord, it must arise either from the opinion that Congress already possess this view, or from the principle that they ought not to possess it, but that the whole knowledge of this subject should be left to the Treasury officers. If this doctrine be contended for, he thought it ought to stimulate the exertions of those who believed it to be subversive of the primary principle of the Constitution. He requested the House to accompany him in making a few reflections upon this subject.

The Debt of the United States forms an important item of legislation. Its system is intricate, its extent unknown; it

embraces the interests of a very sagacious and powerful class of citizens. It is made, by the Constitution, the peculiar province of the Representatives, immediately chosen by the people, to superintend the contributions and the distributions of all public moneys. This may be deemed the highest duty of the Representatives. It may be asked—How [464] this most important of duties can be understandingly performed, but by a knowledge of the whole machinery of the Treasury Department? There can be no prospect of acting wisely, where there are no means of judging rightly. The omission to discharge this important Legislative function, by the Representatives, will necessarily cause it to be performed by the Head of the Department. A species of laws will grow out of an inattention to, and a consequent ignorance of, this subject, which may be called the rules of office, the forms of the Treasury, the practical constructions of laws contravening the legal constructions. In all conflicts between this species of laws and the laws pronounced by the Constitutional tribunal, the advantage would be in favor of the Treasury system: because this would be the practical, that the theoretic system of legislation. An inattention to this subject, which is an intricate and complicated one, and a consequent ignorance of it might, in a course of time, leave to the Legislature the mere right of registering Treasury edicts. It may be said, that this is not the case at present. It is not proposed to give any opinion on this point. The remarks have been intended to show the probable tendency of intrusting this important branch of legislation to the Treasury Department; which would be the infallible consequence of the ignorance of the Legislature of the Treasury proceedings. The propriety of placing confidence in the Executive officers, is an argument very familiar to this House. To a certain extent, it is in every respect proper. It is proper, so long as the officer confines himself to his legal designated functions. If in any case he should exceed these, it becomes the duty of the Legislature to notice the proceeding. It is also the duty of the Legislature to ascertain his

functions by law, and to limit his discretion. This argument of confidence in the Executive officers may easily be carried to a dangerous excess. The people have confidence in their Representatives; they bestow on them certain trusts, and impose on them certain duties. The Representatives have confidence in the Executive officers: they transfer to them these trusts and these duties. What would be the result? A complete and radical change in the most essential character of the Government. Instead of the Legislature prescribing rules of conduct to the people, the Executive officers would prescribe them; and the Legislature would be of no other use than to legalize Executive proceedings. This would be a desertion of the trust reposed in the Representative. The consideration of individual ease, would always operate in favor of this idea. The argument of individual interest might possibly aid it in some instances, and the argument of policy in others; for there may be some individuals who might possibly prefer that to the Constitutional state of things. These remarks had been made to show, in very general terms, the impressions which the subject had made on his mind; to exhibit its general object; to prove that it was not unimportant: and that, if such should be the opinion of the House, the stage of the session required that it should receive immediate attention. [465]

Mr. PAGE said, that he looked upon those resolutions as the only proper objects of the proposed committee; as being those on which the chief view of the author of them was fixed; and which, too, came up exactly to the ideas of the Secretary himself, as expressed in his Letter, calling on the House for an inquiry into his conduct. He was surprised to hear gentlemen talk of exciting suspicions, by setting on foot such an inquiry: for his part, were he the Secretary, he should never rest till his requisition of an inquiry had been fully complied with. That an inquiry into the conduct of the Treasurer ought to be made, (as it was

annually in the State from which he came, where a committee of both Houses not only examined the Treasurer's accounts, but corrected and weighed his money,) notwithstanding his honesty and virtue; and that this examination had been found useful and necessary, for deficiencies had been discovered; and in one instance by the Treasurer himself, (although it had escaped the Committee,) who honestly informed the Assembly of it, and only asked time to replace the deficient money, which he did. As to the impropriety of revising the proceedings of the House of Representatives in their last session, he thought nothing of it—not as much as he should of repealing one of its laws; and surely, as it could not be denied that this House had a right to examine any proceedings of the last, which had received the sanction of the Senate and the PRESIDENT too, it must be very extraordinary to doubt its right to revise the proceedings of the House of Representatives alone, and more so when that revision has been requested, even by the Secretary of the Treasury, the person who was the particular object of those proceedings.

Ordered, That Mr. [ABRAHAM] BALDWIN [of Georgia], Mr. [JOHN] HUNTER [of South Carolina], Mr. [JOSEPH] McDOWELL [of North Carolina], Mr. GILES, Mr. [CHRISTOPHER] GREENUP [of Kentucky], Mr. [GEORGE] DENT [of Maryland], Mr.]HENRY[LATIMER [of Delaware], Mr. WILLIAM IRVINE [of New York], Mr. [JOHN] BEATTY [of New Jersey], Mr. [PHILIP] VAN COURTLAND [of New York], Mr. [NATHANIEL] NILES [of Vermont], Mr. [ZEPHANIAH SWIFT [of Connecticut], Mr. [FRANCIS] MALBONE [of Rhode Island], Mr. [PELEG] COFFIN [of Massachusetts], and Mr. [PAINE] WINGATE [of New Hampshire], be a committee pursuant to the said resolution. [466]

TREASURY ORGANIZATION AND PROCEDURE.
REPORT (BALDWIN), 1794⁵⁸

To House of Representatives, May 22, 1794

Mr. [ABRAHAM] BALDWIN [of Georgia] made the following report:

The Committee appointed to examine the state of the Treasury Department, . . . made the following report:

First. As to the state of the Treasury Department, generally:

The committee find the following rules and modes of proceeding observed, with regard to the collection, keeping, and disbursement of public moneys, and accounting for the same:

First: As to collection.

* * * *

It is a general rule, that the Treasurer is the medium of all receipts and disbursements of public moneys which are received and disbursed within the United States, and that all receipts and disbursements must be sanctioned by warrants in favor of and upon that officer. These warrants are signed by the Secretary of the Treasury, counter- [281] signed by the comptroller, and registered by the register. Those for receipts must have an acknowledgment of the Treasurer, in order to the discharge of the payer. Those for disbursements must have an equivalent acknowledgment, on behalf of the party receiving, in order to the discharge of the treasurer. This description of warrants will apply, as often as the term shall be hereafter used.

This general rule, with regard to receipts, has been carried into effect by five modes of proceeding: [282]

* * * *

Second: As to keeping.

The Treasurer, pursuant to general directions from the Secretary of the Treasury, keeps the public moneys under

⁵⁸ American State Papers, *Finance*, Vol. 1, pp. 281-87. See also No. 13.

his control, in the several banks. Formerly, the Banks of North America, New York, Massachusetts, and Maryland, were places of deposite. At present, the public moneys are kept in the Bank of the United States, and its several offices of discount and deposite at Boston, New York, Baltimore, and Charleston, and in the Bank of Providence. The Treasurer has never any public money in his possession, or custody, which is not, in fact, deposited in bank, from the moment his possession of custody commences, till it ceases by the disbursement of it, for public purposes; except in the case of bank bills, orders upon individuals, &c. heretofore enumerated, as remittances from the supervisors of the revenue, and collectors of the customs, to the Treasurer; and those, also, immediately after the receipt of them, constitute deposites in bank, to the credit of the Treasurer.

The Secretary of the Treasury, or any other officer of the Department, besides the Treasurer, never has the possession or custody of any part of the public moneys, (except in the cases hereafter specified.) And the possession or custody of the Treasurer is, as already stated, exercised through the banks. The only exception to this observation, respects certain inconsiderable sums, occasionally placed in the hands of the Commissioner of the Revenue, for the service of the light house establishment, and certain other small sums, for the contingencies of the offices of the Secretary, Comptroller, Commissioner of the Revenue, and Auditor; which are, from time to time, in proportion to their expenditures, placed in the hands, of the Register for disbursement, who renders an account of the disbursement, which undergoes a regular and formal settlement, as other public accounts.

The same is done by the Commissioner of the Revenue. The moneys of the United States, which are disbursed abroad, are kept by the bankers, under whose agency the loans are made, till they are disbursed for the purposes of their destination.

Third: As to disbursements.

1. Within the United States.

It has been already stated, as a general rule, that the Treasurer is the medium of all receipts and disbursements, within the United States.

This rule, as to disbursements, is carried into effect, by three modes of proceeding:

First, by warrants issuing, in the first instance, upon the Treasurer, which is the general course, and the invariable one, where payments are made immediately at the Treasury.

The following particular case will serve as an exemplification: [283]

* * * *

Second. By draughts of the Treasurer, under special direction of the Secretary of the Treasury, registered and countersigned by the Register.

The following particular case will serve as an exemplification:

* * * *

Third. By special directions from the Secretary of the Treasury, to the supervisors and collectors, to make advances of money, provisionally, for certain specified purposes requiring local advances, as mentioned in a preceding place. These directions never extend to any moneys, which have once passed to the credit of the Treasurer.

* * * *

The last two modes resolve themselves, eventually, into the first.

Warrants finally issue for the sums paid, either upon the drafts of the Treasurer, or under the directions of the Secretary.

There is, besides, an auxiliary mode of effecting public payments, in certain cases.

It has occasionally happened, that the omission or delay of appropriations by law, renders it impossible to satisfy, in regular course, demands upon the treasury, which have been incurred, pursuant to law, and satisfying of which is essential to the public credit and service.

In such cases, the course has been, for the Secretary of the Treasury to request informal advances by the banks, to the persons to whom the payments are to be made, to be reimbursed when provision is made by law. The accounts of such advances are distinct from that of the Treasurer, and the advances are reimbursed, when provision is made by law, by warrants upon the Treasurer.

Of these advances, the following is an example: [284]

* * * *

Moneys once placed to the credit of the Treasurer, in bank, are subject to his check or order only, and are liable to be drawn out, at any moment, by such check or order. They are, however, auxiliary to the general operations of the bank, in the same sense with all other deposits; The Treasurer's bank book constantly exhibits his receipts and disbursements, according to the circumstances of the public service.

2d. In foreign countries. The course of disbursement in foreign countries, has generally been through the agency of Mr. Short, resident minister at the Hague, by special order to the bankers of the United States in Holland. These bankers, at Amsterdam, were the two houses of Messrs. Wilhem and Jan Willink, and of Nicholas and Jacob Van Staphorst, and Hubbard; at Antwerp, Mr. C. J. M. De Wolf. To this general rule, there seems to have been one exception. It appears that the sum of one hundred and five thousand guilders was placed at the disposal of Mr. [Gouverneur] Morris, minister resident at Paris, by instructions of the Secretary of the Treasury, for the purpose of making payment, at Paris, of the interest due to foreign officers, according to stipulations.

Fourth: As to the duties of the respective officers.

The duties of the several officers of the Treasury Department, with regard to the collecting, receiving, keeping, and disbursing of public moneys, and regulating and keeping the accounts thereof, are as follow:

The *Secretary* of the Treasury superintends the collection

and receipt, and the disbursement of public moneys. In consequence of this, all authorities for transferring them from one public agent to another, or for the final disbursement of them, originate with him. He directs the drawing of moneys into the treasury, and regulates the time, manner, and circumstances, subject to the sanctions prescribed by law; and judges exclusively of the other officers of the department, when, and what disbursements are to be made, subject nevertheless, to the check of the Comptroller, who, in countersigning warrants, is jointly responsible with him for their being conformable to appropriations by law; and to the further check and settlement of the accounts of all persons to whom he may have caused advances of public money, by the Auditor and Comptroller. All warrants for the payment of money into the treasury, or for the payment of money out of the treasury, are first signed by him. It is also his duty to decide on the forms of keeping all public accounts.

The *Comptroller* is to countersign all warrants drawn by the Secretary of the Treasury, as well for the payment of money into the treasury, as for the payment of money out of the treasury. To enforce the regular payment of all moneys collected for, or due to the United States. He is to direct the prosecutions for all delinquencies of officers, and persons indebted. He is to prepare, for the consideration and decision of the Secretary, the forms of keeping all public accounts. He is, in the last resort, to settle all public accounts, and superintend the keeping of them. It is his duty to see that all expenditures of public money are according to appropriations by law, and that all persons, who have the handling of them, duly account.

The *Auditor* is to receive all public accounts, for the purpose of settling them; to examine and adjust them, in the first instance; to certify the balances which he finds; and to transmit each adjustment made by him, together with the vouchers, and his certificate, to the Comptroller, for final decision.

The *Commissioner of the Revenue*, under the direction of the Secretary of the Treasury, superintends the collection of the duties on spirits distilled within the United States. It is a part of his duty, to receive returns of the moneys, from time to time in the hands of the supervisors, from which he makes a weekly abstract for the Secretary of the Treasury, to enable him to direct the drawing for those moneys.

The *Treasurer* keeps and disburses the moneys of the United States. All his receipts, as well as his disbursements, are sanctioned by warrants, of the description already given. As incident to these duties, he draws, under the direction of the Secretary, all bills, which are drawn for public moneys, arising from sources foreign or domestic; which bills, as already mentioned, are always registered, or entered and countersigned by the Register; or in the case of domestic bills, by his confidential clerk, in his stead.

The Register immediately conducts the keeping of all the accounts of the United States, those for receipts and expenditures included. As incident to this, he records and attests all warrants for the receipt and payment of moneys; also, all drafts of the Treasurer for the like purposes, subject to the qualification before mentioned.

Fifth: As to the accounts of receipts and expenditures.

These are governed by the following general rules and regulations:

1st. Every receiver of public moneys (except as a creditor of the United States, of the precise sum due to him) is made to account for them immediately to the Treasury Department. This embraces, 1st. All those officers, who, in the first instance, collect and receive the revenues of the United States. 2d. The Treasurer of the United States, who is the centre of their collections and receipts. 3d. All persons who receive public moneys, for any purpose whatever, with the preceding exception. The organs of the Department, for bringing persons to account, are the Auditor and Comptroller.

That all expenditures, at some period, pass under the

separate consideration of the Secretary, Comptroller, and Auditor. In many cases, the accounts are settled before any advances are made; but, in those instances where advances are unavoidable, from the nature of the service, as to the Commissioner of Loans, the contractors, and other agents of the War Department, the parties who receive advances, are, by the terms of the warrants for advances, held accountable until a final settlement.

The general rule is, that all persons are to account quarterly. This rule is observed, as to all the collectors of the duties on imports and tonnage; as to the Treasurer, as well in his capacity as agent to the War Department, as in that of the Treasurer of the United States; and as to the Commissioners of Loans. The revenue from spirits distilled within the United States, from causes which have unavoidably obstructed its regularity, has not gone through an equally regular course of accounting, as to time, with the duties on imports and tonnage. The accounts of the contractors for the army, and some other public accounts, do not admit of a compliance with the general rule. The most protracted class of accounts are, however, with a few exceptions, rendered and settled, within a year after the advances.

The accounts of receipts and expenditures are kept at three different offices of the Treasury, besides that of the Treasurer; more summarily at the offices of the Secretary and Comptroller; and more fully and formally at the office of the Register. But at each of these offices, there is a regular record of all warrants issued, both for receipts and expenditures. The Treasurer also keeps a regular account of receipts and expenditures.

As to the several points of examination, specially referred to the committee for their instruction, they report:

I. "Whether the forms of keeping the accounts be calculated to effectuate the dispositions of the public moneys, as prescribed by law."

The established forms for keeping the public accounts, are

founded upon the following general principles: [285]

1st. That no payment into the Treasury is valid, so as to justify a definitive credit to the payer, except the Treasurer's receipt is endorsed upon a warrant in his favor, signed by the Secretary of the Treasury, countersigned by the Comptroller, and recorded and attested by the Register.

2d. That no payment from the Treasury is valid, unless made in pursuance of a warrant on the treasury, signed by the Secretary of the Treasury, countersigned by the Comptroller, and attested by the Register.

The accounts of the Treasurer comprise all the receipts and expenditures of public moneys within the United States; and the public moneys in the hands of the Treasurer, constitute an aggregate mass, which are received and disbursed by him pursuant to warrants, without reference, on his part, to specific funds or appropriations.

The accounting officers of the treasury are governed solely by warrants, in the admission of credits to the collectors of the revenue, or other persons indebted to the United States, except for the charges incident to the collection of the revenue, the drawbacks and bounties payable on the exportation of merchandise and provisions, and the allowances for vessels employed in the fisheries. These objects being made payable out of moneys in the hands of the collectors, do not pass through the Treasury as expenditures, and are not covered by warrants.

The warrants which constitute the credits to the collectors, and other persons, who pay moneys into the Treasury, serve to establish debits against the Treasurer.

The Treasurer being charged on warrants issued by the Secretary, can only be discharged by similar proceedings. The records of the Treasury Department enable the accounting officers to check and compare every expenditure, or to adjust the Treasurer's account by referring to the books of the bank, without the aid of any return from that office.

The books of the bank are no farther necessary than to as-

certain the amount of warrants on the Treasurer, which, at any time, remained unpaid.

To the issuing of a warrant on the Treasurer, it is necessary that there should exist an object of expense, and an appropriation of money by the Legislature. All warrants on the Treasurer are predicated, either on settlements regularly made in the office of the Auditor, and afterwards confirmed in that of the Comptroller, or are issued as advances for the public service, for which, the parties receiving such advances are responsible to the accounting officers.

It is their course of business, that all expenditures must be sanctioned by Legislative appropriations, and must, at some time, pass under the separate examination of the Secretary, Comptroller, and Auditor of the Treasury.

It being necessary that all warrants on the treasury should be supported by previous appropriations, and the Secretary and Comptroller being jointly responsible on this point, accounts are opened in their respective offices, which exhibit, under distinct heads, the sums appropriated to each object. All warrants which issue, are carried to their proper accounts, and the balances of the accounts, thus kept, exhibit the sums unexpended of the appropriations made by the Legislature.

The accounts of the Register of the Treasury are kept upon the same principles, though under more general heads; and, as a guide to his entries, the head of appropriations, to which an expenditure is to be referred, is noted on each warrant.

The general result of the accounts in the Register's office, in regard to the appropriations and expenditures, corresponds with the accounts in the offices of the Secretary and Comptroller.

The forms for keeping the accounts in the Register's office, among other objects, provide for exhibiting the following general and particular results, viz:

The total revenue on merchandise imported; distinguishing the duties accruing on importations in foreign vessels, and in vessels of the United States; as also, the value of

merchandise, subject to the different rates of duty ad valorem, and the qualities of each description of articles chargeable with specific duties.

The total revenue on tonnage, distinguishing the sums collected on foreign vessels, on vessels built in the United States, but owned by foreigners, on vessels of the United States, employed in a foreign trade, and in the coasting trade and fisheries.

The expenses incident to the collection of the duties on imports and tonnage.

The drawbacks on foreign merchandise exported.

The bounties on pickled fish and salted provisions exported.

The allowances to vessels employed in the fisheries.

The nett amount of duties on imports and tonnage, collected and secured in each year, being the sum subject to appropriations.

The total amount of duties on domestic distilled spirits and on stills.

The expenses incident to the collection of duties on domestic distilled spirits, and on stills.

The nett amount of duties on domestic distilled spirits and on stills, in each year, being the sum subject to appropriations.

The aggregate amount of all appropriations made by law.

The particular sums appropriated under each act, with the sums expended, and the balances unapplied.

The aggregate amount of all warrants issued for placing moneys in the treasury, which account being closed by the Treasurer's quarterly returns, exhibits a balance composed of warrants upon which payments have not been made into the treasury.

The aggregate amount of all warrants issued for paying moneys from the treasury, which account being closed by the Treasurer's quarterly accounts, exhibits a balance composed of warrants drawn on him and not actually discharged.

The amount of warrants drawn on the supervisors of the

revenue, collectors of the customs, and other persons obligated for the payment of money into the treasury, distinctly shewing the sums drawn for duties on imports and tonnage, for duties on domestic distilled spirits and on stills, and for loans and incidental objects; as, also, what warrants have been definitively passed to the credit of the payers, by the accounting officers of the treasury.

Personal accounts are also opened with each supervisor of the revenue and collector of the customs, which exhibit the sums collected in each office, and under what head disposed; as also the balances due, and whether consisting of cash, bonds, or uncollected duties. Personal accounts are also opened with every public agent, or other person, who receives money, for which an account is to be rendered to the treasury.

The committee, under this head, have deemed it proper to present a more particular statement of the checks of the Treasury Department, than is contained in their report upon the state of the Department generally.

In regard to the intermediate checks, between the first receipt of the revenue, and the placing the same in the treasury by warrants, the following are the most important. [286]

* * * *

A succinct idea of the duties of the offices of the treasury, so far as respects the disposition of public moneys, and in regard to the accounts, may be obtained, by considering the Secretary of the Treasury as responsible for the issuing proper directions for the transferring and disposal of all moneys, in the first instance, and that no expenditure be made, except in pursuance of appropriations: the Treasurer as the sole agent for the disposal of all moneys once placed in the treasury: the Comptroller as responsible that no warrant shall be countersigned, for which there is not an existing appropriation; and jointly, with the Auditor, that no illegal and improper charges shall be admitted in the settlement of the accounts. The responsibility of the Register is, that the records be truly made, and the accounts and vouchers carefully preserved. [287]

NO. 15

SETTLEMENT OF OLD ACCOUNTS. REPORT
(HEATH), 1795⁶⁹

To House of Representatives, January 26, 1795

Mr. [JOHN] HEATH [of Virginia], from the Committee appointed to inquire and report what progress has been made in the settlement of the accounts of the former Government; what are the unpaid balances on the settled accounts, together with the measures taken for recovering payment of the same; whether any, and what, steps have been taken to compel persons to whom public money was entrusted, to settle their accounts; and whether any further measures are necessary on that subject, made the following report: [347]

* * * *

Your committee are of opinion, that a statement of the old accounts, by means of a general institution of suits at law, would be found impracticable; and the attempt would certainly subject the United States to great loss and expense; it therefore appears to your committee, that it has not been the practice of the treasury to institute suits, except in cases where a balance appeared to be clearly due to the public, or where special circumstances seemed to render this course expedient; which but in few instances have been exercised.

Your committee, therefore, conceive that great difficulties, in the progress of their settlement, might be obviated, if a more adequate provision by law, than the present, could be made; wherefore, the committee submit the following resolutions to the consideration of the House of Representatives:

1st. *Resolved*, That further and more adequate provision should be made by law, for the recovery of debts due from individuals to the United States.

2d. *Resolved*, That the Comptroller of the Treasury be authorized to issue a notification to any person who has re-

⁶⁹ American State Papers, *Finance*, Vol. 1, pp. 347-48. See Act of Mar. 3, 1795, 1 Stat. L., 441. Secs. 9-10 not enacted. See also No. 16.

ceived moneys for which he is accountable to the United States, or to the executor or administrator of such person, if he be deceased, requiring him to render to the Auditor of the Treasury, in a reasonable time, not less than _____ nor more than _____ months, all his accounts and vouchers, for the expenditure of the said moneys, comprehending a schedule of all claims of credit; or, in default thereof, to be barred of rendering the said accounts, and to remain charged with the moneys so advanced, as an absolute debt, to be collected by process in the district courts, and no appeal to be allowed.

3d. *Resolved*, That the marshals of the respective districts be authorized to serve the said notifications on the parties therein named, by leaving copies thereof at their respective dwellings, or usual places of abode; and that the return of the notifications to the Comptroller's office, with the marshal's certificate thereon, that service has been made, be deemed legal evidences, in the district courts, of the proceedings, and of the bar to credits before proposed, in case no accounts are rendered.

4th. *Resolved*, That, in cases where accounts shall be rendered to the Auditor of the Treasury, within the time limited in the notifications to the Auditor, he shall immediately proceed to liquidate the credits to be passed for the said accounts, and report the same to the Comptroller, with a particular list of any claims for credit which shall have been disallowed by him.

5th. *Resolved*, That the Comptroller of the Treasury immediately proceed to the examination of the credits allowed by the Auditor, and if the same be approved by him, that he cause credit therefor to be passed on the public books.

6th. *Resolved*, That a list of such credits as shall have been claimed and not admitted by the Comptroller, be made out and transmitted to the marshal of the district where the claimant resides, and that a copy thereof be left at the dwell-

ing or last usual place of abode of such claimant, with notice of the time assigned by the Comptroller for the final hearing of the account; of which proceedings the marshal to transmit an official return to the Comptroller.

7th. *Resolved*, In case of an omission or neglect, on the part of the claimant, to assign reasons, in writing, to the Comptroller, within the time limited, why the suspended credits should be admitted, all future claims therefor to be barred.

8th. *Resolved*, In case the claimant appear, and assign in writing his reasons why the suspended credits should be admitted, the Comptroller to be directed to consider the same, and decide thereon, according to principles of equity, and the usages of the Treasury Department.

9th. *Resolved*, In cases where the decision of the Comptroller shall be against the claimant, he to be allowed a trial at law, in the district court of the district where he resides; to be confined, however, solely to an inquiry respecting the particular articles and questions which shall have been previously stated, and considered by the Comptroller; and no appeal to be allowed from the district Judge.

10th. *Resolved*, In cases where the final decision of the Comptroller shall have been against the claimant, and where he shall have voluntarily, within ———— months, submitted his claim to the equitable decision of the Secretary of State, the Secretary of the Treasury, and the Attorney General, in preference to a decision at law, the said officers to be vested with authority to hear the claimant, and pronounce an award, which shall be final and conclusive to all concerned; and which award, so pronounced, shall have the force of a judgment, and may be collected in a summary way. [348]

INQUIRY AS TO SETTLEMENT OF OLD
ACCOUNTS. DEBATE, 1795⁶⁰*House of Representatives, February 14, 1795.*

Mr. [ELIAS] BOUDINOT [of New Jersey] stated the very great difficulty of getting a settlement at the Treasury of the United States, on which account he himself had been put to the utmost difficulties, as well as many other persons with whom he was acquainted. This clause required that all vouchers should be lodged at the Treasury. Mr. B. had known vouchers lodged at the Treasury. The persons again called for them, with the official receipts, but in the course of years could not get them back again. It was on this account entirely tyrannical to attempt to make people lodge vouchers in such a place, where, by the loss of the papers, or their being mislaid, the parties concerned might be reduced to utter ruin. He was equally averse to the making of a new law for debtors of the State. This objection referred to the concluding clause of the section. [1224]

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Mr. BOUDINOT explained that his complaints went only to blame the management under the old Constitution, but things had been left then in a state of inextricable confusion.

Mr. [JEREMIAH] WADSWORTH [of Connecticut] would not oppose the bill altogether, because he was very willing that public money should be, if possible, recovered, but he could see no occasion for new and arbitrary laws, to recover it. He believed that out of every twenty debtors found in the books of the Treasury, not five would be found to owe a farthing. He knew many persons who had received discharges in full at the Treasury, and who, as he had no doubt, were still standing charged with large sums in the books. He considered the clause to be a clause of tyranny and violence. He

⁶⁰ *Annals of Congress*, Vol. 4: 1224-26. See Act of Mar. 3, 1795, 1 Stat. L., 441. See also No. 15.

entered into a detail of the frauds committed on the creditors of the public during the war, from the villany of agents and speculators, who crowded over Congress itself. At the Treasury, clerks were changing every day, and such a scene of book-keeping was exhibited there, as never had been seen any where else.⁶¹ Officers had come to this city with claims consisting of but a single line, and had to wait a long time, and borrow money to support themselves, and could not get the plainest account settled. Many honest men had been forced to settle in such a way, that they were reduced to beggary and sent to jail; and, from particular circumstances, the most honest men fared worst. He had seen all these things. He had felt them. He had paid, very fully, for this part of his knowledge. He mentioned a person who was sent from this city to New Hampshire to get fifty thousand dollars that were due to him. When he went there, he was told that there was nothing in the Treasury. He came back to Philadelphia, and, at the end of two years, he was forced to accept of depreciated paper, and the payment was stated to the public as made in specie. Mr. W. could not help protesting against this clause, when he knew of so many people who had been ruined by their connexions with the Treasury. He had escaped ruin, but others were not so lucky. [1225]

* * * *

Mr. BOUDINOT knew that there had been men laboring for fourteen or fifteen years to get a settlement with the Treasury, and could not accomplish it. Their accounts were in such a condition that it would require the most expert accountant that ever was in the service of the Union, a year or two to clear them up. He himself had been laboring for ten years to get an account settled, and could not. Other accounts he had wearied himself in attempting to get ended, till he went to

⁶¹ "The Confederacy had left everything connected with its finance, in a state of almost inextricable confusion."—George Gibbs, *Memoirs of the Administrations of Washington and John Adams, Edited from the Papers of Oliver Wolcott* (1846), Vol. 1, p. 28.

the office, and declared he would not quit it till the matter was finished. [1226]

NO. 17

ADVANCES OF APPROPRIATION FUNDS.
(HAMILTON), 1795⁶²

November 11, 1795

* * * *

I shall state in the first place, that the rule with regard to expenditures and appropriations which has *uniformly* regulated the practice of the department is this, viz.: *to issue no money from the Treasury, but for an object for which there was a law previously passed making an appropriation, and designating the fund from which the money was to arise; but there being such a law, and an adequate fund to support the expenditure, it was deemed justifiable, as well before as after the service was performed, or the supply obtained, for which the appropriation was designed, to make disbursements from the Treasury for the object, if it appeared safe and expedient so to do.* If made before, it was an advance or *anticipation*, for which the party was charged, and held accountable till exonerated by the performance of the service, or the furnishing of the supply. If *afterwards*, it was a *payment*, and went to some general head of account as such. [124]

Thus, if a sum was appropriated for provisions for the army for a particular year, it was common to make *advances* on account to the contractors, long before the supplies were furnished. If the law was passed in one year for the next, there would be no hesitation to make the advance immediately

⁶² Alexander Hamilton; "Explanation," in Hamilton, *Works* (Lodge Const. ed.), Vol. 8, pp. 122-53. This statement was written in reply to an attack in an open letter addressed to Secretary of the Treasury Wolcott, which was published in the *Aurora*, Oct. 23, 1795, and signed "A Calm Observer." Authorship attributed to John Beckley, clerk of the House of Representatives. See George Gibbs, *Memoirs of the Administrations of Washington and John Adams, Edited from the Papers of Oliver Wolcott*, Vol. 1, pp. 257-65; also John B. McMaster, *History of the People of the U.S.*, Vol. 2, p. 249.

after the passing of the law, and before the year to which the appropriation was applicable had commenced. So also sums would be furnished to the Department of War, in anticipation of the monthly pay of the officers and soldiers, and advances on account of pay, in particular circumstances, and for good reasons, would be actually made by that department to the officers and soldiers. And so likewise advances have been made for the use of the President and the members of both houses of Congress, in anticipation of their respective compensations.

It will without difficulty be comprehended, that this practice of the Treasury has in some cases been essential to the due course of the public service.

Every good judge will be sensible that from the insufficiency of individual capitals to such large advances as the supplies of an army require, it was indispensable to the obtaining of them, that anticipations from the Treasury would enable the contractors to do, what otherwise they would have been unable to do; and that these anticipations must also have had the effect of procuring the supplies on cheaper terms to the United States.

When it is answered to us, that the army has operated for several years past at several hundred miles' distance from the seat of government; and a [125] considerable part of the year, from the rudeness of the country, and obstructions of the waters, it is impracticable to transmit moneys to the scenes of payment, it will be perceived that without advances from the Treasury in anticipation of the pay, not only a compliance with the engagement of the government would have been impossible, but the troops must have been always left most unseasonably in arrear. In June [7], 1794, Congress passed a law, declaring that the army [1 Stat. L., 390, sec. 2] should in future be paid in such a manner as that the arrears should not exceed two months. Compliance with this regulation renders anticipations a matter of physical necessity, yet that law gave no special authority for the purpose.

A particular case, by way of example, in which, different from general rules, advances or anticipations in the War Department are necessary, respects the recruiting service. The officers, who are for a long time distant from their corps, require the accommodation of an advance of pay to be able to discharge their duty. Toward the possibility of enlisting men, it is indispensable they should carry with them the bounty money. Another, upon conjecture of what may be done, and with the possibility that from not being able to obtain the men the ultimate expenditure may not take place. This instance will suggest to reflection an infinite number of cases in the course of service in which a disbursement from the Treasury must precede the execution of the object, and may exceed the sum finally requisite for it.

These cases indicate the expediency and even [126] necessity of the construction which has regulated the practice of the Treasury. And it might be shown, if necessary, that it is analogous to the practice under the other government of the United States, and under other governments; and this too when the theory of expenditure equally is, as expressed in our Constitution, that no money shall be expended, but *in consequence* of an appropriation by law.

It remains to see whether this rule of conduct, so indispensable in the practice of the department, be permitted by a fair interpretation of the Constitution and the laws.

The general injunction of the Constitution (article i., § ix.) is, that "no money shall be drawn from the Treasury but *in consequence* of appropriations made by law."

That clause appears to me to be exactly equivalent to this other clause: "No money shall be drawn from the Treasury, but for which there is an appropriation made by law"; in other words, before money can legally issue from the Treasury for any purpose, there must be a law authorizing an expenditure, and designating the object and the fund. Then such a law is passed. This being done, the disbursement may be made consistently with the Constitution, either by way of advance,

or anticipation, or by way of payment. It may precede or follow the service, supply, or other object of expenditure. Either will equally satisfy the words "in consequence of," which are not words of strict import, but may be taken in several senses—in one sense, that is, "*in consequence of*" a thing which [127] being followed upon it, follows it in order of time. A disbursement must be either an *advance*, or *anticipation*, or a *payment*. 'T is not presumable that the Constitution meant to distinguish between these two modes of disbursement. It must have intended to leave this matter wholly to convenience.

The design of the Constitution in this provision was, as I conceive, to secure these important ends,—that the *purpose*, the *limit*, and the *fund* of every expenditure should be ascertained by a previous law. The public security is complete in this particular, if no money can be expended, but for *an object*, to an *extent*, and *out of a fund*, which the laws have prescribed.

Even in cases which affect only individual interests, if the terms of a law will bear several meanings, that is to be preferred which will best accord with convenience. In cases that concern the public, this rule is applicable with still greater latitude. Public convenience is to be promoted; public inconveniences to be avoided. The business of administration requires accommodation to so great a variety of circumstances, that a rigid construction would in countless instances arrest the wheels of government. It has been shown that the construction that has been adopted at the Treasury is in many cases essential in practice. This inclines the scale in favor of it,—the words "in consequence of," admitting of various significations.

The practice of the Legislature as to appropriation laws favors this construction.

These laws are generally distinct from those which [128] create the cause of expenditure. Thus the act which declares that the President shall be allowed twenty-five thousand dol-

lars per annum; that which declares that each senator and representative shall be entitled to so much per day; that which determines that each officer and soldier shall have so much per month, etc.,—neither of these acts is an act of appropriation. The Treasury has not considered itself authorized to expend a single cent upon the basis of any such act; regarding it merely as constituting a claim upon the government for a certain compensation, but requiring, prior to an actual disbursement for such claim, that a law be passed, authorizing the disbursement out of a specified fund. This is what is considered as the law by which the appropriation is made, from which results to the public a double security.

Hence every year a particular act (sometimes more than one) is passed, appropriating certain sums for the various branches of the public service, and indicating the funds from which the moneys are to be drawn. The *object*, the *sum*, and the *fund* are all that are to be found in these acts. They are commonly, if not universally, silent as to any thing further.

This I regard as constructive of the clause in the Constitution. The appropriation laws are in execution of that provision, and fulfil all its purposes, and they are silent as to the distinction between anticipation and payment; in other words, as to the manner of disbursement.

Hence I conclude, that if there exist a law appro- [129] priating a certain sum for the salary of the President, an advance upon that sum in anticipation of the service is as constitutional as a payment after the service has been performed. In other words, that the advance of a quarter's salary at the beginning of a quarter is as much warranted by the Constitution as the payment of it at the end of a quarter.

It is in this sense that the present Secretary of the Treasury has affirmed, that "not one dollar has at any time been advanced for the use of the President for which there was not an existing appropriation." He did not mean to say that no money had been advanced in anticipation of the service, for the fact is otherwise; but nothing is more true than that

the sums disbursed were within the limits of the sums appropriated. If there was an excess at the end of one year, there had been a previous appropriation for a succeeding year, upon which that excess was an advance.

It is objected to this practice, that the death of the party between the advance to him and the expiration of an equivalent term of service, by superseding the object of the advance, would render it a misexpenditure of so much money, and therefore a violation of the Constitution.

I answer, that the same casualty might have the same effect in other cases, in which it would be against common-sense to suppose that an advance might not be made with legality and propriety. Suppose, for example, a law was to be passed directing a given quantity of powder to be purchased for public use, and appropriating a definite sum for the [130] purchase; and suppose intelligence brought to the Secretary of the Treasury that the quantity required could be procured for prompt payment at Boston. It cannot in such case be doubted that the sum appropriated might legally be advanced to an agent to proceed to Boston to make the purchases. Yet, that agent might die, and the money never be applied according to its destination, or the desired quantity might be procured for a less sum, and a balance remain in his hands. In either case, this would be money disbursed which was not applied to the object of the law. In the last case, there is no final object for the disbursement, because the balance is a surplus. This proves that the possibility of a failure, or falling short of the object for which an advance is made, is not an objection to its legality. Indeed, the consequence is a possible one in every case of an *anticipation*, whether to contractors or to other public agents, for a determinate or an indeterminate purpose.

The only consequence is, that the sums unapplied must be accounted for and refunded. The distinction here again is between an *advance* and a *payment*. More cannot certainly be finally *paid* than is equal to the object of an appropriation, though the sum appropriated exceed the sum necessary. But

more may be advanced, to the full extent of the appropriation, than may be ultimately exhausted by the object of the expenditure, on the condition, which always attends an advance, of accounting for the application, and refunding an excess. This is a direct answer to the question, whether more can be *paid* [131] than is necessary to satisfy the object of an appropriation. More cannot be *paid*, but more may be advanced on the accountability of the person to whom it is advanced.

But risk of loss to the public may attend this principle? This is true, but it is as true in all the cases of advances to contractors, etc., as in those of advances upon salaries and compensations. Nor does this point of risk affect the question of legality. It touches merely that of a prudent exercise of discretion. When large sums are advanced, it is usual to obtain security for their due application, or for indemnification. This security is greater or less according to the circumstances of the parties to whom the advances are made. When small sums are advanced, especially, if for the purposes quickly fulfilled, and to persons who are themselves adequate sureties, no collateral security is demanded. The head of the department "is responsible to the government for observing proper measures and taking proper precautions." If he acts so as to incur justly the charge of improvidence or profusion, he may be dismissed, or punished, according to the nature of his misconduct.

But the principle which is set up would (it is said) be productive of confusion, distress, and bankruptcy at the Treasury, since the appropriation for the support of government is made payable out of the accruing duties of each year; and an *established* right in the officers of government to claim their compensations, which amount to several hundred thousand dollars per annum, either on the first day of the [132] year, or on the first day of a quarter, before the services were rendered, would create a demand at a time when there might not, and possibly would not, be a single shilling in the Treas-

ury, arising out of that appropriation, to satisfy it. These ideas with regard to the administration of the fund are very crude and incorrect, but it would complicate the subject to go into the development.

It is not pretended that there is an *established right* in the officers to claim their salaries by *anticipation*, at the beginning of a year, or at the beginning of a quarter. No such right exists. The performance of the service must precede the right to demand payment. But it does not follow that because there is no right in the officer to demand payment, it may not be allowable for the Treasury to advance upon account for good reasons. A discretion of this sort in the head of the department can, at least, involve no embarrassments to the Treasury, nor the formidable evils indicated; for the officer who makes the advance, being himself the judge, whether there is a competent fund, and whether it can be made with convenience to the Treasury, he will only make it when he perceives that no evil will ensue.

Let me recur to the example of advances to contractors for supplying the army. Suppose that in the terms of the contract certain advances were stipulated and made, but it turned out, nevertheless, that the contractor, disappointed in the funds on which he had relied, could not execute his contract without further advances. Here there would be no right on his part to demand such further advances; but there [133] would be a discretion in the Treasury to make them. This is the example of a discretion to do what there is not a right to demand. The existence of this discretion can do no harm, because the head of the Treasury will judge whether the state of it permits the required advances. But it is essential that the discretion should exist, because, otherwise, there might be a failure of supplies which no plan that could be substituted might be able to avert.

Yet the discretion is in neither case an arbitrary one; it is one which the head of the department is responsible to exercise with a careful eye to the public interest and safety. The

abuse of it—in other words, the careless or wanton exercise of it, would be a cause of dismissal for incapacity, or of punishment for malconduct.

Thus, advances on account of salaries, or to contractors for procuring public supplies, might be carried so far, and so improvidently managed, as to be highly culpable and justly punishable; but this is a different question from the violation of Constitution or law.

In all the cases it is a complete answer to the objection of embarrassment to the Treasury, that not the will of the parties, but the judgment of the head of the department is the rule and measure of the advances which he may make, within the bounds of the sums appropriated by law.

I consider the law which has been cited with regard to the pay of the army, as a legislative recognition of the rule of practice at the Treasury. The Legislature could not have been ignorant that it was [134] impracticable at certain seasons of the year to convey the money to the army to fulfil their injunction, without an advance from the Treasury before the pay became due. They presuppose a right to make this advance, and enjoin that the troops shall not be left more than two months in arrear. The origin of this law enforces the observation. It is known that it passed in consequence of a representation that the pay of the army was left too long in arrear, and it was intended to quicken the measures of payment. No person in either house of the Legislature, I believe, doubted that there was power to precede the service by advances, so as to render the payment even more punctual than was enjoined.

Indeed such advances, when the army operated at a distance, were necessary to fulfil the contract with the army. It became due monthly, and in strictness of contract, was to be made at the end of each month,—a thing impossible, unless advanced from the Treasury before it became due. No special authority was ever given for this purpose to the Treasury, but it appears to have been left to take its course on the prin-

principle that the disbursement might take place as soon as there was an appropriation, though in anticipation of the term of service.

The foregoing observations vindicate, I trust, the construction of the Treasury as to the power of making disbursements in anticipation of services and supplies, if there has been a previous appropriation by law for the object, and if the advances never exceed the amount appropriated; and at the same time evince that this practice involves no violation of the [135] constitutional provisions with respect to appropriations.

I proceed to examine that clause which respects the pay of the President. It is in these words: "The President shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States or any of them."

I understand this clause as equivalent to the following: "There shall be established by law for the services of the President a *periodical compensation*, which shall not be increased nor diminished during the term for which he shall have been elected, and neither the United States nor any State shall allow him any emolument in addition to his periodical compensation."

This will, I think, at first sight appear foreign to the question of provisional advance on account of the compensation periodically established by law for his services.

The manifest object of the provision is to guard the independence of the President from the legislative control of the United States or of any State, by the ability to withhold, lessen, or increase his compensation.

It requires that the law shall assign him a definite compensation for a definite time. It prohibits the Legislature from increasing or diminishing this compensation during any term of his election, and it prohibits every State from granting

him an additional emolument. This is all that the clause imports. [136]

It is therefore satisfied as to the United States, when the Legislature has provided that the President shall be allowed a certain sum for a certain term of time; and so long as it refrains from making an alteration in the provision. All beyond this is foreign to the subject.

The Legislature having done this, an advance by the Treasury in anticipation of the service cannot be a breach of the provision. 'T is in no sense an additional allowance by the United States. 'T is a mere advance or loan upon account of the established periodical compensation; will legal ideas, or common parlance, warrant the giving the denomination of additional compensation, to the mere anticipation of the term of an established allowance? If they will not, 't is plain such an advance is no breach of this part of the Constitution.

If the clause is to be understood literally, it leads to an absurdity. The terms are, "The President shall *at stated times receive,*" etc.; and again, "he shall not receive within that period," etc.

His allowance is at the rate of 25,000 dollars per annum, 6,250 dollars quarter-yearly. Suppose at the end of a year an arrear of 5,000 dollars was due to him, which he omits to receive till some time in the succeeding year, and in the succeeding year actually receives that balance with his full salary for the last year. 'T is plain, that he would not have received in the whole more than he was allowed by law, and yet in the *stated* period of one year he would have received 30,000 dollars, five thousand more than his salary for the year. In a literal sense, then, [137] constitutional provision as to *actual* payment would not have been complied with; for within the first *stated period* he would *not have received* the compensation allotted, and within the second of them he *would have received* more. In a literal sense it would be necessary to make the payment at the precise day, to the precise amount, neither more nor less, which as a general rule the indispensable forms

of the Treasury render impossible. It follows that actual receipt or payment are not the criterion—but the absolute definitive allowance by law. An advance beforehand, or a payment afterward, are equally consistent with the true spirit and meaning of this part of the Constitution.

Let us now see if the construction of the Treasury violates the law which establishes the President's compensation.

The act of the 29th [24th] of September, 1789 [1 Stat. L., 72], allows to the President at the rate of 25,000 dollars per annum, to commence from the time of his entering on the duties of his office, and *to be paid quarterly out of the Treasury of the United States.*

The question is, what is to be understood from these words, "*to be paid quarterly out of the Treasury of the United States*"?

The conception of the Treasury has been, that these words, as used in this and in the analogous cases, were meant to define the time when the right of an individual *to the compensation earned* became absolute, not as a command to the Treasury *to issue the money at a precise day and no other.*

As mentioned above, the indispensable forms of [138] the Treasury, in compliance with the law establishing the department, and to secure a due accountability, make it impracticable to pay at the day; and if expressions of the kind in question are to be construed literally, and as a positive injunction to the Treasury to issue the money at the period defined, it will be as much a breach of the law to pay afterward as to advance beforehand.

The position that an after-payment would be a breach of the law, will hardly be contended for; and if not, the alternative seems to be the construction adopted by the Treasury. Such expressions denote simply, that at certain periods individuals acquire a perfect right to particular sums of money for their services, which it becomes a matter of course to pay; but they are not obliged to receive it at the day, nor is the Treasurer restrained from paying it afterward, or from anticipat-

ing by way of loan, if there are adequate reasons for such anticipation.

It is not true, as alleged, that the invariable practice of the Treasury as to *compensations* for services differs in principle from what was done in the case of the President.

Instances to the contrary have been stated. As to what regards the army, there has been sufficient explanation.

But it will be useful to be more particular as to the course which has been pursued with reference to the two houses of Congress.

The law that regulates their compensations (passed the 29th [22d] of September, 1789 [1 Stat. L., 70]) allows to each member a compensation of six dollars *for every day* he shall [139] attend the House to which he belongs, together with six dollars for every twenty miles of distance to and from his place of residence; and directs that the compensation which shall be due shall be certified by the President of the Senate or Speaker of the House of Representatives, and shall be paid as public accounts are paid out of the Treasury.

By an arrangement between each house and the Treasury Department, the course actually pursued has been as follows:

Certain gross sums, usually at the commencement of each session, and from time to time afterward, have been advanced from the Treasury, at request, to the President of the Senate for the members of the Senate, to the Speaker of the House of Representatives for the members of that house, on account, and frequently in anticipation, of their accruing compensations. The President of the Senate in the Senate, and the Speaker of the House of Representatives in that house, disbursed the moneys to the individuals, and afterward, upon the close of each session, settled an account at the Treasury, accompanied with the certificates required by the law, and the receipts of the members, which were examined, adjusted, and passed, as other public accounts.

Whether there were any advances actually made to the members, in anticipation of their compensations, was a point never discussed between the Treasury and the presiding officers of the two houses with whom the money was deposited. But I understand that examples of such advances did exist in relation to the House of Representatives. The fact is, how- [140] ever, immaterial to the point in issue; that must be tested by the *Times* of the *advances from the Treasury*; and it is certain that these were usually made in *anticipation of compensations to grow due*; and it is also certain that the course was well understood by both houses, and is exhibited by the accounts of the Treasurer laid before them in each session.

If, therefore, the advances for the President were unconstitutional and illegal, those for both houses of Congress were equally so; and if the President be chargeable with a violation of the Constitution, of the laws, and of his oath of office, on account of extra advances to his secretaries, whether with or without his privity, the members of both houses of Congress, without exception, have been guilty of the same crimes, in consequence of the extra advances, with their privity, to the presiding officers of their respective houses. A distinction may possibly be attempted to be taken in the two cases from this circumstance, that the law which allots the compensation of the members of the two houses does not use the words, "to be paid *every day* out of the Treasury," while that which establishes the President's compensation does use the terms, "to be paid quarterly out of the Treasury." But this distinction would be evidently a cavil. When a law fixes the term of a compensation, whether per day, per month, per quarter, or annum, if it says nothing more, it is implied that it is payable at each epoch out of the Treasury, in the same sense as if this was expressly said. This observation applies as well to the monthly pay of the army as to the daily pay of Congress. [141]

Having examined the question as it stands upon the Constitution and the laws, I proceed to examine the course of the fact.

But previous to this I shall take notice of one point about which there have been doubts—and which it is not within my present recollection whether definitely settled or not by the accounting officers of the department. It respects the time of the commencement of the President's compensation. The law establishing it refers to the time of his entering upon the duties of his office, but without defining that time.

When in a constitutional and legal sense did the President enter upon the duties of his office?

The Constitution enjoins that before he enters upon the execution of his office, he shall take a certain oath, which is prescribed. This oath was not taken till the 30th of April, 1789. If we date the entrance upon the duties of his office at the time of taking this oath, it determines the epoch to be the 30th of April, 1789.

The purpose of the arrangement which was made for the payment of the members of Congress was twofold. It was to obviate embarrassment to them by facilitating and accelerating the receipt of their compensations, and to avoid an inconvenient multiplication of adjustments, entries, warrants, and payments. The theory of the provision admitted of as many Treasury settlements, entries, warrants, and payments, each day, as there were members in both houses.

But there is room for another construction. The [142] 3d of March, 1789, is the day when the term for which the President, the Vice-President, and the members of the Congress were first elected, was deemed to commence. The Constitution declares that the President shall hold his office for four years; and it is presumable that the clause respecting his compensation contemplates its being for the whole term for which he is to hold his office. Its object may otherwise be evaded.

It is also, I believe, certain, that the President may execute

his office and do valid acts as President without previously taking the oath prescribed; though in so doing, if voluntarily, he would be guilty of a breach of the Constitution, and would be liable to punishment. The taking of the oath is not, therefore, necessarily, the criterion of entering upon the duties of office.

It is a fact, if I remember right, that the President was at New York, the place assigned for the first meeting of the government, on the 3d of March, 1789, which might be considered as an entrance upon the duties of his office; though from the delays which attended the meeting of Congress, the oath was deferred till the 30th of April following.

On the strength of these facts, it may be argued, that by force of the Constitution, dating the commencement of the President's term of service on the 3d of March, 1789, the law respecting his compensation ought to be considered as referring to that period, for a virtual entrance upon the duties of his office. [143].

In stating this construction, I must not be understood to adopt it. I acknowledge that the other, as most agreeable to the more familiar sense of the law terms, has appeared to me preferable, though I had reason to believe that an important officer of the government (I do not mean the President) once thought otherwise. The result, in point of fact, will vary, as the one or the other is deemed the true construction.

I return to an examination of the course of the transaction.

Authentic statements which have been published, with some supplementary ones received from the Treasury upon the occasion, exhibit the following results.

1st Result. The sums advanced for the use of the President from the Treasury have never exceeded the sums previously appropriated by law: though they have sometimes exceeded, sometimes fallen short, of the sums actually due for services. This is thus explained: [144]

* * * *

Total excess of appropriations beyond advances, to the 1st

of October, 1795 \$15,350 [145]

The residue of the proposition is illustrated by the quarterly statement of salary and advances at foot.

2d Result. The Treasury has never been in advance for the President beyond the sums actually accrued, and due to him for services, to the amount of one quarter's salary. The largest advance at any time is \$6,154. A quarter's salary is, \$6,250. Deduct the sums at certain times in arrear from those at other times in advance, the average of the advances for the whole term of his service is about _____.

The particulars of this result appear in the statement at foot. This statement is digested by a quarter of the calendar year, which is the established course of the Treasury, and a course essential to the order of its affairs; that is to say, it is essential there should be certain fixed periods to which the ordinary stated disbursements are referred, and in conformity with which the accounts of the Treasury are kept.

3d Result. On the 1st of October, 1795, there was actually due to the President, for his compensation, over and above all advances for his use, the sum of \$846. This likewise appears from the statement at foot, and entirely refutes the malevolent suggestion which has appeared, of an accumulation of advances to twelve or fifteen thousand dollars.

4th Result. The sums advanced for the President prior to the commencement of the term of his second election, the 3d of March, 1793, fall short of the sums appropriated for his compensation, \$2,850. Thus: [146]

The aggregate of the sums appropriated for four	
years, from the 29th of September, 1789, to the	
23d of December, 1791, inclusively, is	\$100,000
The amount of all the sums advanced prior to the	
3d of March, 1793, is	97,150

Excess of appropriations beyond advances \$2,850

It is nevertheless true, that not only have there been frequent anticipations of the President's salary, as appears more

particularly in the statement at foot, but, counting from the 30th of April, 1789, as the commencement of his compensation, the sums advanced for his use prior to the 3d of March, 1793, the expiration of his first term of election, exceed those actually due up to that period, by \$1,108.34.

If, on the contrary, the construction were adopted which dates his compensation on the 4th of March, 1789, there would have been a balance due to him on the 4th of March, 1795, of 2,850 dollars.

But proceeding on the first supposition, the whole question still turns upon the legality of the advances. If it was legal to make him an advance, in anticipation of his salary, within any period of his election—within one quarter, on account of a succeeding quarter,—it was equally legal to do it within one year, on account of a succeeding year; and within one term of an election, on account of a succeeding term. The only inquiry would be, in either case, Will the sum advanced be within the bounds of the sums before that time appropriated? It has been seen that the sums appropriated for the first four years of service exceeded those advanced prior to the commencement [147] of the second period of election by 2,850 dollars; besides this, on the 28th of February, 1793, there was a further appropriation of 25,000 dollars, so that at the beginning of the second term the total appropriations exceeded the total disbursements by 27,850 dollars.

Thus has it been shown that the advances for the use of the President have been governed by a rule of construction which has obtained in analogous cases, or, more truly, which has regulated the general course of disbursements from the Treasury—a rule which, I trust, has been demonstrated to be consonant with the Constitution and the laws

It is requisite to inquire a little further, whether there has been any improper use or rather abuse of the discretion which is contended for; for here there is likewise an unquestionable responsibility. It is seen that the advances have at no time equalled one quarter's salary.

I ask, Was it unreasonable or unfit, if constitutional and legal, to afford the President of the United States an accommodation of this extent?

I pledge my veracity that I have always understood, and to this moment I have good reason to be satisfied, that the expenses of the President—those of his household and others incident to his official situation—have fully equalled, if not on some occasions exceeded, the allowance made to him by the United States. Under this conviction especially, how could the head of a department hesitate by so small an accommodation as the advance of less than a quarter's salary, to enable the President of the [148] United States to meet his expenses as they accrued, without being obliged to encroach upon his own private resources, or to resort to the expedient of borrowing, to defray expenses imposed upon him by public situation? I knew that no possible risk could attend the advance, little considerable as it was. The estate of the President was answerable in case of death or other premature vacancy for the indemnification of the government.

Reasons of a peculiar kind forbade hesitation. The scale of expense was such as to render the income even of what is deemed a large landed property in this country, a slender auxiliary; without an advance from the Treasury, it was not impossible borrowing might be necessary. Was it just to compel the President to resort to that expedient, for a purpose in fact public, at his private expense? Was it for the dignity of the nation that he should have been exposed to a necessity, an embarrassment of this sort?

My judgment and feelings answered both these questions in the negative. I entertained no doubt of the constitutionality and legality of the advance, and I thought the making of it due to the situation, due to propriety, due to every public consideration connected with the subject. I can never regret it.

How far the President was privy to the course of advances I cannot say; but it is certain that they have been all made to his private secretaries upon a general arrangement, and not by special directions from him. And I think it proper to

add, that very early in the day, and probably before any was made, [149] on an application to Mr. Lear for a sum which would constitute an advance, he qualified it by this observation: "If in your opinion it can be done with legality and perfect propriety." I answered that I had no doubt of either. I shall not attempt to assume any greater responsibility in this transaction than belongs to me; but I have been accustomed to think that the responsibility for the due and regular disbursement of moneys from the Treasury lies exclusively with the officers of the department, and that, except in a very palpable and glaring case, the charge of blamable participation could not fall on any other person.

As between the officers of the Treasury, I take the responsibility to stand thus. The Secretary and Comptroller, in granting warrants upon the Treasury, are both answerable for their legality. In this respect, the Comptroller is a check upon the Secretary. With regard to the expediency of an advance, in my opinion, the right of judging is exclusively with the head of the department. The Comptroller has no voice in this matter. So far, therefore, as concerns legality in the issues of money while I was in the department, the Comptroller must answer with me; so far as a question of expediency or the due exercise of discretion may be involved, I am solely answerable. And uniformly was the matter so understood between successive comptrollers and myself. Also it is essential to the due administration of the department, that it should have been so understood.

I have stated my reasons for considering the advances made, for the use of the President, constitutional, legal, and proper. But I pretend not to infallibility; 't is possible I may have erred; but to convert error into guilt, it must be supposed to have been wilful. To suppose it wilful, it is necessary to trace it to some interested or sinister motive. If any appear, let it be pointed out. It is not common for men to commit crimes without some adequate inducement.

What criminal inducement would have probably influenced the rule of construction as to advances which has been

stated to have been adopted and acted upon at the Treasury? What criminal inducement particularly could have led to the application of this rule to the President's compensation, in so restricted a form as never to equal one quarter's salary? Who in his senses will believe that the President would consciously have hazarded the imputation of violating the Constitution, the laws, and his oath of office, by imposing on the officers of the Treasury the necessity of making him so paltry an advance, falsely and ridiculously called a donation? Who will believe that those officers would have consented to expose themselves to the same imputation, by compliance, when they knew that the evidence of their guilt must regularly be communicated in each succeeding session, to both houses of Congress, and to the public at large? To believe either, is to believe all the parties concerned foolish, as well as profligate in the extreme, destitute equally of intellect as of principle.

To an observation made by Mr. Wolcott in the communication from the Treasury, it has been [151] answered, that there was no merit in the disclosure, because the number of agents and the forms of the Treasury rendered it unavoidable. The fact is so—but the force of the observation turns upon the egregious folly of intentionally committing the crimes imputed; when it was certain, beforehand, that the means of detection must be furnished, and without delay, by the Treasury itself.

It is certain, that there never has been the least attempt at mystery or concealment. The documents reported by the Treasury to both houses of Congress, carried in their face the prominent evidence of what was done. Frequent and indiscriminate personal suggestions regarded the principle of action. It is evident that it must have been understood and acquiesced in by all the members of the two houses of Congress.

Hard would be the condition of public officers if even a misconstruction of constitutional and legal provisions, attended with no symptom of criminal motive, carrying the

proof of innocence in the openness and publicity of conduct, could justly expose them to the odious charges which on this occasion are preferred. Harder still would be their condition if, in the management of the great and complicated business of a nation, the fact of misconstruction, which is to constitute their guilt, is to be decided by the narrow and rigid rules of a criticism no less pedantic than malevolent. Pre-eminently hard in such circumstances was the lot of the man who, called to the head of the most arduous department in the public administration in a new government, without [152] the guidance of antecedent practice and precedent, had to trace out his own path, and to adjust for himself the import and bearings of delicate and important provisions in the Constitution and in the laws.

Reposing myself on a consciousness which, in no possible situation, can fail to prove an invulnerable shield to my tranquillity, I leave to a candid public to pronounce the sentence which is due to an attempt, on such a foundation, to erect against the President of the United States, my successor in office, and myself, the heinous charges of violation of the Constitution, violation of the laws, exaction of arbitrary will on the one side, abject submission on the other, misapplication of the public money, and, to complete the newspaper group, intentional perjury.

A. HAMILTON. [153]

NO. 18

SPECIFIC APPROPRIATIONS. (GALLATIN), 1796⁶⁸

November 1796

* * * *

It is declared by the Constitution of the United States that "no money shall be drawn from the Treasury but in consequence of appropriations made by law." Two things consti-

⁶⁸ Albert Gallatin, "A Sketch of the Finances of the United States," in *Writings* (Henry Adams), Vol. 3, pp. 109, 115-18. See also Nos. 19, 24-25, 27-30.

tute the appropriation: 1st, the sum of money fixed for a certain expenditure; 2d, the fund out of which the money is to be paid. The executive officers can neither change the appropriation by applying money to an expense (although the object of that expense should have been authorized by law) for which no appropriation has been made, nor spend upon an authorized object of expense more than the sum appropriated, nor even that sum, unless the fund out of which it is payable is productive to that amount. Funds are classed and distinguished in relation either to receipts or to expenditures. [109]
* * * *

The general fund, which embraces all the revenues, except such sums as are specifically appropriated to the sinking fund, is charged with all expenses other than those relating to the payment of the principal of any part of the public debt.

Whenever, at the end of two years after the expiration of the calendar year in which any specific appropriation shall have been made, it shall happen that the sum thus appropriated is larger than the sum actually expended for that object, the excess (except when the appropriation is for payment of interest or principal of the public debt) is, by virtue of an Act passed in March [3], 1795 [1 Stat. L., 433, 437, sec. 16], to be carried to a new account, to be denominated "the surplus fund." Although the appropriations may exceed the expenses, and the differences or excesses may thus be carried to the account of that fund, it is evident that it will be merely nominal so long as the expenses shall exceed the receipts.

The general fund is in fact subdivided into as many distinct funds or accounts as there are specific appropriations. A detail of these, which presents a number of balances of unsatisfied appropriations, would be useless. It will be sufficient to remark that the appropriations relative to the payment of interest on public debt are permanent, and cannot, therefore, be altered without an Act of the Legislature, and that those which relate to the civil list and military establishment are

made from year to year, and require, therefore, once a year the consent of every branch of the Legislature to be renewed. This is the defensive control retained by each branch, and which may, at all times, enable [115] either to check, by that power over the purse, any dangerous encroachment or attempt to encroach of any of the others. There is nothing, however, in the Constitution which prevents Congress from making permanent appropriations in relation to the civil list; but, in order to guard against any possible danger from a standing army, it is expressly provided by that Constitution that no appropriation of money to that use shall be for a longer term than two years.

The appropriations heretofore made for the military establishment have been subdivided into a number of separate heads, making specific and distinct appropriations for the pay of the army, for its subsistence, for clothing, for the ordnance department, for the quartermaster department, for the Indian department, for the defensive protection of the frontiers, and for the several other heads of service; and it was supposed that the moneys thus distinctly appropriated were respectively applied to the specific objects for which they were appropriated. It, however, appears, by a letter of the Secretary of the Treasury of May, 1796, that by far the greatest part of the expenditures for the military department are found by experience to be unsusceptible of that particular distribution which is observed in the issues of moneys appropriated for other objects; and that appropriations for military purposes ought to be considered as general grants of such sums as the public service is found to require, to be issued according to exigencies and applied and accounted for pursuant to law.

It would seem that if those appropriations are considered by the Treasury Department as general, of which grants, to be issued according to exigencies, that or some other executive department is to judge, and if, therefore, the moneys specifically appropriated to one head of service are applied to another head, they are not applied and accounted for pur-

suant, but contrary, to law. Such a mode is undoubtedly liable to great abuses; it deceives the Legislature, who, when appropriating one hundred thousand dollars for the defensive protection of the frontiers, did not think that the Treasury would assume a power to apply them to the quartermaster or any other department. It deprives the Legislature from any control, not only over the distribution [116] of the moneys amongst the several heads of service, but even over the total sum to be expended. For the million and a half of dollars appropriated for the annual support of six thousand men, the nominal establishment, may be spent in the same time, and in fact has actually been expended within fourteen months for the 3500 men who constituted the effective establishment. The same abuse has, for a considerable time, prevailed in England, where it has, at several periods, been taken notice of, and did lately produce a motion of impeachment against the Ministers.

On the other hand, it is impossible for the Legislature to foresee, in all its details, the necessary application of moneys, and a reasonable discretion should be allowed to the proper executive department. The most proper way would perhaps be not to enter into so many details, not to make specific appropriations for every distinct head of service, but to divide the general appropriation under a few general heads only, allowing thereby a sufficient latitude to the executive officers of government, but confining them strictly, in the expenditure under each of those general heads, to the sum appropriated by law.

Another irregularity has once taken place upon an extraordinary occasion. Although the President of the United States was authorized to call out the militia in order to suppress insurrections, no moneys were appropriated for that service. When the western insurrection took place, until Congress had covered the expenditures of the expedition by an appropriation made only on the 31st of December, 1794, the expenses were defrayed out of the moneys appropriated for the mili-

tary establishment. Yet even the principle by which the specific appropriations for the several objects of the military establishment have been considered as a general grant for the whole could not authorize the application of a part of that grant to the expenses of that expedition. No farther discretion has been claimed by virtue of that principle than that of indistinctly applying the whole sum appropriated by law to any of the objects enumerated and specified under distinct heads in the law itself. But, as the militia called out to suppress an insurrection make no part of the military establishment, the expenses attending such a call were not amongst the various objects enumerated in the law making [117] appropriations for the military establishment; the only item applicable to militia being expressly confined to the defensive protection of the frontiers. The moneys drawn from the Treasury on that occasion were paid out of a fund appropriated for other and distinct purposes; they were not drawn agreeable to the Constitution, in consequence of any appropriation made by law. It might be a defect in the law authorizing the expense not to have provided the means; but that defect should have been remedied by the only competent authority, by convening Congress. The necessity of the measure may in the mind of the Executive have superseded every other consideration. The popularity of the transaction may have thrown a veil over its illegality. But it should by no means be drawn hereafter as a precedent. [118]

NO. 19

SPECIFIC APPROPRIATIONS. DEBATE, 1797⁶⁴

House of Representatives, March 2, 1797

Mr. [ALBERT] GALLATIN [of Pennsylvania] moved to add the following words [to the Military and Naval Appropriation bill for 1797]: "which several sums shall be solely

⁶⁴ *Annals of Congress*, Vol. 6: 2349-51. See Act of Mar. 3, 1797, 1 Stat. L., 508, sec. 1. See also Nos. 18, 24, 28.

applied to the objects for which they are respectively appropriated.”

Mr. W[ILLIAM] SMITH [of South Carolina] wished, as much as the gentleman from Pennsylvania, to confine the expenditure to the sums appropriated; but the provision for some objects might fall short, while others might have a surplus, which he thought ought to be made use of to supply deficiencies in cases of emergency. Ever since the establishment of the present Government, the whole appropriation for the Military Establishment had been considered as an aggregate fund out of which any of the objects of that establishment might be paid for; but the expense of each object was now to be confined to the specific appropriation. He was afraid, however well this might look in theory, it would be found very mischievous in practice. He wished the gentleman would amend his proposition by adding, “so far as may be consistent with public exigency;” this would restrict the expenditures, except in unforeseen cases of emergency, to provide for which some latitude of discretion ought to be left to the Executive.

Mr. [SAMUEL] SITGREAVES [of Pennsylvania] did not see the necessity or propriety of the amendment of his colleague, when the House had distributed the appropriations amongst the different objects; as the amendment, he conceived, meant nothing more than that the Department should not expend any more than the sum appropriated for the different items, which they had no right to do if there were no amendment. Heretofore, when appropriations were [2349] made in a mass, the Secretary of War did not feel himself bound to govern himself by the estimate which he had given in, but by particularizing the different items, the former evil was corrected.

Mr. GALLATIN said, if the fact was exactly as it had been stated by his colleague, his amendment might be unnecessary, but the Treasury Department had not acted upon the principle which he had stated. They had, notwithstanding the distribution of the appropriation, thought themselves

at liberty to take the money from an item where there was a surplus and apply it to another where it was wanted. And when this was objected to, as taking from the Legislature their appropriating power, they answered that the Legislature had entered so much into detail that they could not attend to their directions. They had, last session, made the appropriations more specific than at present, yet the Secretary of the Treasury, in a letter written to the House during this session, said, "that it was well known to have been a rule since the establishment of the Government, that the appropriations for the Military Establishment were considered as general grants of money, liable to be issued to any of the objects included under that Department." Therefore, unless this amendment was introduced it would leave the power as before. In order to make the business more easy, all the contingent expenses were appropriated in one sum.

The object of this amendment, said Mr. G., was that no part of the pay of the Army should go to the Quartermaster's department, &c., and that none of them should go to the building or equipping the frigates; but if this were not the case, money might be found to get the frigates to sea from the appropriations for the Military Department, if the PRESIDENT should think it necessary so to apply it. As to the amendment, it would do away the intention of it altogether.

Mr. [ROBERT G.] HARPER [of Maryland] was against the amendment. He thought the Department ought to be at liberty, in case of an appropriation proving deficient, to have recourse to other funds where there might be a surplus, and as none would be taken, except where there was a surplus, he could see no objection to this being allowed. Indeed, for want of such a privilege very serious inconveniences might arise to the service, in case of accident or unforeseen events.

Mr. GALLATIN said, the law did not operate in the manner which the gentleman last up supposed. They had lately voted a sum of forty thousand dollars to make good a deficiency of

last year, which had been used for some other purpose, in consequence the deficiency fell upon the pay of the Army, although that could not increase, because the number of men was never increased; it might be less, as the nominal, not the actual number of men was appropriated for.

Mr. [JOHN W.] KITTERA [of Pennsylvania] thought the amendment a bad one. Suppose, said he, a boat should be overset with tents in the lake, or a magazine blown up, the losses could not be repaired, because, though there might be surplus sums in the Treasury from [2350] other items in the establishment, yet, if this amendment prevailed, they could not be touched. He thought this would be the effect; he was against innovations.

The amendment was put and carried. . . . [2351]

NO. 20

INQUIRY INTO SYSTEM OF EXPENDITURE
CONTROL IN THE EXECUTIVE DEPART-
MENTS. DEBATE, 1798⁶⁵

House of Representatives, May 4, 1798

Mr. [ROBERT G.] HARPER [of Maryland] said, that having observed some embarrassment in the laws establishing the Executive Departments, more especially as it respects the War Department, a very considerable proportion of the business of which is done in the Treasury Department, being made an agent to the War Department in paying and receiving money; so that one department makes the expense, and another is responsible for it. He wished, therefore, to see if some better arrangement could not be made in this business, and for this purpose proposed a resolution to the following effect:

“Resolved, That a committee be appointed to inquire and report, by bill or otherwise, whether any and what altera-

⁶⁵ *Annals of Congress*, Vol. 8: 1594. See also Nos. 22-23.

tions are necessary in the various acts establishing the Executive Departments, so far as relates to the manner of disbursing the money appropriated for each, and the settling of their accounts.”

NO. 21

SETTLEMENT OF COLLECTORS' CURRENT
ACCOUNTS. DEBATE, 1798⁶⁶

House of Representatives, May 31, 1798

Mr. [ROBERT G.] HARPER [of Maryland] observed, . . . Neither is the augmentation of salaries the only object of the bill. A more energetic mode than has heretofore existed for the compelling of officers to settle their accounts, makes a prominent part of the bill. . . .⁶⁷

NO. 22

EXPENDITURE CONTROL IN THE EXECUTIVE
DEPARTMENTS. REPORT (HARPER), 1798⁶⁸

To House of Representatives, July 5, 1798

Mr. [ROBERT G.] HARPER [of Maryland] made the following report:

The Committee appointed to inquire and report, by bill or otherwise, “whether any, and what, alterations are necessary in the various acts establishing the Executive Departments, so far as relates to the manner of distributing the moneys appropriated for each, and settling their accounts,” having attentively considered the subject, and conferred with the heads of those Departments in which it was supposed that an altera-

⁶⁶ *Annals of Congress*, Vol. 8: 1858.

⁶⁷ “. . . to establish the compensations of the officers employed in the collection of the duties on imports and tonnage.” Mar. 2, 1799, 1 Stat. L., 704, 708, sec. 2. See also “Compensation of Officers of the Revenue” (Wolcott), in American State Papers, *Finance*, Vol. 1, p. 579.

⁶⁸ American State Papers, *Finance*, Vol. 1, pp. 590-92; *Annals of Congress*, Vol. 9: 3598-602. See also Nos. 14, 20.

tion might be necessary, beg leave to present to the House, as the result of their inquiries, the following report:

The first of the now existing Executive Departments, established under the Government of the United States, was the Department of War. The act for erecting this Department, passed on the 7th of August, 1789 [1 Stat. L., 49], directs that the head of it, the Secretary, "shall perform and execute such duties as shall, from time to time, be entrusted to him by the President of the United States, agreeably to the constitution, relative to military commissions, or to the land or naval forces, ships or warlike stores of the United States, or to such other matters respecting military or naval affairs, as the President of the United States shall assign to the said Department;" but no provision was made, by this act, respecting the disbursement of moneys, for the use of this Department, or the settlement of its accounts.

On the 2d of September, 1789 [1 Stat. L., 65], the act for establishing the Treasury Department was passed. This Department, as established by the act in question, was solely a department of finance; a department for improving, superintending, and collecting the public revenue; adjusting the accounts of public expenditure, and paying out the public moneys, pursuant to appropriations by law. To the Secretary of the Department were assigned the duties of digesting and preparing plans for the improvement and management of the revenue, and the support of the public credit; of superintending the collection of the revenue; of deciding on the forms of keeping and stating accounts and making returns; of granting warrants for moneys to be issued from the treasury, pursuant to appropriations by law; of conducting the sale of public lands; of reporting to either House of Congress, on subjects referred to him, or appertaining to his office; and of performing all such services, respecting the finances, as he might be directed to perform. Under the superintendence of this chief officer, the duties incident to the general objects of the Department are divided into four

classes, and assigned to the Comptroller, the Auditor, the Register, and the Treasurer.

The War Department being, therefore, a department solely of expenditure, and the Treasury a department of collection and account, it would seem to have been the natural and proper course, that all sums appropriated by law for the Department of War, should be drawn out of the treasury, by the head of that Department, and expended solely under his direction. He would then have remained exclusively responsible for the expenditure, not only as to its objects, but as to its amount; he would not only have judged what was necessary for the use of his Department, in every various branch of the service, but he would have procured all the supplies; and the accounts, in their minutest details, would have remained under his control. The Secretary of the Treasury would have had no concern with the War Department, further than to give warrants for the moneys appropriated for its use, and to take care that these warrants did not exceed the appropriations. The amount of those warrants being an acquittal to the Treasury Department, would have constituted a charge against the Secretary of War; and the accounts of their expenditure, made under his sole direction, and finally adjusted by the Auditor and Comptroller of the treasury, would have furnished his acquittal. Thus the responsibility of each department, as well as its operations and accounts, would have been distinct and entire.

This course, however, was not adopted. On the contrary, the duties of the two Departments, relative to the expenditure of moneys for the military and naval service, were blended together in practice; but the part allotted to each was not very precisely defined. It may, however, be generally stated, that all contracts for rations, clothing, and magazine supplies, were made at the treasury, while all expenditures for other objects remained under the direction of the Secretary of War.

On this footing the business continued till the 8th of May,

1792 [1 Stat. L., 279], when an act was passed "for making alterations in the Treasury and War Departments."

By this act, the office of "Accountant for the War Department" is created; and the Accountant is charged "with the settlement of all accounts relative to the pay of the army; the subsistence of officers; bounties to soldiers; the expenses of the recruiting service; and the incidental and contingent expenses of the Department."

The act then goes on to make provisions to the following effect: [590]

1st. That all contracts and purchases for supplying the army with provisions, clothing, supplies in the quartermasters' department, military stores, Indian goods, and all supplies or articles for the use of the Department of War, be made under the direction of the Treasury Department.

2d. That all expenditures for the pay of the army; the subsistence of officers; bounties to soldiers; the expenses of the recruiting service; and the incidental and contingent expenses of the Department of War; shall be made in pursuance of warrants from the Secretary of War, out of moneys previously ordered for the use of the said Department, by warrants from the treasury.

Hence it results, that the expenditures for the War Department fall under two general divisions; those for supplies of all kind, and those for services and contingent expenses.

The expenditures of the first class, instead of being directed by the Secretary of War, and accounted for by him, are under the management of the Treasury Department, the Secretary of which is converted into an agent of the Department of War, for this purpose. The business is conducted in the following manner: The Secretary of War informs the Secretary of the Treasury, by letter, what supplies are necessary for the Department of War, of what nature, when wanted, and, in some instances, where to be delivered; and also furnishes the necessary samples, patterns, forms, and

models. The Secretary of the Treasury is then bound to comply with the demand of the War Department, to the extent of the appropriations which have been made by law, and the purveyor of public supplies, whose office was instituted by a subsequent act [Feb. 23, 1795. 1 Stat. L., 419], is the organ of execution, under his direction.

Two modes of procuring those supplies are in use at the treasury: contract and purchase.

Contracts are, also, of two descriptions: the larger, such as those for clothing and provisions, which are executed by the Secretary of the Treasury himself, and distinct accounts of which are opened in the public books; and the smaller, such as those for occasional supplies, which are concluded by the purveyor, and comprised in the general settlement of his accounts.

Purchases of supplies, when they can be effected at the seat of Government, are made by the purveyor; and this is his chief employment. For purchases in the country, and for procuring occasional supplies at military and recruiting posts, the Secretary of the Treasury employs the agency of the supervisors and the collectors of the customs.

The accounts of the purveyor and of all agents and contractors, for procuring or furnishing supplies, are settled at the treasury, without any agency or interference of the War Department. They pass first under the examination of the Auditor, who reports them to the Comptroller, and his decision on them is final.

When supplies are procured and delivered, according to the requisitions of the War Department, they become, from that time, subject to the disposal of the Secretary of War, and the duty and responsibility of the Secretary of the Treasury are at an end.

The second class of expenditures in the Department of War, those for services and contingent expenses, including the pay of the army, subsistence of officers, bounties, recruiting, protection of the frontiers, &c. are made under the sole direc-

tion of the Secretary of War. The money for these objects is drawn out of the treasury, in the following manner:

The Secretary of War addresses a letter to the Secretary of the Treasury, requesting an advance of money to the Treasurer of the United States, in his capacity as treasurer for the War Department. This letter specifies the sum wanted, and the head of appropriation under which it is to be applied. The Secretary of the Treasury complies with this request, to the extent of the appropriations which have been made by law. A warrant for the proper sum, signed by the Secretary, countersigned by the Comptroller, and recorded by the Register, is drawn on the Treasurer of the United States, in favor of himself, as treasurer for the War Department. The warrant being paid, the amount is charged to the War Department, in the books of the treasury, and from that time remains subject to the disposal of the Secretary of War, who draws it out, as occasions may require, by warrants signed by himself and countersigned by the Accountant.

An account of all these warrants is kept by the Accountant, and to him all the accounts for the expenditure of the moneys drawn under them, are rendered in the first instance. He adjusts these accounts, and reports them, like all other accounts of public expenditure, to the Auditor of the Treasury. From him they pass to the Comptroller, whose decision on them is final.

In this last branch, therefore, of the expenditures for the Department of War, the agency, control, and responsibility of that Department, are complete, and the accounts are susceptible of a clear and distinct division and adjustment. The Secretary of War draws from the treasury the moneys appropriated by law, expends them, and accounts for them. In this expenditure and account, the Accountant of the Department is his agent, and his accounts being made up and stated by the Accountant, are submitted, with his vouchers, to the Auditor and Comptroller of the Treasury, and by them finally settled, like the accounts of all other persons

entrusted with public money. The Secretary of the Treasury has no further concern in the business than to pay out, to the Secretary of War, the moneys appropriated by law for that Department. Here is a perfect and entire responsibility in each: in one, that the public money is paid out of the treasury, according to law; in the other, that, when paid out, it is expended according to law.

But in the other great branches of these expenditures, those which relate to stores and supplies of all kinds, for the use of the military department, there is a divided, and, consequently, an imperfect responsibility, and an incomplete interfering agency. The Secretary of War judges what supplies or stores are necessary; but, instead of directing them to be procured, and drawing money out of the treasury to pay for them, he informs the Secretary of the Treasury that they are wanted, and he must procure them. Thus the first officer is responsible for the necessity of the supplies, and the second for their price, quality, and due delivery. The moneys appropriated for the War Department are expended by the Secretary of the Treasury; and he is converted, as far as respects these expenditures, into a subordinate agent of the Department of War. The supplies are purchased for one purpose, and charged to the corresponding head of appropriation. When placed in the public stores, they are found useful for another purpose, and accounted for under another head. The Secretary of War, who uses them, does not know to what account they are charged; and the Secretary of the Treasury, who purchases and charges them, does not know for what purpose they are used. Hence must result an endless confusion and uncertainty in the accounts, and it becomes difficult, if not impossible, to ascertain what expenses are incurred for any particular branch of the military service. The Secretary of War cannot be responsible for the expenditure of the moneys appropriated for his Department, since he does not know at what rate the necessary supplies are procured. Neither can he be responsible for the due performance of the

service, for it does not depend upon him to take care that the supplies are procured, either in due time, in the necessary quantities, or of a proper quality. On the other hand, the Secretary of the Treasury cannot be responsible for the due execution of the public service, since it does not depend upon him to cause the supplies which have been procured, to be properly used.

The Secretary of the Treasury, moreover, being thus employed in duties which belong to another department, may be prevented, by the burdensome nature of those duties, from applying himself, with proper effect, to the peculiar objects of his own; which are the superintendence, improvement, and collection, of the public revenue—duties sufficiently extensive and important to occupy, exclusively, the attention of any one person.

All the observations which have been made, with respect to the Department of War, apply with equal force to the Department of the Navy, the duties of which were originally committed to the War Department, and are still subject to the provisions of the Act of May 8th, 1792. The extensive operations which may be expected in this Department, and the great increase of public business which is likely to result, from the actual state of public affairs, will, it is apprehended, add greatly to the inconveniences resulting from the present organization.

These inconveniences the Committee suppose may be removed, or greatly obviated, by adopting a new arrangement, with respect to expenditures for supplies, and placing them on the same footing with the expenditures for services. They propose, also, to establish the office of Accountant in the Department of the Navy; to place the Purveyor of Public Supplies under the direction of the Navy and War Departments, and to direct that the moneys [591] appropriated for those Departments be accounted for, under such separate heads of appropriation, as will give a clear view of the amount expended in each branch of the public service.

In this manner the duties and the responsibility of each

Department will be rendered distinct and entire, each will be confined within its proper sphere, and the accounts of public expenditure will be kept with order, precision, and clearness.

In conformity to these ideas, and pursuant to the power given to them by the House, the Committee herewith report a bill containing the regulations which they think it expedient to adopt. [592]

NO. 23

TREASURY ORGANIZATION AND PROCEDURE
UNDER OLIVER WOLCOTT. REPORT
(OTIS), 1801⁶⁹

To House of Representatives, January 28, 1801

Mr. [HARRISON G.] OTIS [of Massachusetts] from the Committee to whom was referred the letter from the Secretary of the Treasury [Oliver Wolcott], announcing his resignation, and who was instructed to examine into the state of the Department of the Treasury; into the mode of conducting the business thereof; and into the expenditure of public money; and to report such facts and statements as may conduce to a full understanding of the transactions of the Treasury, since the same has been under the superintendence of the officer now at the head of that Department, made the following report:

First, in relation to the general state of the Department, and the mode of directing the business thereof.

On the 22d day of May, in the year 1794,⁷⁰ a report was made to the House of Representatives, by a committee appointed to examine the state of the Treasury; in which the manner of conducting the business of the Department was detailed with great accuracy, the duties of the various officers, and their mutual checks upon each other, explained; [690]

⁶⁹ American State Papers, *Finance*, Vol. 1, pp. 690-93. See also Nos. 17, 20, 22,

^{24-30.}

⁷⁰ See No. 14.

and the rules and proceedings observed in the collection, keeping, and disbursement of the public moneys, and in accounting for the same, described, with minute precision. It does not appear that any objection has ever been made to the forms of doing business, specified in that report, or that the committee, after a most ample and elaborate investigation of the regulations adopted in the Department, entertained doubts of the judicious and competent nature of the arrangement and distribution of the powers and duties of the officers. The attention of the present committee was, in the first instance, occupied in comparing the present forms of proceeding at the Treasury, with those heretofore exhibited; and, upon a careful examination, they are satisfied that, while the principles of that system have been maintained and matured, a close adherence to established usage has been observed; and that the Department itself is so organized by law, and the mode of doing the business is so devised, as to afford the most perfect security to the nation, from the missapplication of the public moneys.

These moneys do not, in any instance, pass through the hands of the Secretary of the Treasury; he merely authorizes the receipts and disbursements by warrants in favor of, and upon the Treasurer; these warrants are all signed by the Secretary, countersigned by the Comptroller, and registered by the Register. The Treasurer is the medium of the receipts and disbursements of the public moneys. Those who collect these moneys can only discharge themselves by warrants in favor of the Treasurer. The Treasurer can only obtain credit for payments from the Treasury, by warrants on himself. All moneys received by the Treasurer are deposited by him in the Bank of the United States, and other banks; and the actual amount of moneys in the custody of the Treasurer, may be, at any time, ascertained, independently of his own returns, by the statements which are constantly made and transmitted to the Secretary, by those who collect and receive public moneys into their custody in the different parts of the

Union. His accounts must be rendered quarterly, and oftner, if required, to the Comptroller, and annually to Congress.

Secondly, in relation to receipts and expenditures.

It is the uniform course of business at the Treasury, immediately after the close of each session of Congress, to enter into a book, kept for that purpose in the office of the Secretary, the various objects for which appropriations of money have been made by law, and to credit each head with the whole amount of the sums appropriated to it. The same proceeding is observed in the offices of the Comptroller and Register. No disbursements are made by the Treasury, but in pursuance of laws authorizing the expense; and all warrants for the disbursement of moneys are, forthwith, entered to the debit of their respective heads of appropriation. These books are open to the daily inspection and revision of the officers of the Department; and, by means thereof, the expenditures may be promptly compared with the appropriation. In no instance does it appear to the committee, that the expenditures have exceeded the legal appropriations. They have not, however, presumed it to be within the meaning of their instructions, that they should exhibit a detailed statement of the receipts and expenditures at the Treasury: for these they refer to the annual and other periodical statements which are enjoined by law, and which have been regularly submitted to Congress; and especially to a report of the committee of the House of Representatives, of the 8th of May last, in which the sum total of the receipts and expenditures of the present Government, from its commencement to the end of the year 1799, is exhibited at one view.

By the constitution of the Treasury Department, the Secretary superintends the collection of the revenue, and grants all warrants for moneys issued from the Treasury, in pursuance of appropriations made by law; but he is not responsible for the application of moneys issued from the Treasury for the use of other departments. When, for example, appropriations are made for the Departments of State, of War, or

of the Navy, the Secretary of the Treasury, as also the Comptroller, are bound to prevent the advances from exceeding the appropriations. The disbursements and application of the moneys so advanced, to the various objects of public service, are necessarily made under the immediate superintendence of the other departments, subject to a revision and final settlement by the Comptroller of the Treasury, But as, from the nature of the public business, it becomes indispensably necessary, in most cases, that advances should precede the services for which the moneys are destined; as these services are of great magnitude, branched out into a variety of details, and performed by numerous agents, it results that, while voluminous accounts are in a train of settlement, sums to a great amount must, at all times, appear debited to individuals, to be accounted for in course, although they are known to have applied the same according to law, and although, in many instances, they may have exhibited sufficient vouchers for their discharge.

The foregoing inquiries embrace the principal duties of the Secretary of the Treasury; in the discharge of which, the Department is regulated by positive laws and established forms. In certain cases, a limited discretion is either given or implied in the nature of transactions performed under his agency. This has happened chiefly in three instances: first, in contracts for the loan of money for the public service; secondly, in providing and remitting to Europe funds for the discharge of the foreign debt; thirdly, in measures adopted to enforce punctuality on the part of public agents and officers, in the payments of moneys into the Treasury. [691]

* * * *

Thirdly, in regard to provisions made for enforcing punctuality on the part of public agents and receivers.

It is the immediate duty of the Comptroller to superintend the adjustment of the public accounts, and to direct prosecutions for all delinquencies of officers of the revenue, and for debts due to the United States, though the Secretary,

in virtue of his authority as superintendent of the collection of the revenue, would be also responsible for the permission of any negligence or abuse of trust in the officers of the revenue, and receivers of public money, after the same should come to his knowledge. In the collection of an immense revenue, through an extensive country, losses by the fraud, negligence, and insolvency of individuals are unavoidable.

When the Secretary of the Treasury has obtained, and presented to the President, the best information in respect to characters recommended by him for appointments to office; when he has established those official forms and checks which are best calculated to convey a true state of the accounts of the public agents, and of the money in their hands; when, on just grounds, for suspicion of improper management, the Secretary has preferred to the President of the United States, his complaints against those who are disqualified for office, and the Comptroller has directed prosecutions for delinquencies, it is conceived that these officers have respectively discharged their duty in this particular. Instances, therefore, might naturally be expected, of public defaulters to a very considerable amount, while no blame could attach to these officers of the treasury; but, on the contrary, if the number of persons of this description, and the amount due from them, are found to be comparatively inconsiderable, the inference is fair and plain, that due caution has been observed in the appointments, and diligence in the superintendence of the subordinate officers.

Upon this subject the committee have been solicitous to acquire such information as might be satisfactory to the House, and having examined the particular cases of delinquency which appear on the books of the treasury, and the proceedings adopted by the Secretary and Comptroller, respectively, are convinced that the utmost loss arising from the delinquency of those concerned in the collection of the revenue from duties on imports and tonnage, for six years, will not exceed one hundred thousand dollars; being some-

what less than one-seventh of one per cent. on the whole amount collected and secured.

The loss sustained in the management of the internal revenue, will exceed this ratio: for reasons of which, some are incident to the nature of the duties and mode of collection; and others, which happened at an early period, attributable to the novelty of the system. This loss by officers commissioned by the President is estimated at fifteen thousand dollars.

The committee have also examined, with attention, the statements of moneys advanced to individuals, on account of current services. This amount is always apparently considerable, and the details are too voluminous to be annexed to this report. No inference can be drawn from them of the balances actually due from the public agents, as the sums advanced always appear to their debt, while the accounts of their expenditures, and their vouchers, which may absorb the whole amount, are either not rendered, or are in a train of settlement in the public offices. It does not appear to the committee, that there is any foundation to conjecture that those persons who have been principally entrusted with considerable sums of money, will be found in arrear. The accounts of the late Secretary of State, Secretary of War, and Purveyor of Public Supplies, have been duly exhibited, and are in their course of settlement in the offices. These accounts have been so far examined as to satisfy the accounting officers of the treasury that no balance will be found due from them. On the whole, after such an examination as they have been enabled to make, the committee beg leave to express their opinion, that the business of the Treasury Department has been conducted with regularity, fidelity, and a regard to economy. That the disbursements of money have been always made pursuant to law; that every attention, consistent with the nature of the business, has been bestowed in removing delinquents from office; in compelling them to account; in securing moneys due from them, and in preventing an improper and unreasonable accumulation of moneys in the

hands of public agents: That the loans effected on account of Government, have been procured upon the most advantageous terms for the public; that the most eligible modes of remittance to Europe have been devised; and, generally, that the financial concerns of the country have been left by the late Secretary in a state of good order and prosperity. [693]

NO. 24

RETRENCHMENT; SPECIFIC APPROPRIATIONS.
MESSAGE (JEFFERSON), 1801⁷¹

December 8, 1801

* * * *

Other circumstances, combined with the increase of numbers, have produced an augmentation of revenue arising from consumption in a ratio far beyond that of population alone; and though the changes in foreign relations now taking place so desirably for the whole world may for a season affect this branch of revenue, yet weighing all probabilities of expense as well as of income, there is reasonable ground of confidence that we may now safely dispense with all the internal taxes, comprehending excise, stamps, auctions, licenses, carriages, and refined sugars, to which the postage on newspapers may be added to facilitate the progress of information, and that the remaining sources of revenue will be sufficient to provide for the support of Government, to pay the interest of the public debts, and to discharge the principals within shorter periods than the laws or the general expectation had contemplated. War, indeed, and untoward events may change this prospect of things and call for expenses which the imposts could not meet; but sound principles will not justify our taxing the industry of our fellow-citizens to accumulate treasure for wars to happen we know not when, and which might not,

⁷¹ First Annual Message of Thomas Jefferson. See also Nos. 18-19, 25-30.

perhaps, happen but from the temptations offered by that treasure.

These views, however, of reducing our [tax] burthens are formed on the expectation that a sensible and at the same time a salutary reduction may take place in our habitual expenditures. For this purpose those of the civil Government, the Army, and Navy will need revisal.⁷²

When we consider that this Government is charged with the external and mutual relations only of these States; that the States themselves have principal care of our persons, our property, and our reputation, constituting the great field of human concerns, we may well doubt whether our organization is not too complicated, too expensive; whether offices and officers have not been multiplied unnecessarily and sometimes injuriously to the service they were meant to promote. I will cause to be laid before you an essay toward a statement of those who, under public employment of various kinds, draw money from the Treasury or from our citizens.

⁷² Gallatin was less optimistic. In a letter containing "some hasty remarks on the message," he said:

"You will also see that I lay less stress on savings on the civil list than you do. Some may be made, but the total amount cannot be great. The new judiciary, the commissioners of loans, the mint, the accountants of the Navy and War Departments, seem to be the principal, if not the only objects of reform. Of the clerks I cannot yet say much: those of the Comptroller and Auditor are less numerous and paid less in proportion than those of the Register and two accountants. Transcribing and common ones are easily obtained; good book-keepers are also everywhere to be found: it is difficult to obtain faithful examining clerks, on whose correctness and fidelity a just settlement of all the accounts depends, and still more difficult to find men of talent. My best clerk next to the principal, and who had twelve hundred dollars, has left me to take one thousand in Philadelphia. Under the present circumstances of this place, we must calculate on paying higher all the inferior officers, principally clerks, than in Philadelphia. Coming all new in the Administration, the heads of Departments must obtain a perfect knowledge of all the details before they can venture on a reform. The number of independent officers attached to the Treasury renders the task still more arduous for me. I assure you that it will take me twelve months before I can thoroughly understand every detail of all those several offices. Current business and the more general and important duties of the office do not permit to learn the lesser details but incidentally and by degrees. Until I know them all I dare not touch the machine."—Gallatin to Jefferson, (received) Nov. 16, 1801, in Gallatin, *Writings*, Vol. 1, pp. 69, 71-72.

Time has not permitted a perfect enumeration, the ramifications of office being too multiplied and remote to be completely traced in a first trial. Among those who are dependent on Executive discretion I have begun the reduction of what was deemed unnecessary. The expenses of diplomatic agency have been considerably diminished. The inspectors of internal revenue who were found to obstruct the accountability of the institution have been discontinued. Several agencies created by Executive authority, on salaries fixed by that also, have been suppressed, and should suggest the expediency of regulating that power by law, so as to subject its exercises to legislative inspection and sanction. Other reformatations of the same kind will be pursued with that caution which is requisite in removing useless things, not to injure what is retained. But the great mass of public offices is established by law, and therefore by law alone can be abolished. Should the Legislature think it expedient to pass this roll in review and try all its parts by the test of public utility, they may be assured of every aid and light which Executive information can yield. Considering the general tendency to multiply offices and dependencies and to increase expense to the ultimate term of burthen which the citizen can bear, it behooves us to avail ourselves of every occasion which presents itself for taking off the surcharge, that it never may be seen here that after leaving to labor the smallest portion of its earnings on which it can subsist, Government shall itself consume the whole residue of what it was instituted to guard.

In our care, too, of the public contributions intrusted to our direction it would be prudent to multiply barriers against their dissipation by appropriating specific sums to every specific purpose susceptible of definition;⁷³ by disallowing all

⁷³ Gallatin was the source of this proposal. "The most important reform I can suggest is that of specific appropriations, to which it would be desirable to add, by abolishing the accountants, an immediate payment from the Treasury to the individuals who are to apply the money, and an immediate accounting of those individuals to the Treasury; in short, to place the War and Navy Departments in relation to the expenditures of money on the same footing on

applications of money varying from the appropriation in object or transcending it in amount; by reducing the undefined field of contingencies and thereby circumscribing discretionary powers over money, and by bringing back to a single department all accountabilities for money, where the examinations may be prompt, efficacious, and uniform.

NO. 25

EXAMINATION OF JEFFERSON'S MESSAGE.
(HAMILTON), 1802⁷⁴

February 3, 1802

The message observes, "that in our care of the public contributions intrusted to our direction, it would be prudent to multiply barriers against the dissipation of public money by appropriating specific sums to every specific purpose, *suscep-*

which, at Mr. Madison's request, that of State has been placed. Enclosed is a short paper containing the principles I would propose, in which you will perceive that the discretionary powers of those Departments are intended to be checked by legal provisions, and not by transferring any discretion to another Department. . . .

* * * *

"OUTLINES FOR SPECIFIC APPROPRIATIONS"

"1. Specific appropriations for each object of a distinct nature, and one to embrace for each Department all contingencies, including therein every *discretionary* expenditure.

"2. Each appropriation to refer to a calendar year, and the surplus remaining unexpended after having satisfied the demands on the appropriation for *that* year to be carried to the surplus fund; that is to say, to cease.

"3. Warrants to issue on the requisition of the proper Department in favor of the person receiving the same, instead of issuing in the names of either the heads of Department or of the Treasurer of the United States.

"4. The accountants to be abolished.

"5. The head of each Department to judge, previous to a settlement of accounts, of the propriety of making advances, and to make requisitions accordingly.

"6. The head of each Department to judge on a settlement of accounts of the propriety of making allowances of a discretionary nature in every case where discretion is not limited by law or uniform usage; in these last cases the Comptroller to judge."—Gallatin to Jefferson, in Gallatin, *Writings*, Vol. 1, pp. 72-73.

⁷⁴Alexander Hamilton, *Works* (Lodge Const. ed.), Vol. 8, pp. 304-12. See also No. 24.

tible of definition; by disallowing all applications of money varying from the appropriation in object or transcending it in amount, by reducing the undefined field of contingencies, and thereby circumscribing discretionary powers over money, and by *bringing back* to a single department all accountabilities for money where the examination may be prompt, efficacious, and uniform. In this recommendation, we can be at no loss to discover additional proof of a deliberate design in the present Chief Magistrate to arraign the former administrations. All these suggestions imply, on their part, either a neglect of, or a defective attention to, the objects recommended. Some of them go further, and insinuate that there had been a departure from correct plans which had before been adopted. The censure intended to be conveyed is as unjust as the conceptions which have dictated it are crude and chimerical. In all matters of this nature, the question turns upon the proper boundaries of the precautions to be observed; how far they ought to go; where they should stop; how much is necessary for security and order; what qualifications of general rules are to be admitted to adapt them to practice and to attain the ends of the public service. It is certainly possible to do too much as [304] well as too little; to embarrass, if not defeat the end intended, by attempting more than is practicable; or to overbalance the good by evils accruing from an excess of regulation. Men of business know this to be the case in the ordinary affairs of life. How much more must it be so in the extensive and complicated concerns of an empire? To reach and not to pass the salutary medium is the province of sound judgment. To miss the point will ever be the lot of those, who, enveloped all their lives in the midst of theory, are constantly seeking for an ideal perfection, which never was and never will be attainable in reality. It is about this medium—not about general principles—that those in power in our government have differed; and to experience, not to the malevolent insinuations of rivals, must be the appeal, whether the one or the other description of persons has

judged most accurately. Yet, discerning men may form no imperfect opinion of the merits of the controversy between them by even a cursory view of the distinctions on which it has turned.

Nothing, for instance, is more just or proper than the position that the Legislature ought to appropriate specific sums, for specific purposes; but nothing is more wild or of more inconvenient tendency, than to attempt to appropriate "a specific sum for each specific purpose, *susceptible of definition*," as the message preposterously recommends. Thus (to take a familiar example) in providing for the transportation of an army, *oats* and *hay* for the subsistence of horses, are each susceptible of a definition, and an estimate, and a precise sum may be appropriated [305] for each separately; yet in the operations of an army, it will often happen that more than a sufficient quantity of the one article may be obtained, and not a sufficient quantity of the other. If the appropriations be distinct, and the officer who is to make the provision be not at liberty to divert the fund from one of these objects to the other (as the doctrine of the message implies), the horses of the army may in such a case starve and its movements be arrested—in some situations, even the army itself may likewise be starved, by a failure of the means of transportation.

If it be said that the inconvenience here suggested may be avoided, by making the appropriations for *forage* generally, and not for the items which compose it separately—the answer is, first, that this, by uniting and blending different things, susceptible each of a precise definition, is an abandonment of the principle of the message; secondly, that it would only be a partial cure for the mischiefs incident to that rigorous principle. It might happen that the badness of roads would injure the wagons of the army more than was anticipated, and so much more, as to exhaust the specific fund appropriated for their repairs; it might also have happened, from various causes, that at an earlier period of the campaign,

the consumption of forage had been less than was calculated, so that there would be a surplus of the fund destined for this object; if, in such a case, the public agent could not transfer that surplus to the repairs of the wagons, the motions of the army might, in this way, be suspended, and in the event, famine and ruin produced. [306]

This analysis might be pursued, so as to prove that similar evils are inseparable from a much more qualified application of the principle in the message, and to demonstrate that nothing more can safely or reasonably be attempted, than to distribute the public expenses, into a certain number of convenient subdivisions or departments; to require from the proper officers, estimates of the items, which are to compose each head of expense; and after examining these with due care, to adapt the appropriations to the respective aggregates,—applying a specific sum to the amount of each great subdivision: the pay of the army; military stores; quartermaster stores, etc., etc. This, with even more detail than could be well executed, has been uniformly done under the past administrations of the present government from the very beginning of its proceedings. More will, in the experiment, be found impracticable and injurious; especially in seasons and situations when the public service demands activity and exertion.

In like manner, the former practice of the government has corresponded with the rule, taken in its true and just sense, of “disallowing all applications of money, varying from the appropriation in object, or transcending it in amount.” It is confidently believed, that whoever shall allege or insinuate to the contrary, may be challenged to point out the instance in which money has been issued from the Treasury for any purpose which was not sanctioned by a regular appropriation, or which exceeded the appropriated amount; or where there was an expenditure of money allowed, that was not strictly [307] within the limits of such an appropriation; except, in-

deed, upon the impracticable idea of minutely separating, and distinguishing the items, which form the aggregate of some general head of expenditure.

It is likewise material to have it well understood that, generally speaking, the distinction between the appropriations for different objects can only be strictly observed at the Treasury itself, which can easily take care that more money shall not go out for any purpose than is authorized by law; and can see that this money is fairly expended by the proper officer in conformity with the general spirit of the appropriation prescribed by the law. But it is in most cases impossible for the officer, charged with a particular branch of the public service, to separate nicely in the details of expenditure, the different funds which may have been placed in his hands. Thus (still drawing our examples from the military department, where the danger of misapplication is always the greatest) if several sums be placed in the hands of the Quartermaster-General, for different objects, he must, of necessity, distribute a large proportion of them among his principal deputies, and these again among subordinate agents. Unless this distribution be pursued through the remotest ramifications, down to the moment of final expenditure, it is evident that it must fail throughout; and it is no less evident that it cannot be so far pursued. But to this, the accountantship only would be an insuperable obstacle; it would require in every, the most inferior, agent, a profound knowledge of accounts, and would impose, both on principals and [308] subordinates, the duty of keeping such a multiplicity of them, as, if even practicable, would exhaust the fund issued for the public service, in mere clerkship. Another most mischievous consequence would ensue. The exigencies of the public service are often so variable, that a public agent would frequently find himself full-handed for one purpose, empty-handed for another; and if forbidden to make a transfer, not only the service would suffer, but an opportunity, with very strong temptation, would be given, to traffic with the public money for private gain; while the

business of the government would be stagnated by the injudicious and absurd impediments of an over-driven caution. Happily, it is not very material that the principle of distinct appropriations for separate objects, should be carried through all the details. The essential ends of it are answered, if it be strictly pursued, in the issuing of money from the Treasury, and if this department be careful that the principal lines of discrimination are not transgressed.

The theory of the message plainly contemplates that in no case shall the *actual money* appertaining to one fund be expended for the purpose of another, though each fund may be sufficient for its object, and though there may be an appropriation for each object. This is another excess of theory, which, with a *full treasury*, would often disable the government from fulfilling its engagements, and from carrying on the public business. To execute this plan consistently with the exigencies of national expenditure would probably require, in ordinary, a triplication of the revenues, or a capital necessary for the [309] whole amount of that expenditure, and would very often lock up from circulation large sums which might be of great importance to the activity of trade and industry. Such are the endless blessings to be expected from the notable schemes of a philosophic *projector*! Strict to a fault where relaxation is necessary; lax to a vice where strictness is essential!

As to "reducing the undefined field of contingencies, and circumscribing discretionary powers over money," observations similar to those which have been already made occur. The term *reducing* implies that the thing must exist in a degree; and indeed it is manifest that all the minute casualties of expenditure, especially in the naval and military departments, cannot be foreseen and defined. The question then must be, Have not the limits been sufficiently narrow for the situation of the government in the scenes through which it has passed, comprehending for a great part of the time Indian wars and foreign hostilities? Certainly, if viewed on a proportionable scale, the extent appears to have been as moderate

as could have been desired, and no blame can justly attach to the administration on this account.

As to "*bringing back* to a single department all accountabilities for money," there never has been a deviation from that system. The department of the Treasury has uniformly preserved a vigilant superintendence over all accountabilities for public money. A particular accountant, indeed, has been appointed in the War and Navy departments, but he has been subordinate to the Treasury Department, which has [310] prescribed regulations for his conduct, and has constantly revised his proceedings. It is true that by his connection with the particular department for which he is accountant, there are cases in which he is to be guided by the directions of the head of that department; but though these directions, if not plainly contrary to the rules prescribed by the Treasury, would exempt him from responsibility, the directions themselves pass under the review of the Treasury, as a check upon the head of the department to which he is attached, and in case of abuse they would serve to establish a responsibility of the principal. To say that this interferes with a prompt examination of accounts, is to affirm that a division of labor is injurious to dispatch, a position contrary to all experience. The fact, without doubt, is that it essentially contributes to dispatch, and that whatever new modification may be adopted, either the accounts of other departments will never keep pace with the current of business in times of activity, or that modification must adhere to the principle of employing distinct organs.

If it be the design to exclude in every case, the intervention of the head of the particular departments, some or all of these evils will follow: The service of that department will suffer by unduly restricting its head, in cases in which he must be the most competent judge; and by obliging him, in order to avoid eventual difficulties, to resort, in the first instance, to another department, less alive than himself to the exigencies of his own, for a cautious and slow, perhaps a re-

luctant acquiescence in arrange- [311] ments which require promptness. If in the spirit of confidence and accommodation, the officers of the Treasury yield a ready compliance with the wishes of the head of such department, they may inadvertently co-operate in measures which they would have disapproved and corrected on a deliberate and impartial revision. If this spirit be not shown, not only the immediate service of the department may be improperly impeded, but sensations unfriendly to the due harmony of the different members of the administration may be engendered. On one side of the dilemma stands collusion, on the other discord.

The existing plan steers a middle and a prudent course; neither fettering too much the heads of the other departments nor relinquishing too far the requisite control of the Treasury. Its opposite supposes all trust may be placed in one department—none in the others. The extravagant jealousy of the overbearing influence of the Treasury Department, which was so conspicuous in the times of the two former secretaries, has of a sudden given way to unlimited confidence! The intention seems to be to surround the brow of their immaculate successor with the collected rays of legislative and executive favor. But vain will be the attempt to add lustre to the dim luminary of a benighted administration!

LUCIUS CRASSUS. [312]

NO. 26

INQUIRY AS TO THE UNAUTHORIZED
DISBURSEMENT OF PUBLIC
MONEY. DEBATE, 1801⁷⁵

House of Representatives, December 14, 1801

Mr. [JOSEPH H.] NICHOLSON [of Maryland] called up the resolution, laid by him on the table, respecting the expenditure of public moneys by Timothy Pickering, Esq., late

⁷⁵ *Annals of Congress*, Vol. 11: 319-24. See also Nos. 18-19, 24, 25, 27-30.

Secretary of State. Mr. N. observed, that some ideas expressed by a gentleman from Massachusetts, when this subject was before the House, had weight with him, and had induced him to modify his motion. It had been very properly, in his opinion, remarked, that such a motion should not point at any particular officer, but that it should be extended to all officers who superintended the disbursements of public money. He had, therefore, prepared another resolution, which, while it embraced his first object, would be seen to be connected with other objects equally interesting, as follows:

“Resolved, That a committee be appointed to inquire and report, whether moneys drawn from the Treasury have been faithfully applied to the objects for which they were appropriated, and whether the same have been regularly accounted for; and to report, likewise, whether any further arrangements are necessary to promote economy, enforce adherence to legislative restrictions, and secure the accountability of persons entrusted with the public money.”

Mr. [JAMES A.] BAYARD [of Delaware] declared his high pleasure at the liberality and candor which characterized the mover of the resolution; which had been manifested on the institution of it, as well as in the modification now offered. The motion, as it now stood, however, was not confined to one department, but embraced the whole. He thought it would be best to confine it to one department; but to give it a more retrospective effect, and to apply it not to Mr. Pickering only, but also to Secretaries of State that preceded him. He believed that, on investigation, it would be found that moneys disbursed had not been expended conformably to the strict [319] letter of appropriations. But such a deviation was the result of necessity. The public service forbade delaying certain measures, for the execution of which competent appropriations had not been made, to the next session of Congress. He believed that the same thing had occurred in other departments. It had been the custom, in cases where money was wanted for one, though appropriated to another, under the same depart-

ment, to take it from the latter and to apply it to the former. This was illegal; but its being the custom palliates it.

Mr. B. could not but approbate the conduct of the gentleman from Maryland. He had, honorably to himself and honorably to Mr. Pickering, declared his conviction that Mr. Pickering had acted like a man of honor and integrity; and that though he had sanctioned departures from the letter of appropriations, yet, that this had been only as he had termed it a technical misapplication of money. For this inquiry, Mr. B. thought there was sufficient cause. The public mind had been agitated. The vilest slanders had been circulated. It had been averred, not merely that Mr. Pickering had violated the appropriation of public moneys, but that he had applied them to his own personal purposes. But, after the praiseworthy candor of the gentleman, he trusted that all false impressions would be removed; and that it would be found that all the noise made, arose from inattention to prescribed appropriations of money; and that the same inattention applied to the other departments.

Mr. B. desired to know the extent of the motion. If confined to the Department of State, embracing all the Secretaries, he would be in favor of it.

Mr. NICHOLSON would answer the gentleman from Delaware, that it was his intention that the motion should apply, as far as it affected the Department of State, not only to Mr. Pickering, but to his predecessors also; and he had so framed it as to include the Departments of War and the Navy, in case the committee saw fit so far to extend their inquiries. The accounts of the Department of State could be easily examined, while those of the War and Navy Departments, from the want of specific appropriations, precluded so precise an investigation. But the committee may examine the subject, and the terms of the resolution gave them authority to pursue their inquiries, if they thought fit, into those departments. They may also go back, if necessary. For himself, Mr. N. had no objection to this. Not that he thought such a measure neces-

sary, as it was well known that the accounts of Mr. Pickering's predecessor had been settled, and that a suit, which had arisen from such settlement, was now depending. He had plainly answered the inquiries of the gentleman, and he hoped satisfactorily.

Mr. [WILLIAM B.] GILES [of Virginia] observed, that he had always been in favor of giving the people the fullest information on the expenditures of public money. It would be recollected that he was among the first to institute an inquiry into the disbursements of the Treasury under this Government. It was [320] true that his efforts were attended with but little success; they had been treated with but little respect; and he might, perhaps, add that they had been treated with some share of disrespect. He rejoiced, however, in the change which had taken place, and he expected that this House would hereafter be as jealous of public disbursements as he had long been.

The disbursement of public treasures excited, and deservedly excited, the national sensibility. The people felt it as all important. He was, therefore, well pleased with the resolution, whose effect would be to inquire into the conduct of all present and past Secretaries. As the whole would be included, it would exclude all party consideration.

He hoped that they were now assembled to legislate for the public good; and that, standing on the ground of truth, all calumny, let it come from whatever quarter, would be dismissed. He felt no ill will to any public officer, but he thought the official conduct of all of them should be tested by facts. He believed there had existed practices dangerous to our happiness, and his remarks were directed against those practices, not against any particular persons. If inconvenience and injury had sprung from the practices, we should find a remedy for them.

Mr. G. hoped that, at the commencement of a new Administration, all the doors of information would be thrown open, that the people might be well informed, and be able to

repel all calumnies that were propagated, and know where real blame attached.

Mr. G. said, he wished to know when the practice alluded to commenced. The House sat here as a board of inquiry into the transactions of the Government, and without respect to any particular man; it was their duty to inquire into the conduct of all. He, therefore, hoped not only that this motion would pass, but that something similar to it would be incorporated in the standing rules of the House, whereby the act of inquiry would be general and a matter of course. If this should be done, the measures of all the departments would pass in review every session, and checks would be sufficiently multiplied to satisfy the public mind.

Mr. [SAMUEL L.] MITCHILL [of New York] professed himself well pleased with the substitute offered to the original motion, which had, in some measure, excited his surprise. When an individual of great probity, and who had long served his country, was pointed at by the original motion, he could not avoid a painful sensation. The mover had wisely resolved, under the influence of such feeling, to modify his motion, and to make it general, instead of particular. Mr. M. did not know how business had been transacted in the departments, but he did know that suspicions and slanders had been levelled at our public officers. It was in the power of the House, if they were unfounded, to disperse them. The House might be considered as the protector of the innocent.

Mr. M. did not believe the gentleman pointed at had been guilty of corruption. He believed [321] what was so called, was an allowable departure from the strict letter of the law, in order to promote the public good.

Mr. [JOHN] BACON [of Massachusetts] said, if he understood the motion, it had nothing to do with the conduct of Mr. Pickering—it not only contained no particular reference to him, but avoided all personal reference to any of the officers. It applied solely to the expenditure of public money. He, therefore, saw no reason for bringing him or any other

person into view. When an inquiry had been made, it would be time enough to approve or condemn the conduct of public agents.

Mr. BAYARD perceived no difference of opinion among gentlemen. All expected in the abstract, as well as in the present case, that the conduct of public officers should be examined, and the result laid before the House. He, however, did not think the statement made by the gentleman from Virginia perfectly correct when he told the House that his endeavors to obtain an inquiry into the state of the Treasury had been treated by a late House with disrespect.

Mr. B. said, his own information might be incorrect, as it was taken principally from the prints of the day; but he would say, that since he had been a member of that House, there had been no case, where an investigation was asked, in which a majority of the House had not sanctioned it without hesitation.

He recollected an investigation made at the instance of the gentleman from Virginia, into the conduct of a former Secretary of the Treasury; that the investigation did proceed; and that the very gentleman had a full opportunity of satisfying his own mind on the correctness of the conduct of that officer. If there had been a case in which a majority of that House had opposed an investigation, it was not within his knowledge. For his own part, he never had opposed, nor never would, the freest investigation of the measures of public agents, whatever Administration had the Government in its hands.

With respect to the contemplated motion announced by the gentleman from Virginia, Mr. B. did not know but it might produce the most serious inconveniences, if not injuries, to the Government. An imperious and irresistible necessity might force your officers to go beyond the limits of an appropriation. Appropriations that are made are usually prospective. They are necessarily, in many cases, imperfect. They may, of course, either exceed or fall short of the object for which they are intended; and you must, to make good the deficiency of one,

draw upon the excess of another. This procedure had been introduced, and had been formed, he believed, into a general practice. He did not know that any department had exceeded its aggregate appropriation; but the redundancy of one appropriation had been made use of to supply the deficiency of another, under the same department. He did not know that any detriment would flow from such procedure. The officer who made the deviation, knew that he did it on his own responsibility, and that his conduct would be strictly scrutinized. From this view of [322] the subject he did not dread the inconvenience suggested.

Mr. B. said, he would illustrate his ideas by stating what had come to his particular knowledge. According to one of the stipulations made between the United States and Spain, a boundary line was to be run between the United States and the possessions of Spain, for which \$60,000 were appropriated. The act of running the line was in execution, unfinished, and our commissioners in the wilderness, when the appropriation run out; and this was during the recess of Congress. What was to be done? Were we to disappoint a foreign Government and stop the whole business? No. There being money appropriated to the department for other purposes, more than was required, the Secretary of State applied it to this purpose.

Mr. B. thought it proper, on this occasion, to state that Mr. Pickering had clearly shown that every dollar of public money that had gone through his hands had been applied to the public service. This information he had from the most authentic source; nor should he here state it were it not entitled to the fullest confidence.

Mr. B. concluded by observing that, in his opinion, the resolution was too broad; it applied to all moneys expended, no matter by whom; it was imperative upon the committee to make the most extensive inquiry. To obviate this difficulty, he would move, if agreeable to the mover of the original resolution, to confine it to the Heads of the Departments.

Mr. BACON thought the resolution stood very well. In-

stances would doubtless occur under every Government that would justify a deviation from the rigid prescription of law. But he was of opinion that it would be time enough to make such remarks as had fallen from gentlemen, when such instances are satisfactorily shown to have occurred.

Mr. GILES was happy in the calm spirit with which the session commenced, and he hoped the same spirit would attend the deliberations of the whole session. He must, however, be permitted to say that the gentleman from Delaware had been inattentive to the course of events, or he would have been more correct in his statement of the circumstances which had attended the case to which he (Mr. G.) alluded.

There was no doubt that after great efforts made by him to obtain an investigation of the official conduct of the Secretary of the Treasury, an inquiry had been made; but the result of that inquiry, as submitted, was far from being satisfactory, and did not embrace many of the material points. The gentleman was incorrect in another statement. He had not, as declared by the gentleman, yielded his assent to the correctness of conduct of the Secretary of the Treasury. The gentleman, doubtless, had the information he gave the House from certain newspapers that he and many other gentlemen were in the habit of reading.

But such authority did not authenticate the information. The fact was otherwise. The in- [323] quiry made had produced different convictions on his mind. From the inquiry then made, which, in its review the House may deem it proper to avail itself of, it would be found that the gentleman then at the head of the Treasury, had been employed for three years in drawing money from Holland, and that on this was founded the Bank of the United States. Mr. G. thought it barely necessary to make this explanation. He was sorry for the necessity of making it on this occasion, which he should not have done but that it was extorted from him by the incorrect remarks of the gentleman from Delaware, which ren-

dered it necessary for him further to say, that he never had been, and never could be satisfied with the then Secretary for breaking down the great barrier of appropriations.

As to the imperious circumstances, mentioned by gentlemen, which compelled a violation of appropriations, he agreed in the necessity which might sometimes exist; but when such a violation occurred, the causes of it ought to be truly imperious, and ought to be stated immediately to Congress, who was the only judge of the propriety of the measure, and not the man who had usurped their decision.

But the deviations are not new; they appeared to be of long standing, from which, in his opinion, great mischief and no good had resulted. He, however, did not wish to enter into a discussion until a report was made. He forbore, therefore, making any further remarks.

Mr. [THOMAS] LOWNDES [of South Carolina] hoped the inquiry would take place; but thought the terms of the resolution too comprehensive. It does not say where the examination shall begin or where terminate. The committee may examine into the conduct of one officer, or every officer. He believed it to be the practice of all deliberative bodies to prescribe definite duties to its committees. He, therefore, hoped that the House would limit the report to certain points, that a definite duty may be required, and a definite report made. The task, unless defined, would be herculean.

Mr. [THOMAS] CLAIBORNE [of Virginia] was surprised at the expression of any sensibility for Mr. Pickering, or any other man; when he read that part of the Constitution that directed that all moneys should be expended under appropriations made by law, and heard gentlemen justify departures from this Constitutional injunction, he was truly astonished. If Mr. Pickering had departed from the directions of the law, to say so was no calumny. The committee proposed to be formed will inquire into all circumstances, and the public officers will be applauded or virtually censured. We are

accountable to the people for the expenditure of their money, and it is proper that our public officers should be accountable to us.

The question was then taken on Mr. NICHOLSON'S motion, without modification, and carried without a division, and a committee of seven members appointed, viz:

Mr. NICHOLSON, Mr. GRISWOLD, Mr. GILES, Mr. [SETH] HASTINGS [of Massachusetts], Mr. [WILLIAM] JONES [of Maryland], Mr. BAYARD, and Mr. [LUCAS] ELMENDORF [of New York]. [324]

NO. 27

DISBURSEMENTS FOR NAVY YARDS AND DOCKS. REPORTS (MITCHILL), 1802⁷⁶

To House of Representatives, March 10, 1802

Mr. [SAMUEL L.] MITCHILL [of New York], from the committee to whom was referred that part of the message of the President of the United States which relates to naval preparations and the establishment of sites for naval purposes, reported in part as follows:

* * * *

A.

The Secretary of the Navy has the honor to submit for the consideration of the President the following observations:

No express provision was made by Congress for establishing navy yards for building the first six frigates directed by law. But as vessels so large cannot be built without first erecting wharves, or extending wharves before erected, both these things were done, and in every instance on private property;

⁷⁶ American State Papers, *Naval Affairs*, Vol. 1, pp. 86-87, 103. See also Nos. 24, 25, 28-30.

"How far the authority given by the Legislature for procuring and establishing sites for naval purposes has been perfectly understood and pursued in the execution admits of some doubt."—Jefferson, First Annual Message, Dec. 8, 1801.

so that the public have now little or no advantage from the expenditure of sums to a considerable amount. The evil, however, did not stop here. The yards connected with the wharves were, in almost every instance, too confined to admit of the convenience of piling away the timber in a manner to prevent the necessity of frequent removals of one piece to get at another, which happened to be first wanted. The expense of this unnecessary kind of labor, arising solely from the want of sufficient room in the yard, amounted to several thousand dollars in building the frigate *United States* at Philadelphia. At Boston and at Baltimore, there is reason to believe this expense was still more considerable. It would not, perhaps, be hazarding too much to say, that the sums lost in improving private property, and in piling and unpling timber for the want of yards sufficiently capacious, would have been nearly sufficient to have procured them for the public, and to have erected wharves and other essential improvements.

But when the building of these frigates commenced, it was not foreseen that the *United States* would so soon want more; nor was the public mind prepared to consider the establishment of a navy as necessary to the honor and safety of the country.

* * * *

In this view of the subject, and believing that it is the truest economy to provide at once permanent yards, which shall be the public property, and which will always be worth to the public the money expended thereon, instead of pursuing the system at first adopted, which, with the experience before us, can only be justified on the ground that the ships, now ordered, are the last to be built by the *United States*, the Secretary of the Navy has had but little difficulty in making up his opinion that the proper course to be pursued is, to make the building yards at Norfolk, Washington, New York, and Portsmouth, public property, and to commence them on a scale as if they were meant to be permanent. And also, the

building yards at Philadelphia and at Boston, notwithstanding the high prices which must be given for the ground.—
April 25, 1800. [87]

BENJAMIN STODDERT, Secretary of the Navy,
to President JOHN ADAMS.

April 27, 1802

Further report of the committee to whom was referred so much of the President's message of December the 8th, as relates to naval sites and naval preparations.

An act was passed on the twenty-fifth of February, one thousand seven hundred and ninety-nine [1 Stat: L., 622], authorizing the expenditure of fifty thousand dollars, by the President, for the construction of *two* docks for the convenience of repairing the public ships and vessels. This law does not appear to have been executed, and the money appropriated to the purpose returned to the general fund.

The committee find that *five* sites for docks and navy yards had been purchased prior to the twelfth day of January, one thousand eight hundred and one, as appears by the report of Benjamin Stoddert, the then Secretary of the Navy, of that date, made to a committee of Congress, to wit: at Portsmouth, Charlestown (Mass.), Philadelphia, Washington, and Norfolk; and that measures had been taken to procure ground at New York for a *sixth* site of a capacious building and dock yard. This purchase, your committee find, was completed some time prior to the third day of March, one thousand eight hundred and one.

* * * *

Whereby the sum of one hundred and thirty-eight thousand and five hundred dollars had been laid out in these purchases, during the latter part of the term of four years preceding the fourth of March, one thousand eight hundred and one.

On the said grounds, the committee find that money had

been expended for buildings and improvements of different kinds, before the fourth day of March, one thousand eight hundred and one, to the following amount:

* * * *

Making an expenditure of the gross sum of sixty thousand five hundred and thirty dollars and ninety-two cents.

The committee has examined, with great care, and cannot find any law authorizing the purchase of any sites for navy yards or buildings; nor any law appropriating money either for their purchase or improvement, prior to the third of March, one thousand eight hundred and one [2 Stat. L., 122]. On that day, it appears by the act making appropriations for the navy of the United States, for the year one thousand eight hundred and one, that, for the *expenses attending six seventy-four gun ships*, and for *completing navy yards, docks, and wharves*, the sum of five hundred thousand dollars was appropriated.

Out of this fund, it appears that the Navy Department has commenced improvements in some of the navy yards, and continued them in others.

Upon the whole, the committee find that, prior to the fourth of March, one thousand eight hundred and one, the sum of one hundred and ninety-nine thousand and thirty dollars and ninety-two cents have been expended in purchasing navy yards and making improvements upon them, without any law authorizing the purchase, or any appropriation of money, either for purchase or improvements. [103]

APPLICATION OF PUBLIC MONEY. REPORT
(NICHOLSON), 1802⁷⁷

To House of Representatives, April 29, 1802

Mr. [JOSEPH H.] NICHOLSON [of Maryland] made the following report:

The committee⁷⁸ appointed "to inquire and report whether

⁷⁷ American State Papers, *Finance*, Vol. 1, pp. 752-57, 764, 816-17; *Annals of Congress*, Vol. 12: 1259-75. See also Nos. 23-26, 29, 30.

⁷⁸ "... The objects of inquiry for your committee are:

"1st. How are moneys drawn out of the Treasury?

"2d. How are they expended?

"3d. How are they accounted for?

"In relation to each object:

"1st. What are the checks provided by law?

"2d. How have these been adhered to?

"3d. Are they sufficient to enforce economy and accountability?

"4th. What improvements can be adopted?

"You may write me a letter asking generally information on those subjects, or if you prefer a less methodical arrangement and to put more pointed queries, I have written some on the next page, which, I believe, embrace all those objects.

* * * *

"Under what checks, founded either on law or usage, are moneys paid out of the Treasury?

"To whom are those moneys paid?

"Under whose control, and what checks, are moneys drawn out of the Treasury expended by the agents or Departments to whom the same may have been advanced?

"What construction has been put on the appropriation laws by the Treasury Department, and by the several agents or Departments to whom moneys are advanced?

"Have moneys been always paid by the Treasury and applied by the agents or Departments in conformity to the laws authorizing expenses and making appropriations for the same?

"To whom and in what manner are the receivers of public moneys accountable?

"In what situation are now the accounts of persons who have received moneys from the Treasury? and where any remain unsettled, what are the causes?

"What is particularly the situation of accounts for moneys advanced to the Secretary of State, or to the War and Navy Departments?

"Are the checks under which public moneys are expended sufficient to enforce a due application to the objects for which they are advanced?

"Can any mode be devised by which more efficient checks, in relation to the public expenditure, shall be adopted, and the accountability of those who re-

moneys drawn from the treasury have been faithfully applied to the objects for which they were appropriated, and whether the same have been regularly accounted for; and to report, likewise, whether any further arrangements are necessary to promote economy, enforce adherence to legislative restrictions, and secure the accountability of persons entrusted with public money;" submit the following report:

In order to ascertain, generally, in what manner and under what checks, moneys were drawn from the Treasury of the United States, and were afterwards expended and accounted for, the committee applied to the Secretary of the Treasury, stating the several objects to which they intended to direct their inquiry; his answers, under date of the second of March and the ninth of April, are annexed to this report; to which, as well as to the statements of the accountants of the War and Navy Departments, on the same subject, they beg leave to refer.

The committee deem it sufficient to state, here, that all public moneys are drawn from the treasury in virtue of warrants signed by the Secretary of the Treasury, and countersigned by the Comptroller, and are paid to the officers or agents, to whom the same are due, or who are entrusted with their application; or, when relating to the War or Navy Departments, they are placed in the hands of the Treasurer, as agent for those Departments, who disburses them on warrants drawn by the Secretary of the Department, and countersigned by the respective accountants.

For the general construction heretofore given by the Treasury Department to the various appropriation laws, the committee refer to the communication made to them by the Secretary of the Treasury, on the second of March, and more particularly, for the construction given to the annual appropriations for the support of the navy and army, respectively,

ceive moneys from the Treasury be better enforced, without embarrassing the public service?"—Jan. 19, 1802. Gallatin to Nicholson, in Gallatin, *Writings*, Vol. 1, pp. 74-76.

they refer to a report made by the late Secretary of the Treasury, on the — day of May, one thousand seven hundred and ninety-six, to the Committee of Ways and Means. From both of these, it appears that the appropriations for the army and navy, respectively, have been considered as constituting but one general fund for each of these objects, although, in most of the laws making appropriations, a variety of heads of expenditure were distinctly specified. If the general construction be correct, it may, perhaps, be said that, in most instances, moneys have been *drawn* from the treasury in the manner prescribed by law. Some irregularities are stated to have occurred, where moneys have been advanced upon the simple application of the Secretary of the Treasury, by letter, without the formality of a warrant, and, sometimes, even without a previous appropriation; but, in these cases, the irregularity has been afterwards covered by subsequent warrants and appropriations, and the committee do not discover that it has been productive of an injurious consequence to the United States. The Secretary of the Treasury, in his communication of the second of March, having expressed a doubt whether the moneys advanced on account of the removal of the seat of Government from Philadelphia to Washington, had been authorized by any previous law, the committee directed their attention to that object, and now offer the result.

The law establishing the permanent and temporary seat of Government (passed on the sixteenth of June [July], in the year seventeen hundred and ninety [1 Stat. L., 129]) provided, "that all offices attached to the seat of Government, should be removed to this district on the first day of December, in the year one thousand eight hundred, by their respective holders," and declared that the necessary expenses of such removal should be defrayed out of the duties on imposts and tonnage. This appropriation is indefinite in its nature, and, perhaps, some contrariety of opinion may exist, as to the extent of the expense it was intended to cover; but the

committee conceive that a strict adherence to the letter of the law would confine the appropriation to the expenses actually incurred in removing the books, papers, records, and furniture, of the respective offices. From the document marked G, hereto annexed, it appears that the sum of fifteen thousand two hundred and ninety-three dollars and twenty-three cents were paid for the transportation of the books, papers, records, and furniture, of the several offices and the furniture of the President; and the sum of thirty-two thousand eight hundred and seventy-two dollars and thirty-four cents for expenses incurred by the officers and clerks, for the removal of themselves and families. In general, the vouchers produced in support of these last mentioned expenses, are the stated accounts, and the declarations of the officers and clerks, to whom the same were allowed. Transcripts of the accounts of the officers only, are annexed, those of the clerks being too numerous to be detailed. From these accounts (which are marked G 1 to G 12, inclusive) it will be seen that the charges consist of travelling expenses, losses on the sale of articles thought too inconvenient to remove, packing, breakage, and transportation of furniture, house rent in Philadelphia, and *extra* expenses after their arrival at the city of Washington. As all the officers and clerks were, at the time, in the service and pay of the Government, and received the full amount of their salaries, exclusive of these extraordinary allowances, and as the act of June, 1790, provided only for defraying the expenses incident to the removal of the offices, the committee are of opinion that this sum of \$32,872 34 was drawn from the treasury and expended without any legal authority.

The manner in which moneys drawn from the treasury, under previous appropriations, have been afterwards applied, presents a subject of inquiry of more difficulty and importance.

The expenses in relation to the civil list, being *chiefly* for salaries, are not otherwise liable to abuse, than in cases where moneys advanced to agents have not been applied to the ob-

jects for which the advance was made, and have not been, afterwards, regularly accounted for. Amongst the subordinate agents, to whom moneys have been advanced for miscellaneous objects, of a civil nature, some appear to be delinquents, and some not to have rendered their accounts, as will be seen by a reference to the document marked D, herewith reported.

The moneys necessary to defray the expenses incident to the intercourse with foreign nations, have, till lately, been paid to the Secretary of State, who used to disburse the same. The accounts of Messrs. Jefferson, Marshall, and Madison, who have, at various periods, filled that appointment, have been settled, and no balance is due thereon. A suit, not yet decided, has been instituted against Mr. Randolph, formerly Secretary of State, for a balance unaccounted for by him. The accounts of Mr. Pickering are not yet finally settled. He remains charged with a sum of \$3,383 20, erroneously paid by him for the freight of a vessel supposed to have been employed by the consul at Tripoli, and with another sum of \$3,289 50, being the balance of an advance made to Samuel Hodgdon, for the purpose of being remitted to Mr. Humphreys, at Madrid, in part of his salary, which Mr. Humphreys did not receive. Both these sums, it is believed, may, and will be recovered from the persons to whom they were respectively advanced. But the principal reason which appears to have prevented an ultimate settlement with him, arises from the circumstance of his not having applied the whole of the money drawn by him from the treasury, to the specific objects for which it was appropriated by law. For the extent and result of this misapplication, the committee refer to the statement marked C, accompanying the communication of the Secretary of the Treasury, under date of the 2d of March. From this statement it appears, that Mr. Pickering drew from the treasury, under the appropriations made "for defraying the expenses incident to the intercourse with foreign nations, for negotiating treaties with the Barbary Powers, and for the contingent expenses of Government,"

the sum of \$63,999 57 more than he applied to those several objects, which, together with the sum of \$14,588 54, gained by him on the purchase of bills of exchange for the use of the Government, form an aggregate of \$78,588 11. The same statement C will show that the whole of this sum was expended by him on objects of a public nature, (as far as the committee can [752] ascertain the fact) but this expenditure having been made from appropriations designed for other objects, by law, the misapplication of the money has prevented the Comptroller of the Treasury from settling his accounts.

Although the committee will not say that there are no cases in which a public officer would be justified in applying moneys appropriated to one object, to expenditures on another, yet they are of opinion that, in every deviation, the necessity for the application ought to be for some obvious benefit to the United States, and, in every such case, a disclosure thereof to Congress ought to be made, at the next session which should immediately thereafter ensue.

The moneys which have been advanced to the several Secretaries of State, have been remitted by them principally to ministers, consuls, and other agents abroad, whose accounts are not yet rendered, (although many of them are of an old date) and the committee cannot say how, or in what manner, the money has been expended.

The advances necessary for defraying the expenses of the military and naval establishments, were formerly made, in part, to individuals who have accounted directly with that department; but since the law of the 16th July, 1798 [1 Stat. L., 610], the whole of the moneys have been paid to the Treasurer, as agent for these two departments, and have been subject to the drafts of the respective Secretaries. The letter of the Secretary of the Treasury, under date of the 9th of April, —, accompanied by sundry abstracts, (marked from A 1 to A 9, inclusive) together with the statements of the two accountants (E, E 1, E 2, E 3, and F, respectively) herewith reported, exhibit the amount advanced, settled, and re-

maining unaccounted for, in each department. From these it appears, that, from the 1st day of January, 1797, to the end of the year 1801, the advances made by the treasury on account of the War Department, have amounted (exclusively of a sum in the hands of the Treasurer) to \$9,846,963 29.

Of which, there have been paid to individuals who have accounted with, or are accountable to, the treasury, a sum of \$1,390,238 22

And there have been paid, by virtue of the warrants of the Secretary of War, or to individuals accountable to the War Department, the sum of 8,456,725 07

Making an aggregate equal to the above sum, of 9,846,963 29

To which is to be added, a balance remaining unaccounted for, on the books of the accountant, on the 1st of January, 1797 1,756,391 36

Making, in the whole, a sum chargeable to the War Department, from the year 1797 to 1801, (both inclusive) of 10,213,116 43

Of which, the accountant has settled and rendered to the treasury, accounts to the amount of \$6,335,923 93; leaving a balance of \$3,877,192 50 unaccounted for, or not yet settled.

The moneys advanced to the Navy Department, from its establishment in 1798, to the 31st March, 1801, exclusively of the sum paid by the treasury to individuals, amount to \$9,981,313 73

Of which sum, accounts have been settled by the accountant, and rendered to the treasury, to the amount of 5,810,661 98

Leaving an unaccounted for, or unsettled balance, of 4,170,651 75

These sums differ in amount, nominally, from those contained in the statement annexed to the letter of the Secretary of the Treasury, of the 2d March, but the difference is explained, and the actual amount proved to be the same in the letter and statements of the 9th of April.

The statements of the accountants, although they exhibit balances apparently unaccounted for, to a large amount, will, likewise, show that accounts have been rendered for a considerable portion, which are in a train of settlement, but not finally closed.

The late hour at which the voluminous documents accompanying this report were received by the committee, (upon the 9th of April) and the labor necessary to investigate such a mass of accounts, and of advances unaccounted for, particularly in the War and Navy Departments, embracing an expenditure of twenty million of dollars, have rendered it impossible for the committee, consistently with their attention to their other duties, to form an opinion as to the manner in which this sum has been expended. But, from the partial view which they have taken, they beg leave to present some facts and principles, which they believe to be worthy of the notice of Congress.

There are two previous requisites which are necessary to justify the expenditure of public money, and, without which, no legal expenditure can be made: First, that the expenditure for the object to which it is applied, should be authorized by law; and, secondly, that an appropriation should have been made to cover that authorized expense. In the War and Navy Departments, this rule does not appear to have been strictly adhered to in all cases; but, for the reasons above assigned, the committee have been unable to ascertain how far it has been departed from. The most prominent instances which have yet presented themselves, are herewith, stated.

By an act passed on the 25th day of February, in the year 1799 [1 Stat. L., 621], an authority was given to the President of the United States to cause to be built six ships of

war, to be armed with and carry not less than, seventy-four guns each, and to build or purchase six sloops of war, to be armed with eighteen guns each. In part of the necessary expenditures for these objects, a sum not exceeding one million of dollars was appropriated by the same law. And by another act, passed on the same day, it was declared that two docks should be erected, in suitable places, under the direction of the President of the United States, for the convenience of repairing the public ships, and the sum of fifty thousand dollars was appropriated for that purpose; and by another act, passed on the same day, the sum of two hundred thousand dollars was appropriated to be laid out in the purchase of growing or other timber, or of lands on which timber is growing, suitable for the navy, and to cause the proper measures to be taken to have the same preserved for the future uses of the navy. Under this authority, only, the then Secretary of the Navy expended the sum of one hundred and thirty-five thousand eight hundred and forty-six dollars and ninety-two cents, in the purchase of six navy yards, at Portsmouth, Charlestown, (Mass.) New York, Philadelphia, Gosport, (Va.) and the city of Washington. For this expenditure, the committee conceive that no authority was given, by law, nor any appropriation made, except for the two docks above mentioned, as the sum of one million of dollars was appropriated by the act of 1799, for building or purchasing the ships only, and the sum of two hundred thousand dollars for the purchase of timber. As public ships of war had been before built under a similar authority, for the use of the United States, at private yards, and as Congress did, at the same time that they authorized the building or purchasing the ships, provide for the erection of *two docks only*, the committee are of opinion that four of the navy yards were purchased without authority, and the money misapplied which was paid for them.

In the War Department, there likewise appears to have been a transaction equally unauthorized. In the year —

[1799]⁷⁹, a pile of buildings was commenced, under the directions of the then Secretary of War, on the banks of the Schuylkill, near the city of Philadelphia, which have since been carried on in a manner highly expensive. These buildings have been called a *Laboratory*, and, although yet in an unfinished state, have already cost the United States one hundred and fifty-two thousand six hundred and eight dollars and five cents, which sum has been paid out of the appropriations heretofore made for the quartermaster's department. The committee are of opinion that this expenditure of money could not be justified at any time, but more particularly at a moment when the United States were borrowing money, at a high rate of interest, to meet objects which the Legislature considered as necessary, and had sanctioned by law.

The committee beg leave, likewise, to refer to an important principle formerly settled by the Executive, and actually practised upon in the War Department, in relation to the expenditure of public money, which they deem improper, in a Government like ours, where taxes cannot be imposed but by public consent, and where moneys arising from those taxes, cannot be disbursed but upon the authority of a law previously passed by the Representatives of the nation. By an act, passed on the 9th of February, in the year 1793 [1 Stat. L., 299], the President is directed to cause the moneys drawn from the treasury, for the purpose of intercourse with foreign nations, to be settled, by causing the same to be accounted for, specifically, in all cases wherein the expenditure thereof may, in his judgment, be [753] made public; and by making a certificate or certificates, or causing the Secretary of State to make a certificate or certificates of the amount of such expenditure, as he may think it advisable not to specify; and such certificates are to be taken as sufficient vouchers for the sums expressed to have been expended. The policy of this law, the committee do not intend to question, but it is clear that it extends only to cases of compensation, for what are

⁷⁹ American State Papers, *Military Affairs*, Vol. 2, p. 476.

usually termed "*secret services*" that may be rendered to the United States in their intercourse with foreign nations. The section above recited has been engrafted into two laws, passed in the respective years of 1798 [Mar. 19, 1798, 1 Stat. L., 541] and 1800 [May 10, 1800, 2 Stat. L., 78], but in every law on the subject, it has been expressly confined to foreign intercourse, and in the act of 1800, is farther limited to the *contingent* expenses only of foreign intercourse. It has not, therefore, been without considerable surprise that the committee have seen the same principle applied to the expenditures of the War Department.

In the instructions given by the Secretary of War to the Accountant of the War Department, in his letter of the 28th of December, 1797, herewith reported and marked L, a rule is positively laid down, that expenditures for secret services, rendered in relation to the duties of the War Department, are to be admitted. And on the 20th day of December, in the year 1799, the Secretary of the Treasury made a report on this subject to the President of the United States, (subjoined and marked M) in which the principle is again recognised as applicable to the Departments of State, War, and Navy. On the subsequent day the President accordingly signed two certificates as vouchers for moneys said to have been expended in relation to the duties of the War Department, which certificates are annexed to this report, and are marked N and O. The committee entertain no doubt as to the illegality of this measure, as it is authorized by no law whatsoever, and they had flattered themselves that the Federal Government required no services of any nature which ought to be concealed from the officers of the treasury, or from the Legislature. They consider these facts as coming properly under the head of expenditures not authorized by law.

Two other cases of exceptionable expenditure in the War Department have been sufficiently examined to warrant a report upon them. The first relates to an appointment conferred by the late President on Uriah Tracey, Esq. in the summer

of the year 1800, while he was a member of the Senate of the United States: The second relates to a payment made, from the contingent fund of the War Department, to Mrs. Ariana French of Georgetown, in the month of July, 1800. Neither of these are very extensive in amount, but both deemed important for the precedents they may hereafter furnish.

It appears, from a document herewith exhibited, and marked P, that Mr. Tracey was appointed "to visit and examine into the actual state of the garrisons, Indian trading houses, factories, &c. in the Northwestern territory, on the Mississippi, and on the frontiers of Tennessee and Georgia," and that Mr. Tracey received for this service the sum of one thousand nine hundred and eighty-five dollars and five cents; seven hundred and fifty-three dollars and five cents being for travelling and other incidental expenses, and twelve hundred and thirty-two dollars for his compensation, from the sixteenth of June to the sixteenth of November, in the year one thousand eight hundred, at eight dollars per day. From the account exhibited by Mr. Tracey for his expenses, it will be seen that, during these five months, he visited Pittsburgh, Presqu' Isle, Niagara, Detroit, and Michillimackinack, but did not fulfil the other objects of his mission.

The committee cannot forbear to remark, that Mr. Tracey's acceptance of this appointment has the appearance, at least, of inconsistency with that part of the constitution which provides that "no person holding an office under the United States shall be a member of either House of Congress." Mr. Tracey was, at the time of receiving the appointment, during the whole of its continuance, and has ever since been, a member of the Senate of the United States; and, from an inspection of the pay roll of the Senate, the committee find that, for the last seventeen days of the five months of his service, under the above appointment, he not only had his expenses borne by the public to a considerable amount, and received likewise eight dollars per day, but that he had at

the same time received, as a member of the Senate, six dollars per day for travelling from Litchfield, in Connecticut, to the seat of Government—a distance of three hundred and forty-four miles—twenty miles being allowed for traveling one day.

James M'Henry, Esq. former Secretary of War, resigned that office, it is believed, in the month of May, 1800, and the document marked R, hereto annexed, shews that, in the month of April preceding, Mrs. Ariana French leased a house to him for one year, to commence from the first of June following; that an award was made between the parties, by which it was declared that Mr. M'Henry should pay to Mrs. French two hundred and eight dollars and ninety-five cents, for damages sustained by her by reason of his not occupying her house agreeably to the contract; and that, in conformity to the opinions of the Secretary of the Treasury and the Secretary of the Navy, and by the direction of the Secretary of War, this sum was paid to Mrs. French, out of the fund for defraying the contingent expenses of the War Department.

Upon the whole, the Committee are of opinion, that considerable sums of public money have been greatly misapplied, and that much expense has been incurred without any legal authority; but, for the reasons before assigned, it has been impossible for them to make a complete investigation. Nor do they believe that an investigation entirely satisfactory can be made, unless the House should think proper to appoint a committee for this purpose, to sit during the recess, with directions to make a report to the next session of Congress.

The committee deem it their duty to observe, that appropriations for the contingencies of the War and Navy Departments are, at all times, liable to abuses, not only from, the very large sums usually appropriated therefor, but, also, from the impracticability of specifying by law, the precise objects to which such sums are applicable; and the committee are of opinion, that giving publicity to the accounts of the expenditures of moneys appropriated for contingencies, would

have the most direct tendency to correct the latitude of construction formerly exercised in that respect, by the heads of those Departments, to promote economy in, and attach a proper degree of confidence to, the future proceedings in those Departments. And the committee can discern no possible inconvenience in a disclosure of that nature, since they believe that there is no necessity nor propriety for applying the principle of secret service money to either of those Departments, and at least, it ought to be so considered, until it should be otherwise determined by law.

The committee are, therefore, of opinion, that a clause to this effect ought to be inserted in the bill already reported by them, respecting the accountability of public officers.

For other arrangements which appear to be necessary "to promote economy, enforce adherence to legislative restrictions, and secure the accountability of persons entrusted with public money," they refer to the bill reported by them during the present session, to provide for the due application of public money, and to secure the accountability of persons entrusted therewith, and also to the communication of the Secretary of the Treasury, made to them on the 2d of March last.

All which is respectfully submitted.

I this morning submitted to the committee, appointed to investigate the state of the Treasury Department, &c. a proposition that the committee should direct their inquiries to the several particular objects contained in the annexed statement. This proposition was agreed to, and I have been desired by the committee to enclose it to you, for the purpose of obtaining from you such information as you may be able to furnish, in answer to these inquiries. It may not, perhaps, be in your power *immediately* to give the whole information required, but it is expected that you will transmit it, from time to time, as it can be prepared, keeping in view the necessity of all possible despatch. In the interim, it is the intention of the committee to call at the treasury office, at convenient periods,

in order to inspect the books of the Department, and the accounts of those persons who have been entrusted with the expenditure of public money.—January 21, 1802. [754]

JOSEPH H. NICHOLSON,
to ALBERT GALLATIN, Secretary of the Treasury.

Objects of inquiry submitted by the chairman, and agreed to by the committee appointed "to inquire and report whether moneys drawn from the treasury have been faithfully applied to the objects for which they were appropriated, and whether the same have been regularly accounted for, and to report, likewise, whether any further arrangements are necessary to promote economy, enforce adherence to legislative restrictions, and secure the accountability of persons entrusted with public money.

OBJECTS OF INQUIRY GENERALLY.

1. How are moneys drawn out of the treasury?
2. How are they expended?
3. How are they accounted for?

MORE PARTICULAR OBJECTS OF INQUIRY.

1. Under what checks, founded either on law or usage, are moneys paid out of the treasury?
2. To whom are these moneys paid?
3. Under whose control, and under what checks, are moneys drawn out of the treasury—expended by the agents or departments to whom the same may have been advanced?
4. What construction has been given to the appropriation laws by the Treasury Department, and by the several agents or departments to whom moneys have been advanced?
5. Have moneys always been paid by the treasury, and applied by the agents or departments in conformity to the laws authorizing expenses and making appropriations for the same?

6. To whom, and in what manner, are the receivers of public moneys accountable?

7. In what situation are the accounts of persons at this time, who have received moneys from the treasury, and where any of those accounts remain unsettled, what are the causes?

8. What is, particularly, the situation of accounts for moneys advanced to the Secretary of State, or to the War and Navy Departments?

9. Are the checks, under which public moneys are expended, sufficient to enforce a due application to the objects for which they are advanced?

10. Can any mode be devised by which more efficient checks, in relation to the public expenditure, may be adopted, and the accountability of those who receive moneys from the treasury be more effectually secured, without embarrassing the public service?

I have the honor to enclose an answer to the queries proposed in your letter of the 21st January last. The statement of balances due by individuals had been prepared as they stood on the 30th June last; but, having been enabled to obtain them, since, as they stood on the 31st December last, that statement is delayed for two or three days longer, in order to give time to transcribe several marginal notes.—March 2, 1802.

ALBERT H. GALLATIN, Secretary of the Treasury,
to JOSEPH H. NICHOLSON.

In pursuance of the request of the Committee of Investigation, contained in the letter of their chairman, of the 21st day of January last, the Secretary of the Treasury respectfully submits to the consideration of the Committee, the following facts, observations, and statements:

By the constitution it is provided that "no money shall be

drawn from the treasury but in consequence of appropriations made by law." By the act to establish the Treasury Department it is enacted that the Secretary of the Treasury shall grant, under certain limitations, all warrants for moneys, to be issued from the treasury, in pursuance of appropriations by law; and that the treasurer shall disburse the moneys of the United States, "upon warrants drawn by the Secretary of the Treasury, countersigned by the Comptroller, recorded by the Register, and not otherwise."

Although the construction given by the Treasury Department to appropriation laws, may not have been universally uniform, yet it seems to have been generally understood, that the whole of the moneys, appropriated for the annual support of the army and navy, respectively, were to be considered as making but one general appropriation for each of those two objects; and that the sums, thus appropriated, were indiscriminately applicable to every distinct object of expenditure embraced under those two general heads.

The appropriations for the Indian department, and those made generally for fortifications, have, also, been mostly blended with those of the War Department. But it seems, though it is difficult to reduce the practice, heretofore established, to any uniform and certain rule, that the appropriations, in relation to the purchase of cannon, arms, ammunition, and military stores, to the purchase or leasing of foundries and armories, and to the fortifications of certain designated harbors, and, also, those in relation to the purchase of land with growing timber, or of timber, to the erecting of two docks, to the purchase or building of twelve vessels, to building and equipping three ships, not less than thirty-two guns, to the building of ten galleys, to the building six sloops of war, and six seventy-four gun ships, to the safe keeping of French prisoners, as well as those respectively made during the last session of Congress, for completing six seventy-four gun ships and the public navy yards, docks, and wharves, and for erecting marine barracks, have been considered as distinct

from each other, and from all other made in relation to the army and navy, respectively.

The appropriations made in relation to the public debt, to the civil department, to domestic expenses of a miscellaneous nature, (such as the mint establishment, light-houses, census, &c.) and to foreign expenses, have been generally considered as constituting, for each distinct object of expenditure, embraced under each of those general heads, a specific distinct appropriation, the amount of which was applicable only to that specific object for which it was appropriated.

If the construction of appropriation laws, adopted by the Treasury Department, shall be considered as having been correct, it is believed that moneys may be said to have been *drawn from the treasury* in the manner prescribed by law, only in consequence of appropriations made by law. The only object of expenditure within the knowledge of the Secretary, which may, perhaps, be excepted, is that which relates to the removal of the seat of Government. An examination of the appropriation books, kept in the offices of the Secretary and Comptroller, will give complete information on that part of the inquiry. But the Secretary here begs leave to state, that, having thought it his duty not to innovate in the usual practice, except in cases where the laws appeared to him not to admit of any doubt, his having conformed, in doubtful cases, to the construction heretofore adopted, is not to be considered as expressing an opinion in favor of the correctness of such constructions; but a custom had, till lately, prevailed, to *pay moneys out of the treasury*, on a simple letter, addressed from the Secretary to the Treasurer, which payments have, *afterwards*, been covered by warrants, instead of being grounded, according to law, on those warrants. And, in some instances, moneys have been thus informally paid by the Treasurer, or advanced by the Bank of the United States, [755] before an appropriation had been made, by law, to cover the expense for which the money had thus been advanced. In every such instance, the payment has been author-

ized by a subsequent appropriation, and covered by a warrant, grounded on the appropriation. It must, also, be observed, that, in some instances, moneys are advanced by the collectors of the revenue, out of the public moneys in their hands, and before the same have been drawn in the treasury. The two principal objects of expenditure, to which this exception to the general rule applies, are the expenses incident to the courts of the United States, other than those for salary, namely, those for jurors, witnesses, fees, safe-keeping of prisoners, and contingencies, which are advanced by the collectors of the customs, to the marshals, and those incident to the ordinary support and repairs of light-houses, buoys, and piers, which are, also, generally defrayed out of the public moneys, in their hands, by those collectors, or other revenue officers, under whose superintendence those establishments are placed. In those instances warrants issue as if the moneys expended had been previously drawn into the treasury, and, afterwards, paid out of the same, to the revenue officers, in order to enable them to defray the expense.

All warrants regularly granted by the Secretary of the Treasury, on the treasurer, for the disbursement of public moneys, issue, either in payment of a balance actually due, or in advance; in the first case, they are drawn in pursuance of a settled account, certified by the comptroller; in the last case, they rest on the authorization of that particular department who has the control of the object of expenditure to which they refer.

The payments on account of the compensations of the members of the Senate, and of the contingent expenses of that body, are made, on his requisition, to the Secretary of the Senate; those on account of the compensation of the members of the House of Representatives, on his requisition, to the Speaker of the House; those on account of the contingent expenses of the House, in the same manner, to the Clerk of the House.

The payments on account of the official contingent ex-

penses of the several Departments, are made at the requisition, and are, afterwards, under the control of the head of each Department, respectively; those on account of the expenses relative to the courts of the United States, other than those for salary, are made on the requisition of, and to, the marshals.

The payments on account of the mint are made to the treasurer thereof, on the requisition of the Director; those on account of invalid pensions, to the several commissioners of loans, or other agents, on the requisition of the Secretary of War.

The greater part of all other payments, in relation to the civil list, and to miscellaneous domestic expenses of a civil nature, as they are made only after the amount has become due, and the account has been settled, never can be liable to abuse. All other payments, whatever, are, generally, made in advance, and in the following manner:

1. Those on account of the interest on the whole of the public debt, of the annual reimbursement of the principal of the six per cent, and deferred stocks, and of the instalments of the Dutch debt, are made by the Secretary of the Treasury, as follow, viz: Those on account of the interest and principal of the Dutch debt, to the commissioners of the United States, at Amsterdam; those on account of the interest and reimbursement of the domestic debt, standing on the books of the treasury, to the Bank of the United States; those on account of the interest and reimbursement of the same debt, standing on the books of the several commissioners of loans, to the said commissioners, respectively.

The advances to the commissioners in Holland are made, from time to time, by remittances, purchased, heretofore, by the several cashiers of the Bank of the United States; and the commissioners render their accounts, annually, to the treasury. Those to the bank and commissioners of loans, are made quarterly, and to the amount ascertained to be due to the creditors, on the respective books of the treasury, and

commissioners. The commissioners of loans render their accounts to the treasury, quarterly; and as the dividends, which remain unclaimed for nine months, are payable only at this treasury, such unclaimed amount is quarterly deducted from the advances which, otherwise, should be made to the commissioners, and is paid to the bank. From this arrangement it results, that the accounts of the commissioners of loans uniformly exhibit a considerable apparent balance charged to them, and which consists, partly, of the dividends paid by them during the six preceding months, and not yet accounted for, and partly of the sums necessary to pay the outstanding dividends. The accounts with the Bank of the United States, for advances and payments of interest and reimbursement of the domestic debt, not having been settled since the year 1797, they exhibit an apparent balance against the bank of more than six millions of dollars, the whole of which, however, has been paid by them, with the exception of the accumulated unclaimed dividends, the amount of which is not ascertained.

It is here proper to add, in relation to the other payments on account of the public debt, that those for interest on the temporary loans obtained from the bank, are made as the same become due, quarterly or semi-annually, in pursuance of accounts settled and certified by the comptroller; those for the principal of the same loans, occasionally, and at the discretion of the Secretary of the Treasury, as the situation of the treasury may permit; and that those for purchase of the public debt, or in payment of any part of the same, which may be payable at the will of the United States, but is not actually demandable by the creditors, are under the exclusive control of the commissioners of the sinking fund.

No abuse is supposed to have taken place, in relation to the expenditure of the advances made, for the purpose of paying either the interest or principal of any part of the public debt. All the agents are immediately accountable, and generally account regularly, to the treasury. The whole amount of balances, due on that account, to the United States,

for moneys not accounted for, is only 3,393 dollars and 49 cents.

2. The advances for the War and Navy Departments are uniformly made on the requisition of the Secretaries of War and of the Navy, respectively, to the Treasurer of the United States, who becomes thereby treasurer of each department, and disburses the moneys, thus placed in his hands, according to law, on warrants signed by the Secretary, and countersigned by the accountant of each Department, respectively. The moneys thus advanced by the treasury, are charged, in fact, to the proper department, in accounts, opened in the names of the accountants of the same. Individuals who receive moneys from the treasurer, by virtue of warrants of either of those two Departments, are accountable to the accountants, who settle provisionally those subordinate accounts, and account themselves, quarterly, to the treasury. The credits they claim, embrace, therefore, all those to which individuals, accountable to them, were entitled, and the whole is ultimately adjusted and settled by the auditor and comptroller, in the same manner as all other accounts.

3. The advances for all expenses incident to the intercourse with foreign nations, including the diplomatic establishment, the moneys expended in relation to the Barbary Powers, those applied to the relief of seamen abroad, those advanced in the prosecution of claims, for property captured by the beligerent Powers, the salaries of agents, and other officers abroad and at home, appointed under, or in relation to, certain articles of treaties with foreign nations, as well as all other expenses, incidental to the execution of those treaties, are made on the requisition of the Secretary of State, who has that class of expenditures under his control. The moneys thus advanced are paid partly to the purveyor of supplies, and to some other agents, who are accountable to the treasury; but, they have, till lately, been made principally to the Secretary of State himself, who disbursed the same, and became personally accountable for the amount. The individuals, to

whom he advanced the money, used to render their accounts to him; and his account, in some instances, embraced those subordinate accounts, but generally exhibited only the disbursements made by him to those individuals, who were thereupon charged with the proper amount, and became accountable to the treasury. But, by an arrangement made in the month of June last, the Secretary of State no longer receives any money; the sums required for that part of the public service are paid immediately by the treasury, to the agents or other individuals, to whom they were formerly advanced by him; and these are at once charged and made accountable to the treasury. Those agents are, principally, the purveyor of public supplies, at Philadelphia, and bankers in England and Holland.

From this statement, it is evident that the branches of the public expenditure, which have been most liable to abuse, are those under the control of the three last mentioned Departments—the discretion of the head of the Department having been the only check, in relation both to the legality of the expense, and to the amount expended under [756] each appropriation, and the accountability of the receivers of public moneys being too remote from the comptroller, who, by law, can, alone, ultimately settle and decide upon all accounts whatever. It has not been the duty of the Secretary, nor would the attention due to the business immediately entrusted to his care, have permitted him to investigate the accounts, relative to past transactions, in either of the War or Navy Departments. It is, however, believed that the most easy mode of investigation will be, by a recurrence to the books and accounts of the accountants themselves; and, in order to facilitate the inquiries of the committee, an account marked A, is annexed, which exhibits the sums advanced to each of those two Departments, from the first day of January, 1797, to the 31st day of December, 1801, under each head of appropriation, for which a distinct account has been opened in the books of the Secretary and Comptroller of the treasury, and

by virtue of which, the warrants granted by them, for the moneys thus advanced, have been issued.

In relation to the accounts under the control of the Department of State, those of Mr. Jefferson have been settled since the 31st December, in the year 1793, and no balance is due thereon. Those of Mr. Randolph have been adjusted, and a suit instituted ever since the year 1797, for a balance of about 51,000 dollars, which, notwithstanding the strenuous efforts of the Comptroller, to bring it to issue, has not yet been decided. The difficulty to recover balances due to the United States, being one of the great impediments to the public service, extracts of the correspondence of the district attorney of Virginia, on that subject, marked B, are annexed. The accounts of Mr. Marshall have been rendered, but are not yet settled. Those of the present Secretary of State, for the short time during which he received public moneys, are settled, and no balance is due thereon. Those of Mr. Pickering have been rendered, and his general account has been stated by the auditor. By this it appears, that, with the exception of two items suspended for want of vouchers, or disputed by the parties, he has accounted for all the public moneys received by him, so far as to show that the whole has been applied for public purposes. But as he has only designated the persons to whom the moneys were advanced by him, without specifying, under the respective appropriations, the objects for which they were thus advanced, it is not practicable to state with precision, how much has been paid by him, under each distinct head of expenditure. It is, however, evident, from the account itself, and from a sketch stated by Mr. Kimbal, late clerk in his department, that, although he drew the moneys from the treasury, under distinct appropriations, he did not sufficiently attend to these, in the application of the money, but has, in many instances, applied the sums drawn under one head, to another head of expenditure, and has, therefore, in some cases, spent less, and in others more, than was authorized by law. The statement

C shows the excess, which it appears has thus been expended, so far as the same can be ascertained. The greater part of the sums, thus expended for certain objects, beyond the sums he had drawn from the treasury, for those objects, is covered by appropriations, made principally after the expenditure had taken place; and in order to enable the Comptroller to pass the whole of the accounts, some further appropriations are still necessary. In relation to accounts of every description, the statement D is annexed, which exhibits the balances which appeared due on the 31st day of December last, on the treasury books, by all the receivers of public moneys, arranged under distinct classes, and accompanied with notes, in order to distinguish those cases where the balance is merely nominal, from those where it is either ascertained, or expected to be actually due.

The most apparent defects in the present arrangement, seem to be, in relation to the drawing public moneys from the treasury, a want of specification in the several appropriations, defined by law with such precision, as not to leave it in the power of the Secretary of the Treasury to affix an arbitrary construction, and to blend together objects, which might be kept distinct, without any inconvenience; in relation to the expenditure of moneys, drawn from the treasury, the want of a proper check in the War and Navy Departments, which might prevent the expenditure of money, either for an object unauthorized by law, or beyond the sums appropriated by law; and in relation to the accountability of persons entrusted with public moneys, the delay and other inconveniences arising from the manner in which the moneys advanced for those two Departments are now accounted for.

The following provisions are respectfully submitted as necessary and sufficient for those several objects, viz:

In relation to the first:

1st. That the accumulated balances of appropriations for the War and Navy Departments, made before the present

year, and remaining unexpended, shall, henceforth, cease and determine, except so much thereof as may be necessary to defray any expense, incurred before the present year.

2d. That it be enacted, by a general law, that every distinct sum, appropriated by any law, for an object distinctly specified in the law, shall be applicable only to that object; but as laws can be executed only so far as they are practicable, and unavoidable deviations will promote a general relaxation, it will be expedient, in the several appropriation laws, especially for the War and Navy Departments, not to subdivide the appropriations, beyond what is substantially useful and necessary.

In relation to the two last objects, it is proposed, generally, to place the expenses which relate to the War and Navy Departments, precisely on the same footing now established for those under the control of the Department of State, and that the arrangement now existing for these last, be made permanent. This may be done by providing,

1st. That the moneys to be paid, on account of the expenses, under the control of those three Departments, shall neither be paid to the head of the Department, nor placed, subject to his drafts or warrants, in the hands of the treasurer, or any other agent, but shall be paid, like all other public moneys either to the individuals to whom the same may be due, or to the proper agents, or contractors, who are to be accountable for the same. The moneys paid in advance, to continue, as usual, to be disbursed by the treasury, on the requisition only of the head of the proper department.

2d. That the individuals to whom moneys may be advanced, on account of any of the abovementioned expenses, shall, hereafter, as all other receivers of public moneys, be accountable immediately to the accounting officers of the Treasury Department; that it shall be the duty of every receiver of public moneys to apply the same only to the object for which they shall have been advanced, and to

render quarterly accounts, if residing within the United States, and at least annually, if abroad, of his expenditures, to the accounting officers.

3d. That the offices of accountant of the War and Navy Departments be abolished, and, in lieu thereof, an additional auditor be substituted, whose duty it shall be to examine, and state all the accounts, generally, of receivers of public moneys, other than those of persons employed in the collection of revenue; the said accounts to be, as usual, settled and finally decided upon by the Comptroller, or, (if it shall be thought more eligible to trust to actual experience, for a proper and equal distribution of duties between the two auditors) that the said additional auditor shall examine and state accounts of such description as shall be assigned to him by the Secretary of the Treasury.

4th. That no credit shall be allowed by the accounting officers, in the settlement of the accounts of individuals, except for expenses authorized by law, and to the amount appropriated for the same.

5th. That it shall be the duty of the auditors, respectively, to state, quarterly, all accounts rendered to them, so far as the same can be supported by vouchers, making, at the end of each quarter, a new statement in relation to any account on which a new debit or credit may be charged or allowed.—
March 1, 1802. [757]

ALBERT GALLATIN, Secretary of the Treasury.

* * * *

C.

* * * *

As connected with this subject, and showing in what manner the respective duties of the Secretary of War and of the accountant seem to have been understood, the transcript of a letter from the Secretary to the accountant, written on the 28th December, 1797, an official copy of which is in this office, is, herewith, transmitted.

On this letter it appears necessary for me explicitly to state,

that I consider one of the principles there assumed as altogether inadmissible. The paragraph to which I allude is this: "And for expenditures of such a nature as are not to be made public, the President will, from time to time, direct certificates to be made, which are to serve in lieu of the vouchers ordinarily required in the settlement of accounts."

A similar power is, by law, given to the President, in relation to the expenses of intercourse with foreign nations; but this is the only object for which moneys may be accounted for in that manner.

The law does not, in any other instance, recognise or appropriate for secret service; nor is there any power vested in the President to substitute, in the settlement of a war or any other account, (foreign intercourse excepted) his certificate to the act of the Legislature necessary to authorize the expense, and to the vouchers requisite to substantiate the charge.—
April 9, 1802. [764]

ALBERT GALLATIN, Secretary of the Treasury,
to JOSEPH H. NICHOLSON.

* * * *

L.

The President of the United States has maturely considered the questions relative to your official powers and duties, arising out of the facts stated to you in my letter of the 11th November ultimo, with your explanations, and has directed me to communicate, for your government, his decision therein.

1. The Secretary of War is the sole judge of the time and manner of making disbursements of moneys advanced to the Treasurer of the United States, by warrants from the Department of the Treasury, but the said Secretary of War is responsible that all disbursements shall be for objects justly chargeable under the heads of appropriations for which the advances have been made.

2. The Accountant of the War Department, is, in no respect, comptroller of the disbursements ordered by the

Secretary of War. The power of countersigning the warrants of the Secretary was given for the purpose of subjecting the said disbursements to a regular course of examination and settlement, and not for the purpose of restraining advances. [816]

3. The Accountant of the War Department is a sub-auditor; his duties are confined to the *settlement of accounts*; in the exercise of which duties he is not subject to the control of the Secretary of War.

4. The Secretary of War, under such restrictions as are prescribed by the President of the United States, and understood by the said Secretary, is authorized to determine the rules of compensation and allowance for services of an incidental nature, where no rule has been established by Congress; and, for expenditures of such a nature as are not to be made public, the President will, from time to time, direct certificates to be made, which are to serve in lieu of the vouchers ordinarily required in the settlement of accounts.

5. The Accountant of the War Department is responsible, in the first instance, to the Auditor, and, finally, to the Comptroller of the Treasury, for observing proper rules and principles, in the settlement of accounts; in cases where a diversity of opinion is found to exist, the opinion of the Comptroller of the Treasury is to prevail, and be conclusive.

Persons charged with public moneys, and held accountable in the books of your office, are to be allowed to appeal from your decisions, to the officers of the treasury, in the course above prescribed.—December 28, 1797.

JAMES M'HENRY, Secretary of War,
to WILLIAM SIMMONS, Accountant of the War Department.

M.

... by an act of Congress, passed on the 9th of February, 1793, it is declared "that, in all cases where any sum or sums of money have been issued, or shall hereafter issue from the treasury, for the purposes of intercourse or treaty with

foreign nations, in pursuance of any law, the President shall be, and he is hereby, authorized to cause the same to be duly settled, annually, with the accounting officers of the treasury, in manner following, that is to say: by causing the same to be accounted for, specifically, in all instances wherein the expenditure thereof may, in his judgment, be made public, or by making a certificate or certificates, or causing the Secretary of State to make a certificate of the amount of such expenditures as he may think it advisable not to specify; and every such certificate shall be deemed a sufficient voucher for the sum or sums therein expressed to have been expended."

The foregoing express provision, by law, contains, as is believed, a safe and proper rule for controlling the expenditure of all moneys disbursed for secret purposes; it is impossible to conduct the business of the Departments of State, War, and Navy, without sometimes incurring expense, the precise objects of which cannot safely be disclosed; and it is, however, at the same time necessary, that such expenditures should be made in a manner best calculated to shield the officers of Government from odium or suspicion.

To reconcile these objects, in the best manner possible, and to preserve the means of ascertaining the aggregate amount of secret disbursements, on account of the Government, it is respectfully submitted, as the opinion of the Secretary, that all such expenditures ought to be ascertained to the satisfaction of the President, and certified according to the form hereto annexed.—December 20, 1799.

OLIVER WOLCOTT, Secretary of the Treasury,
to President JOHN ADAMS.

By _____, President of the United States

It is hereby declared that, by the representation of the Secretary of the Department of _____, it appears, to my satisfaction, that _____ have been disbursed for objects in relation to the duties of the said Department, and to promote the interest of the United States; the specifi-

cation of which disbursements, at this time, is deemed inexpedient.

This certificate is, therefore, granted to serve as a voucher for the sum aforementioned, which is (here insert the words "*to be paid,*" or the words "*to be passed to the credit of,*" also the name) by the proper officer or officers of the Government of the United States.

In witness whereof, I have signed these presents, this _____ day of _____, and caused the same to be countersigned by the Secretary of _____, and the seal of said Department to be annexed. [817]

NO. 29

DISBURSEMENT OF PUBLIC MONEY.
DEBATE, 1802⁸⁰

House of Representatives, May 1, 1802

Mr. [ROGER] GRISWOLD [of Connecticut].—Notwithstanding the late period of the session, I feel it my duty to call the attention of the House to a subject of some importance, and which has not, during the session, met with any particular consideration. That subject is, the report of the select committee, who were appointed to investigate, "whether moneys drawn from the Treasury have been applied to the objects for which they were appropriated."

I should consider myself inexcusable for introducing this subject at the present time, when the session is to continue only one day longer, and the usual hour of adjournment has nearly arrived, if it had been possible to have called it up at an earlier hour; but it is well known that, although the committee were appointed at a very early period of the session, they made their report only the day before yesterday, and it has appeared on our tables in a situation to be examined for the first time this morning. [1255]

⁸⁰ *Annals of Congress*, Vol. 11: 1255-85. See also Nos. 23-28, 30.

It may, perhaps, be inquired that, being a member of the committee, if it was my intention to bring the report under discussion, it would not have been my duty to have submitted some motion to the House as soon as the report was first read at the Clerk's table; but if it had been possible for me to have submitted a motion, it is obvious from the length of the report, and the detail which it contains, that it would have been impossible for gentlemen to have understood the subject without having the report in some shape before them. But the fact really is, that, although a member of the committee, I have known little more about the report than any other member of the House.

The course which this subject took in the committee, it may be necessary, in a very concise manner, to explain. The whole committee attended the investigations at the Executive offices, but the minority had no knowledge of the intentions of the majority; and, for one, I declare that, although I attended the committee very regularly in their public investigations, yet I did not receive the smallest hint of the intentions of the majority—what report they intended to make, or whether any, during the present session, until two days before the report was made to the House; on which day the committee were called together an hour before the meeting of the House, to agree upon a report. When we met, the report was presented to us, already drawn up in its present shape, and we were requested to hear it read, to make our objections or give our approbation. This was certainly an unusual and a very short mode of making a report, upon a subject which had been deemed sufficiently important to engage the attention of the committee for nearly five months. We accordingly had the report read, and although it was impossible, from this hasty examination, to go into much detail, yet a single reading was sufficient to enable us to discover that the report was excessively erroneous. Some of the errors were mentioned, and, for reasons, which I will not take up the time of the House at this time to detail, the

subject was postponed until the next morning, although the majority had designed to make their report on that day. In the mean time, the minority requested copies of the report, that they might deliberately examine every part of it, and compare it with their recollection of facts. These copies it was agreed should be furnished, but, in consequence, I presume, of the length of the report, they were not procured, and the minority had no opportunity of examining the report with any attention. When the committee met the next morning, the subject was again postponed, in consequence of a discussion upon one detached part of the report, and the report was not of course delivered to the House until the morning following, when it appeared in its original form; I mean in every essential point. I have mentioned these circumstances because I think it important that they should be known, and because I believe they will satisfy the House that it has not been in the power of the minority of the committee to enter into a discussion of the report, until they obtained, in common with the [1256] other members of the House, the printed copies this morning.

I will likewise add a further fact, whilst I am explaining the proceedings of the committee. It is: that three members of the seven who composed the committee, were decidedly opposed to the report in all its partial parts; and the report must be considered as the act of a bare majority. The House will be satisfied, I trust, by the reasons which I have stated, that it has not been my fault that the motion which I am now about to submit has been delayed to this late hour.

My motion is, that the report be recommitted to a select committee, for the purpose of correcting the many errors which it contains; and I must be indulged in stating, as concisely as possible, some of the reasons on which I ground this motion.

The report is evidently calculated to impress the public mind with unfavorable sentiments respecting the conduct of the late Administration, and particularly the conduct of

several individuals who have been, and still are, held in high estimation by a numerous class of well-informed and virtuous citizens. This impression ought not to be made, because the real facts, which exist in relation to every transaction to which the report alludes, can warrant no such impression.

The report, I shall attempt to show, is excessively erroneous, both in the facts and the inferences which it states. I wish not, however, to be understood, by any remarks which I may make, to implicate the committee; I have nothing to do with the motives which regulated their conduct; I presume they were virtuous, and that when they calmly examine their own proceedings, they will readily consent to correct their errors.

It will be impossible at this time, to go as fully into an examination of the report as I could wish, and I shall be compelled, from the peculiar situation of the house, to confine my remarks to those parts which are the most prominent.

The first object which has received the animadversion of the committee, is the expense of removing the Executive officers and their clerks from Philadelphia to the seat of Government. This expense, which amounted to \$32,872 34, the committee say, "was drawn from the Treasury and expended without any legal authority." This is a strong expression, and ought to be very clearly supported, to justify the committee in uttering it. Let us, however, examine the authority under which the money was drawn from the Treasury, in consequence of a decision of the accounting officers of that department, and it will not be doubted but that the law has made it the duty of those officers to decide this very question; nor will it be contended that the decisions of the accounting officers, fairly and honestly made, are not a sufficient justification for the payment of all public accounts. How, then, can the committee say that these moneys were paid without any legal authority, when it is certain that these accounts of expense were regularly presented and allowed by the tribunals who were authorized and directed by law to decide

upon them? I should [1257] ask the committee, under what other authority than the decisions of the accounting officers, can money, in strictness, ever be legally paid at the Treasury? It is not, certainly, in the power of the House of Representatives to audit the public accounts, or to reverse the decisions of the accounting officers, much less are a committee of the House clothed with any such powers. If the committee, instead of deciding over the head of the regular tribunals, had told us the whole truth upon this point—if they had explained the power of the Treasury Department, and stated the fact, that this department had regularly admitted and paid the accounts, it is certain that the opinion which they have reported would have appeared without any foundation; and although it might remain a speculative question with individuals, and some might be of opinion that the decision of the Treasury was right, and others might believe it to be wrong, yet all parties would concur in the opinion that the decision was conclusive, and the money paid in consequence of it, was paid under a legal authority.

If, however, we indulge ourselves in revising the Treasury decision upon this question, I am inclined to believe that we shall find it correct. The law of 1790 [1 Stat. L., 130], which fixes the permanent seat of Government, provides, "that the 'offices attached to the seat of Government shall be removed 'to the District of Columbia on the first day of December, '1800, by their respective holders," and declared that the necessary expense of such removal should be defrayed out of the duties on imposts and tonnage. By this law, the holders of the offices were directed to remove them, and the question is, how and to what extent was the removal to be made? It will be admitted, I presume, that the offices were to be removed in an efficient manner, that is to say, in such a form as to enable the Executive departments to perform their duties without delay at Washington. The officers, in removing their offices, were certainly obliged to remove themselves, for they held the offices in their own persons, and the oper-

ation could not be performed without their personal removal. Nor could the offices be removed in such a form as to perform their duties at the seat of Government without carrying along with them the clerks; the clerks were attached to the offices, and without them, the offices could not be said to be efficiently removed. It would then, I think, result from this view of the subject, that the direction of the statute to remove the offices, necessarily gave an authority to remove every individual connected with the offices, and whose services were necessary for transacting the public business. And if the individuals were to be removed, I should presume that no doubt could exist but that they must and ought to be removed in such a manner as to render their situation comfortable in this place—I mean with their families and furniture; and whether they transported a trunk too much or not, would be an inquiry too contemptible to occupy the attention of the House.

What induces me to think still more favorably of the decision of the Treasury, is the strong equity [1258] on which the decision rests. It is, at this time, well understood, and, indeed, settled by the act of the present session, that the allowances to the Executive officers and clerks was fixed upon the principle of their remaining permanently at one place, and nothing has been, or now is, included in the regular compensation of those officers for the extra expense of travelling on public business from one place to another; such extra expense must, in the nature of things, be compensated by extra allowances; and, although it is true, as the committee say, that the officers and clerks were at this time receiving their pay from the Government, yet they were only receiving the usual compensation, which was not higher than the same grades of officers receive at this time. Can it, then, be doubted, when the Government required these officers to incur the extraordinary expense of removing one hundred and fifty miles, with their families, that the extra expense should be discharged by Government, whether that expense consisted of losses,

resulting from the removal, or charges of travelling? Finding, then, the legal decision and the equity of the case so strongly against the committee, I think myself warranted in saying that this part of the report is erroneous.

It is further to be remarked, that the committee have not explicitly declared by whom these payments were made, but the report is so expressed as to leave no doubt that the committee intended it should be understood that the payments were all made under the former Administration, whereas the fact I believe to have been that, although a greater proportion of them were made under the former Administration, yet that some payments were since made; and if my information is correct, and I trust it will be found so, for it is derived from the most authentic source, one advance was made by the present Secretary of the Treasury by a warrant on the Treasury, even before the account of the individual was settled or allowed. This circumstance is important, inasmuch as it furnishes a recent precedent to justify the former decision, and will induce the committee to examine their proceedings with more caution, when they find that, in condemning the former administration, they are at the same time implicating their friends; for it will not be contended, I presume, that if, as the committee say, no authority existed for this expenditure, the precedent of the former Administration could justify the advance made by the present Secretary.

The next important object which the report has noticed, is the accounts in the War and Navy Departments. Upon this subject the committee say, there remains in the War Department more than three millions of dollars "unaccounted for or not yet settled," and in the Department of the Navy more than four millions, "an unaccounted for or unsettled balance."

This statement, although it does not contain any explicit charge against those departments, yet it is so expressed as to countenance those infamous falsehoods which have appeared in certain newspapers, charging the departments with the [1259] embezzlement of the public money. A charge which

the committee certainly did not intend to countenance. The report ought to have been more explicit upon this point; the committee ought to have explained what they intended by "balances unaccounted for or unsettled." I take the liberty of declaring that, although in point of form it may be true, that these sums remain unaccounted for, yet, in fact, nothing comparable to it exists. The mode in which business is transacted in the offices of the accountants of the War and Navy, I understand to be this: whenever a sum of money is advanced to an individual, he is immediately charged with it; and although it may have been advanced for services actually rendered, or supplies furnished, yet nothing is passed to his credit till a voucher is produced for every item in the account, and the account, although nothing is due upon it, remains unsettled, and, in the sense of the committee, a balance unaccounted for. In this manner, these millions mentioned by the committee are principally made up. For instance, in the War Department, the account of the Quartermaster General remains unsettled to the amount of nearly nine hundred thousand dollars; his account, however, has been rendered, accompanied, as I understood, by vouchers which cover the whole amount, but in consequence of some dispute or uncertainty respecting a small part of the account, it remains open, and the whole of this large sum has gone in to make a part of the balance unaccounted for in the War Department. Other accounts are in the same situation, and it is from such facts that the committee have thought themselves justified in declaring that these balances remain unaccounted for.

In the Department of the Navy, although, from the causes which I have mentioned, there remains a great number of open accounts, amounting to more than four millions of dollars, yet the accountant declared to the committee that vouchers had been transmitted to the office, covering the whole sum, except about five hundred thousand dollars; but the accounts were not settled, nor the vouchers carried to the credit

of the particular accounts, because the mode of settlement did not warrant the entry of any credit until every item was covered by a voucher. The accountant further declared, that this sum of five hundred thousand dollars consisted principally of moneys recently advanced for the current service, for which vouchers were constantly coming in, and that on winding up the whole account of that department, he was persuaded that Government would not sustain losses to exceed ten or twelve thousand dollars.

Under such circumstances, can it be imagined that the committee were justified in talking about millions unaccounted for? Or, if they thought proper to do it, should they omit to explain, in a more ample and satisfactory manner, their meaning? Ought not the facts which I have mentioned, on every principle of fairness and truth, to have been annexed to that report! If this had been done, it would have appeared that the disbursements of the War and Navy Departments [1260] were made with so much attention and good fortune, that the losses of the Government have been less than are generally experienced by merchants in transactions of equal extent.

It is said, that the documents which attend the report will explain this point. I must be permitted to say that the report will be published in every newspaper, (for which purpose it appears to be principally intended,) whilst the voluminous documents will be very much confined to the members of this House, and never read by those who will read the report.

Again, the committee say that four navy yards were purchased without authority, and the money misapplied which was paid for them. In my judgment, this is one of the most extraordinary opinions ever pronounced. The facts which gave rise to the purchase of the navy yards were as follows: In the year 1799 [1 Stat. L., 621], Congress authorized by law the building of six 74-gun ships, and one million of dollars was then appropriated for that object, and for building of six sloops-of-war. The Secretary of the Treasury found

that the committee ought to have understood that ships could not be built either in the air or upon the water, and as he was directed to build the ships, that he must, of course, procure land to place them upon, and that the land must be either purchased or hired. He found that there was not a navy yard, within the United States calculated for building ships-of-the-line, and that the expense of preparing yards upon private property would be lost the moment the ship was launched, and of course that this would be bad economy. Experience had likewise taught him, that the better mode would be to purchase the ground, as it would then remain at the control of the Government, so long as it was wanted, and the improvements would be saved. This course was accordingly pursued, and I believe that few gentlemen, except the committee, will conclude that it was not the wisest and best. But whether it was the best course or not, it was certainly authorized by law, because it can never be seriously doubted, whether a law which directs a thing to be done, does authorize the agents to be employed to do everything which becomes necessary for accomplishing the object. The laws which have authorized the building of ships have certainly empowered the public agents to purchase timber copper, cordage, and every other necessary material, and yet no law for those objects has ever named any one of those articles. On the same principle, the law which directed the building of these particular ships, necessarily authorized the public agent to procure the ground to place them upon, although it was not said, whether the ships should be built upon the water or upon the land.

But there has been one omission in this part of the report, which, on every principle of fairness ought to be connected with it, and for which purpose the report ought to be re-committed: the omission of the letter of Mr. Stoddert, late Secretary of the Navy, explanatory of the purchase made by him of the navy yards, addressed to the committee, in answer to an application made by them [1261] upon this subject.

This letter contains, in my opinion, a complete justification of that transaction, and was so viewed by the minority of the committee, who urged that it might, at least, be included in the report; but, to our astonishment, the minority refused this justice to the man whom their report had implicated. This opinion of the majority, in respect to the propriety of including Mr. Stoddert's letter, I must believe, will remain a solitary one, for I can scarcely imagine it possible that any other gentleman in this House would have refused, when they presented a charge against this gentleman with one hand, to offer with the other his vindication, written at their own request. If, however, the motion to recommif should prevail, I will then move an instruction to the committee, which will produce Mr. Stoddert's letter.

The committee have likewise thought proper, in general terms, to censure the expenditure for erecting the public buildings on the banks of the Schuylkill, near Philadelphia. They do not say whether the money expended upon that object was authorized or unauthorized; they only say that the expense, which amounted to about one hundred and fifty thousand dollars, could not be justified. Without troubling the House with any comments upon the propriety of this conduct of the committee in passing the bounds which their appointment had limited, and erecting themselves into a board of censors, to condemn every expenditure which did not please them, whether authorized or not, I must be permitted to say, that nothing in my judgment, could excuse them, if they took this course, in suppressing the facts which led to the erection of those buildings.

That the expense was justified by law, I presume cannot be doubted, when the object and the nature of the appropriations for the Military Establishment are considered. And as to the extent of the expense, it is a point about which gentlemen may probably differ in opinion. For my own part, I readily acknowledge that I am not a competent judge, nor do I believe (I speak with great deference) that the majority

of the committee possess sufficient experience to decide the question. The former Secretary of War, who commenced the buildings, (Mr. McHenry,) was certainly a man of liberal mind and of large and extensive views, and disposed to found every permanent establishment upon a scale which should in some measure comport with the future prospect of this country, and prove them to be the establishments of a nation, and not of a petty corporation. The circumstances which induced the War Department to commence these buildings, I have understood to be, (without having received, however, any particular information in relation to the fact,) that the military stores at Philadelphia were at that time stored in private buildings without the city, and exposed in those situations to fires and accidents; that Philadelphia being one of the finest mercantile towns in this country, rendered it convenient to collect stores at that point, and being at the same time sufficiently inland to be secure from any foreign attack, and withal some- [1262] what central, it was desirable to render the collection of military stores extensive, and to establish what may be now called an arsenal at that place. To accomplish these objects, and for other military purposes, the buildings were commenced on the Schuylkill. And being disposed to place more confidence in the Secretary of War than in the committee on this point, I can see nothing at present which proves the building to have been unnecessary or too extensive, and I think it highly probable that the founder will hereafter derive more honor from commencing them than the committee will receive from censuring the measure.

What renders the report of the committee still more extraordinary, both in respect to erecting the buildings, and also the purchase of navy yards, is, that another subject, resembling these in principle, was before the committee, and on which they refused to report. This was the erecting of the extensive navy stores in this place by the present Administration.

The present Secretary of the Navy was requested to inform the committee when those stores were erected, and from what fund the money had been taken. His answer satisfied the committee that the stores had been erected by the present Administration, and that the money, if I recollect correctly, had been taken from an appropriation for the 74's, navy yards, and docks. The minority of the committee believed, what I trust will be generally believed by those who examine the question, that this was (to say no more of it) at least as doubtful an expenditure as that for the purchase of navy yards, or for erecting the buildings on the Schuylkill. If an authority to build 74's, to complete navy yards and docks, gave an authority to erect stores for the accommodation of the navy, it was thought that an authority to build ships, necessarily included a power to procure the land to place them upon; and that an authority to purchase military stores and to manage the affairs of the army necessarily included a power to furnish, at the public expense, buildings to cover the stores, and for other necessary military purposes, at the discretion of the officers entrusted with those concerns. The minority of the committee, therefore, urged to include this transaction in the report, together with the letter of the Secretary of the Navy, but the request was rejected by the majority. We believed that the cases were precisely similar in principle, and that it was not conducting with impartiality to include the one without the other; and we have thought that when it was discovered that the present Administration was conducting on principles precisely similar to those of their predecessors, it would greatly tend to satisfy all parties that the conduct of the Government had been correct. I feel no hesitation in declaring that, in my judgment, the present Administration were authorized to erect the navy stores, although I believe that the power may be better questioned than it could be in the other cases. These navy stores, I presume, are useful both for receiving the necessary materials for ship building, and se- [1263] curing the stores

of the public ships laid up in ordinary; and although not expressly authorized by the words of the law, may very well be considered as a proper appendage to a navy yard, or as buildings rendered necessary in the finishing of the 74's; and as to the extent of the buildings, I am content to leave that point to the Department to which it has been confided. The propriety, however, of including this statement in the report (I trust) will be apparent to the House, and it will not in this place be thought correct to confine our criticisms exclusively to the past Administration. I therefore urge this as a further reason for recommitting the report.

The committee have likewise mentioned the payment of about two hundred dollars to some persons at Georgetown, on account of a house which had been hired in that place by Mr. McHenry, the former Secretary of War. If the committee believed it proper to trouble the House with this trifling transaction, they ought to have stated every circumstance which attended it, and the House could then decide (if, indeed it was proper to decide at all) whether the payment was rightly made or not. Since the committee, however, have not done this, I beg leave to state what I have understood to be the circumstances under which this payment was made.

In the Spring of 1800, whilst the Government remained at Philadelphia, Mr. McHenry was Secretary of War, and being obliged to prepare for removing his office, agreeably to law, to the permanent seat of Government, he found it necessary to engage a house in Georgetown, in the vicinity of the public buildings, for himself and family. After this was done, and without any previous notice, he was compelled to resign his office, by a request from the President, which in such case may be considered as a command. The house, of course, became useless to him, and the person of whom he hired it claimed either rent or damages, and, upon a reference, the sum of about two hundred dollars was awarded. It is obvious, from this statement, that the expense was incurred by

Mr. McHenry in consequence of being Secretary of War; that it was an extra expense, arising entirely from the order to remove from Philadelphia to Washington, and that it was a dead loss, produced by these causes, and for which Mr. McHenry did not receive the benefit of a cent. Under these circumstances, it was decided that Government ought to pay the loss; and if the committee had given us the facts, it is highly probable that the House would be of opinion that the decision was right.

Much has been said by the committee respecting a payment to Mr. Tracy for his services and expense in visiting the Western posts in the Summer of 1800. And here the committee have again, in the usual manner, excluded from their report the cases which have arisen under the present Administration, and which compare in principle with the case of Mr. Tracy.

It is objected to the employment of Mr. Tracy and the payment to him, because he was at that time a Senator of the United States and by the [1264] Constitution no member of the Legislature can hold at the same time an Executive office. But the case of Mr. Dawson, who was sent to France with the convention, compares essentially with the case of Mr. Tracy. Mr. Dawson continued in the employment of Government under that agency, and received his pay, after he was elected a member of this House. His account was before the committee, and it appeared that he was paid up to the month of October. And surely the Constitution has made no distinction between the members of the House and of the Senate. If it was right and Constitutional to employ Mr. Dawson on one agency, it was equally so to employ Mr. Tracy on another.

It is likewise objected to the account of Mr. Tracy, that his agency continued up to the commencement of the last session of Congress, and he was paid accordingly, and that in his account, as a Senator, he has likewise been allowed what is usually called travel from Litchfield to Washington, by which

means he received (it is said) wages as an agent and travel as a Senator at the same time. But the committee forgot to include the cases of the new Senators who went from this House into the Senate last Spring. Mr. Stone of North Carolina, Mr. Sheafe of New Hampshire, and, I presume, Mr. Muhlenburg, also retained their seats in this House until the 3d of March, and they received their pay up to that time, and their travel at the commencement and at the close of the session; they went the next day into the Senate, and the two former, and probably the latter, received during that short Senatorial session their travel to and from the seat of Government. If it was right to allow those gentlemen what the committee would, I presume, call double pay, it cannot be objected to in the case of Mr. Tracy, who was employed as an agent up to the commencement of the session, entitled to receive his pay as such, and likewise entitled to his mileage as a Senator upon the settlement of that account.

I have not, however, been able to discover that either of these cases are repugnant to law. The Constitution declares "that no person holding any office under the United States shall be a member of either House during his continuance in office." An office can only be created by the Constitution or by law, and there is neither a law or a provision in the Constitution creating an office in which either Mr. Tracy or Mr. Dawson was employed. The employment in which they were engaged was a mere agency, and could not with more propriety be called an office than the employment of purchasing bills for Government, upon commissions, or the building of a light-house upon contract. I cannot, then, see any Constitutional difficulty in either of these cases. If, however, any such objection did exist, I should rather suppose that the right of a Senator had become vacated, belonged exclusively to the Senate, and that the business of investigating the right of the members of this House to their seats belonged to the Committee of Elections.

The objection to what is called double pay, ap- [1265] pears to arise from an inattention to the language of the law on this subject. The law fixing the compensation of members of the Legislature does not say a word about travel; the words are: "Each Senator shall be entitled to receive six dollars for every day he shall attend the Senate, and shall also be allowed, at the commencement and end of every such session or meeting, six dollars for every twenty miles of the estimated distance, by the most usual road, from his place of residence to the seat of Congress." The same expressions are used with respect to the members of the House, changing only the names. When a member, then, takes his seat in the Senate, he is entitled to his six dollars for every twenty miles of the estimated distance from his place of residence, let him come from what employment he may. It would, therefore, have been a mere affectation in either of the Senators to have refused this allowance, because in one case they had been engaged in the House of Representatives, and in the other, the gentleman had been employed in transacting business for the War Department. I am, therefore, inclined to believe that the decision in the Senate, which settled this allowance, was correct. I have not mentioned either of these cases with the remotest view of censuring the gentlemen who have been named, but finding a strong similarity existing between them and that of Mr. Tracy, I was compelled to refer to them to show a corresponding practice under the present Administration with that which has been so severely censured by the committee.

I have already mentioned that the case of Mr. Dawson was before the committee, and I will now state that the minority, seeing the strong similarity of his case with that of Mr. Tracy in one important feature, urged to include it in the report, but the majority, by the usual decision, rejected the proposition.

I might go into an examination of every part of the report, but at this late hour, and at the close of the session, I shall

scarcely be excused for saying more than is absolutely necessary to explain my motion, and this I trust has already been done.

I have said that the report is erroneous both in facts and in inferences. By the erroneous statement of facts, I principally mean that the facts are not fully stated; that those facts are generally omitted which would most strongly repel the censures which the committee have bestowed upon the former Administration and upon individuals; and I have been always taught that partial statements are misstatements, and that the suppression of truths necessary to be known is as erroneous as the uttering of falsehood. I repeat again, that I have not the smallest intention of charging the committee with drawing up intentionally a partial or erroneous report, but such I think, and trust I have proved it to be, and I must expect from the candor of the committee, when they review their own work, they will unite with me, in the motion for recommitment.

There is one consideration, attending this transaction, which has been already alluded to, and [1266] which ought to impress itself strongly on the House; it is the division under which this report was made. Is it possible, that gentlemen can believe, that a report attended with such circumstances, and so many objections, can be respected? Will it not be considered as the result of party violence, and calculated to agitate the public mind, rather than to elucidate any salutary truths? But I will not enlarge upon these topics; I have in some measure explained my motion, and submit it to the House.

Mr. [JOSEPH H.] NICHOLSON [of Maryland] had very little inclination, at this time, to enter into an explanation of this subject, which had been so misunderstood by the gentleman just up, on account of indisposition, nor was he very anxiously opposed to the recommitment, but he could perceive not a shadow of reason why the report should be recommitted.

The gentleman had grounded his motion upon the opinion, that all the necessary facts had not been stated. It was, to be sure, a very late period of the session, and the discussion would therefore consume much precious time; but notwithstanding that, if it should appear that any material facts had been suppressed, there would be good ground for recommitting the report. He should therefore think it necessary to test the grounds advanced, to prove the necessity of the recommitment.

1. It was first stated in favor of the motion, that the expense attending the removal of the Government was a duly authorized expense, because it had been passed by the accounting officers of the Treasury. But the real question is, were those accounting officers authorized to pass this account? In the examination of this question, the committee referred to the act of 1790, section six, in which are these words: "And all offices attached to the said seat of Government, shall accordingly be removed thereunto (Washington) by their respective holders." The question which occupied the committee was, what expense this act was intended to cover. In recurring to the documents, the committee found that \$15,000 and odd was paid for removing the furniture of the offices, &c. This the committee did not think an unauthorized expense, because the law empowered it. The books, furniture, records, papers, &c., of the officers, and of the President, they thought the law authorized the removal of; but the committee could see no authority for paying \$32,000 for the removal of the heads of departments, their furniture, their clerks and their families and furniture; they could see no reason, for paying to the clerks, &c. for their broken glass, and china, their tavern expenses, and what is called their dead house-rent in Philadelphia. The committee saw no reason, for saying these accounts were passed at the offices of the accounting officers, because it must be well known, that no account could be paid until it had been so passed. The only question which occupied the committee, was, to inquire

whether the money so paid was duly authorized. Whether, for instance, one officer for breaking a looking-glass—another a piece of china, &c.—another to receive his house rent—another [1267] get his expenses paid, to come here to look after a house, and his tavern expenses while here, were the expenses within the meaning of the law above quoted? Facts of these kinds appearing to the view of the committee, they were bound to express an opinion upon them, for they did not think the accounts were legally passed. The law merely authorized the necessary expense for removing the public offices; it did not authorize the Secretary of the Treasury to be paid five hundred dollars for the removal of his family and furniture, nor the Secretary at War seven hundred dollars. Several others also received as much as five hundred dollars, and thence, from the heads of the departments, down to the clerks, to fifty dollars. The committee did not mean to implicate the characters of these gentlemen for receiving the public money, but they considered it their duty to disclose facts, and to declare that they did not believe the expenditure legally authorized.

The second observation the gentleman made was, from that part of the report which states that an unsettled balance of four millions in the War Department, and of three millions in the Navy Department, remains. He says it was the duty of the committee to have stated, that almost the whole of those sums had been received, although unsettled. If the House will examine the documents accompanying this report, they will find that the sums paid into the Treasury from this large sum have actually been passed to the credit of the departments. This the committee thought sufficient, because any man who would give himself the trouble to examine, would find that much has been settled. But the committee could not say with precision how much, because the period of the session was such as to prevent them from passing through such voluminous accounts. It would have been an extremely laborious and tedious undertaking, and therefore

the committee were obliged to report briefly. The committee could not examine particularly into the items, nor form any comparison whereby to prove their accuracy or inaccuracy; they were obliged to take it for granted that those things were all right. They reported agreeably to the mode of doing business in the Treasury Department. Until the account of any individual is finally closed, let him be indebted ever so little, he is considered, in the Treasury books, a debtor for the whole of the account. In this way the committee reported, and accompanied the document with marginal notes, exhibiting where the accounts have been rendered and partially settled.

As to the navy yards, the committee having been appointed "to report whether moneys drawn from the Treasury, have been faithfully applied to the objects for which they were appropriated, and whether the same have been regularly accounted for;" and knowing that six navy yards had been purchased, very naturally inquired under what authority these purchases had been made, and how they were paid for. They referred to the law authorizing the building of six seventy-fours and six sloops of war. The committee submitted an inquiry to the former Secretary of the Navy, (Mr. [1268] Stoddert,) directing him to inform the committee as to the purchase. Mr. Stoddert answered, that a law had passed, appropriating one million of dollars for building the seventy-fours and sloops of war, and that fifty thousand dollars were also appropriated for two dock yards; and also that two hundred thousand dollars were appropriated for the purchase of timber, or land clothed therewith; and that he thought himself authorized to purchase six navy yards, wherein to build the seventy-fours. To these several laws the committee referred for the authority under which the Secretary acted, but they could find no such authority; they could find no other, than authority to purchase two dock yards, wherein to repair the ships. Now, although not stated in the report, there is very good reason to believe that the fifty thousand

dollars never was laid out upon the two dock yards, but that this sum was cast into the surplus fund. Whether Mr. Stoddert's opinion was correct or not, that it would be more economical to build the seventy-fours in public yards, than in private yards at rent, the committee were not appointed to inquire; it was their business to say whether he was authorized to act so, let his private opinion be what it might. The committee were clearly of opinion, that he was not authorized to take money appropriated for one purpose and make use of it for another.

As to the reason, why the gentleman wishes the report recommitted; to wit, to insert Mr. Stoddert's answer with the report; it is true a motion for the insertion was made. But the committee thought that letter was addressed to them, and not to the House; that it was to inform their minds, so as to enable them to make the report. They paid due attention to the reasoning of the letter, but it did not convince them that Mr. S. acted authoritatively. Mr. Stoddert's reasoning upon the subject could not form a part of the report; the committee were called upon to form an opinion, and not to substitute that of any individual. They were to inquire whether moneys appropriated were used to the purposes for which they were appropriated. They thought it was not, because it was appropriated to build ships, and to purchase land with timber on it, or timber alone. The question then is, whether six navy yards are six seventy-four gun ships, and whether six sloops-of-war are lands with timber growing on it or not? If Mr. Stoddert's reasoning had been adopted by the committee, it would have become their reasoning, and except it should be theirs, it would have had no business in the report. If a disposition of vindication could have been admitted, Mr. Stoddert might have been permitted to have appeared with counsel before the committee, but facts alone were required, and facts the committee state. Ships had been built for the public before, but the idea never was entertained to build docks for them. No measure different from those

taken in the building of the frigates, except by legal authority, ought to have been taken with the seventy-fours.

The military arsenal at Philadelphia, the gentleman said, was built to keep the stores in with [1269] more safety, than they could be kept in private stores, in the neighborhood of which frequently fires occurred. All this might be truth, but if these were facts, Mr. NICHOLSON would ask, why were not Congress applied to, to say whether they would take the risk, or whether build stores, for the more safe deposit of the public stores? But the money which built this military arsenal or laboratory, (more properly,) he believed it would be found was taken from the Quartermaster's department. Now, was it ever thought, that this fund should supply resources to build a laboratory? Was the Quartermaster's department ever appropriated to, for other than the purposes expressed or intended? No laboratory can be built, but by the authority of the State where erected; but where is the State authority, or where the appropriated fund for this purpose? Upon examination, the committee could see no authority to appropriate or apply public money for this purpose, and yet they found that one hundred and thirty-five thousand dollars were taken from the Quartermaster's department for this military arsenal! The committee could see no authority for the expense, and that fact they have stated.

As to the resignation of Mr. McHenry, whether voluntary or at the request of the President, the committee saw no reason why the Government should provide the house for Mr. McHenry at Georgetown. It might be supposed that neither that officer, nor his friends, would have thanked the committee for reporting any reasons, which might have caused his removal from office:—they had nothing to do with it, having no document upon the subject.

The account of Mr Tracy is next vindicated, and all the gentleman appears to regret here is, that Mr. Dawson's account is not inserted in the report. One general answer might be given to this. It was believed by a majority of the com-

mittee that Mr. Tracy did receive money from the Treasury improperly, but it never has been suggested that Mr. Dawson did so, and therefore there is no comparison of the cases. Nay, it was said by the gentleman himself, (Mr. GRISWOLD,) that he did not blame Mr. Dawson. The committee saw a most material distinction in the cases. At the time of Mr. Tracy's appointment, he was a member of the Senate of the United States. At the time of Mr. Dawson's appointment, he was a member of neither branch. Mr. Dawson received his warrant of appointment some time in March, but he was not elected to fill a seat in this House till the end of April, and then he was on his mission. His functions of member of Congress had ceased before his appointment, and his appointment took place before his re-election. Again, Mr. Dawson received no pay after some time in October last, which was some months before the sitting of the House. On the contrary, Mr. Tracy received his pay of officer, or agent, or whatever he was, for seventeen days after the sitting of the Senate; so that he was paid as a member of the Senate, and as an officer at the same time. The committee could not discover the cases as parallel to each other, and therefore did not insert the [1270] case of Mr. Dawson, which was moved by the minority.

Several other cases were also mentioned—those of Mr. Sheafe, Mr. Muhlenberg, and Mr. Stone; but whether they were as represented or not, they were not brought into the view of the committee; otherwise there would have been an inquiry.

Mr. GRISWOLD.—I did not mention the case of General Muhlenberg, nor did I charge the other gentlemen with improper conduct: I believe they were strictly warranted to act as they did. I merely stated the reference for the purpose of showing that Mr. Tracy was entitled to the compensation he received for travel, as well as the others, because it has been a long-standing rule of the Senate to allow the travel in such cases. It is not our province, therefore, to object to it.

Respecting the decision of the Senate, I wish not to oppose it. And being no uncommon case, there is no necessity to bring up that of Mr. Tracy, whom I consider entitled to his travel, both as an agent and as a Senator.

Mr. NICHOLSON observed, that not being brought before the committee, and he not having heard of the case till this day, it could not be a reason why the report should be recommitted.

The case of the navy yard at this place was brought before the committee. It was the request of the minority that the case should be inquired into. The committee sent to request the Secretary of the Navy to say by what authority the storehouse had been erected here, or from what fund it was paid. The answer was, that the storehouse had been erected out of a fund granted in February, eighteen hundred and one, for completing the seventy-fours, the navy yards, and the docks. The ships had been ordered to be laid up in ordinary at this place, and the navy yard purchased. When the present Secretary of the Navy came into office, he found, that as a navy yard was to be completed here, and as sails, rigging, and other naval stores, must be kept here; and finding that one storehouse was already built, and another begun, here, it would be most prudent to complete that storehouse, as a necessary appendage to a navy yard where shipping would be sent for repairs. To this none of the gentlemen objected, but rather approved; and this is surely a purpose to which the money was appropriated. Whether the other applications are or not, is for the House to decide. The committee have stated the facts.

Mr. [JOHN] DAWSON [of Virginia] said, he did not rise to answer the gentleman from Connecticut, (Mr. GRISWOLD,) because he thought that had been ably done by the gentleman last up, and because his observations did not command that respect; but he rose to prevent any improper impression, which the misrepresentations of that gentleman might possibly make respecting himself. The gentleman

stated that a member of this House was appointed to an official station on a foreign mission. As stated by the gentleman from Maryland, I did receive the appointment some time last March, said Mr. D. During my absence, the people of my district elected me a member of this House. Some time in October my business was closed. I arrived here [1271] some time in January, but did not receive salary as a member till some days after my arrival, and till I had taken my seat. This is well known to that and every other gentleman. Every gentleman must also know, that I could not be a member of this House until I took my seat, and therefore I could not have been appointed to, or held my seat, while exercising the business of the nation abroad. I must therefore say, that unless the other observations of the gentleman (Mr. GRISWOLD) are better founded than his relation of facts, they deserve very little credit indeed.

Mr. R[OBERT] WILLIAMS [of North Carolina] always thought that a motion to recommit a report was grounded upon the insufficiency of that report as to facts. But he had hearkened with much attention, and had not discovered any arguments built on a misstatement of facts. If no facts are misstated, then the motion must necessarily fall. That the committee have not given a full and ample report upon the account, is admitted in the report; they say that the business was of such a nature, that it was not in their power, during their limited period, to do it. It was not uncommon, or contrary to rule, for committees to report in part, and this might be taken as a report in part. Did the gentleman mean to say, that no report ought to have been made, till all the subjects upon which the committee might have turned their attention had been fully examined? The committee have said, that there are many things which they should have investigated if they had had time. It is not certain, for instance, to what length the construction of the laws have been carried. The gentleman has said, that a certain construction has been put upon laws making certain appropriations, and this House has

nothing to do with it. With this we cannot agree as a Legislative body, because if this length can be admitted, anything can. However men might differ in committees, it is for the House to determine on the facts stated in their report. Here the committee have reported certain facts: they have brought into view the uses to which certain appropriations were applied, to support which they have produced documents, so far as they were able. It is for the House, upon a view of these facts, to say whether or not the moneys have been applied to their proper uses, as directed by law. Upon this single point, he thought the question turned, whether or not these facts were misstated; if not, there could be no ground for a recommitment.

Mr. [JAMES A.] BAYARD [of Delaware].—I flatter myself, though perhaps vainly, if this report be recommitted, it will assume a very different shape, both in form and substance, upon its appearance at a subsequent session. The report, though the long work of near half a year, is extremely immature and incomplete. Having been a member of the committee, although of the minority, I have a right to suppose myself acquainted with its proceedings. It was impossible, from the course pursued, for the committee to have any correct knowledge, or certain opinion, as to the results which compose their report. We had no time to compare them with the details contained in the documents transmitted to us from the offices, and from which they were derived. [1272] Gentlemen may consider me, if they please, as speaking only of the minority of the committee, for I can speak with certainty only in relation to them. Though the committee existed for more than four months, the report which has been made was not the subject of consideration half the number of days. We had notice one evening to meet the next morning at ten o'clock to receive the report of the committee. I was astonished. The committee had directed no report to be drawn up, they had agreed to no fact, nor resolved upon any principle. We were summoned to meet at the hour to which the House

was adjourned, and of consequence had no more time for our deliberation, than the period of grace, between the nominal hour of adjournment and the actual time of the House being called to order. The report was produced and once read. There was not time to compare the statements made with the documents referred to. Our opinions were immediately called for upon the report, as the intention was to present it that morning to the House. Upon a great part of the report, it was impossible for some of us to form so hasty an opinion; but there were some things obviously exceptionable. I shall not be considered as finding fault with the chairman of the committee—I presume he considered himself as conforming to the ordinary course of proceeding. Some of the exceptions which occurred to us, upon the cursory reading of the report, were stated. I will not say that a word was not corrected, but no material change was suffered. Observing that the official conduct of Mr. Stoddert was deeply implicated in the report, we urged that common justice required, that as Mr. S. was on the spot, that we should hear his defence, before we passed our judgments upon his acts. Upon this point the minority was joined by the chairman, and a letter was in consequence addressed to the late Secretary, requesting him to explain the grounds from which the authority was derived to make several disbursements. He was allowed till next morning to furnish an answer to the committee. At our meeting the ensuing day, Mr. Stoddert's answer was received. He had been manifestly hurried, but to the minority of the committee the answer was entirely satisfactory. We endeavored to vary the report accordingly, or at least to have the Secretary's letter annexed, and referred to among the documents. The attempts however were overruled. It occurred to us at this time, that we were bound to observe at least the same appearance of justice in relation to Mr. Tracy, whose conduct was the subject of our animadversion, which had been shown in respect to Mr. Stoddert.

It was therefore insisted, before the report was made, that

Mr. Tracy should be allowed an opportunity of explanation. The chairman so far complied with the wish of the minority, as to agree that the report should be shown by a member of the committee to Mr. Tracy, and his answer waited for till the next morning. Upon the third day we made an effort to introduce into the report several cases, which had occurred under the present Administration, which the minority considered as [1273] standing upon the same ground with acts of the former Administration, which were condemned in the report. The effort was vain. The cases we referred to were distinguished by the vote of the majority from those which were stated. After one or two small amendments, the report was offered for our agreement, and adopted by four against three. The same morning the chairman presented it to the House.

I have made this statement in order that the House may be acquainted with the ground upon which I undertook to assert that the report was immature.

It was impossible, in the time allowed us, to weigh the evidence of facts, to consider the soundness of principles, or to examine the correctness of statements contained in the report. It will be perceived by those who are accustomed to the forms of proceeding upon committees, that our course has been entirely novel. It was usual heretofore for a committee to agree upon the substance of their report, and then to instruct their chairman to draw up a report in conformity to their opinion. In the present instance our opinions had not been asked, upon any point embraced by the report, before it was offered to us in its complete form.

If the points and cases which the report contains had been separately brought under discussion, they would have been more fully investigated and considered, and the result might, in consequence, possibly have been varied. As it regarded myself, this new mode of proceeding was a complete surprise. I had concluded, from everything which fell under my observation, that the intention of making a report was entirely abandoned. This inference was drawn from the small im-

pression which had ever been observable from any discovery which the committee had made, as well as from the omission of any consultation which usually had been preparatory to a report. It would have been difficult for any of those to have conceived that such a report would have been made, who had never previously, from any one member of the committee, heard that any act of the Administration had been discovered worthy of being made the subject of our censorial power.

I see it stated in the report, that from the year seventeen hundred and ninety-seven to the year eighteen hundred and one, inclusive, a sum was advanced by the Treasury, chargeable to the War Department, exceeding ten millions of dollars, of which upwards of three millions remains unsettled or unaccounted for. And that from the year seventeen hundred and ninety-eight to eighteen hundred and one, a sum exceeding nine millions has been advanced on account of the Navy Department, and a balance unaccounted for, or unsettled, of more than four millions now remains. This statement may be warranted by the mere form in which the balances were transmitted to us, but is calculated to make the most erroneous impression. When the document containing the balances was sent to us, no one supposed it to afford any light, as to the objects of our investigation, or to furnish any complete information, upon which [1274] an opinion could be formed as to the money due to the United States. The face of the document itself, attests, that of the sums stated to be unsettled, the greater part had in fact been accounted for, and the formal closing of the accounts not having been considered very important either to the Government or to the individuals, they have remained open from the most trivial impediments. It would seem, from the mode in which these balances are sustained, that if one hundred thousand dollars have been advanced on a contract and ninety-nine thousand nine hundred and ninety-nine have been accounted for, yet the whole balance will appear to be due, till a voucher is produced for the last dollar. It appears also, in the face of the

document, that balances are in some instances stated due to the United States, where it is manifest that the sum stated as a balance was a payment of a debt due from the Government. Many of the items, are money paid to the officers of the Army and Navy on their account of pay and subsistence, where the money was due for services. Nay, there are cases where money has been advanced on account, and afterwards, upon the inspection of the vouchers, the balance ascertained and paid, and yet, from the account not being formally closed, the whole sum appears and is reckoned among the balances due to the United States.

More than four millions are stated as unsettled balances upon the transactions of the Navy Department. I remember well, when we were in the office of the accountant of that department, the accountant stated it as his opinion, that the Treasury was not in advance for the department more than five hundred thousand; and that from his knowledge of those advances, he did not think the United States would lose ten thousand dollars, upon all the transactions of the department. I was struck with the information, knowing that the contracts of the Government are formed and executed by advances, and considering that ten thousand could be deemed but a very small loss upon an expenditure of ten millions of dollars. I considered it as an example of skill, vigilance, and success in the management of the public affairs, that is rarely afforded even in the conduct of private concerns. What has been remarked with respect to the Navy, equally applies to the War Department.

The aggregate balance of near four millions, stated as unsettled or unaccounted for, in the report, is composed of items, which, explained by the notes annexed to them, appear chiefly to be accounted for, to the satisfaction of the War Department. One item, which enters into the general balance, is a sum exceeding eight hundred and eighty thousand dollars. It appears that General Wilkins has furnished vouchers for the whole amount of the advances made to him, but has

not furnished accounts for a small quantity of public property sold on the Ohio, (I believe some boats,) and therefore the account is not closed, and the whole amount ever advanced to him is computed among the unsettled balances. I understood the accountant was satisfied with General Wilkins's accounts.

Mr. NICHOLSON—The gentleman says the accountant of the War Department was satisfied [1275] with the accounts of General Wilkins. I did not understand the fact so—vouchers were sent on, but they were not satisfactory.

Mr. BAYARD—I know not that there was complete satisfaction, as to the manner of each disbursement, but I mean, that it sufficiently appeared that the money had been expended on the public account. Thus an unsettled account, probably less in amount than two thousand dollars, gives the appearance of a balance unaccounted for, exceeding eight hundred and eighty thousand dollars. There are numerous instances of the same kind. In the list of balances, is the sum of one hundred and twenty-two thousand dollars, charged against Captain Vance; and it is stated, in the annexed note, that it appears that the whole sum has been duly applied. So against B. Williamson is charged a sum exceeding two hundred and thirty-five thousand dollars, though it is stated that he has furnished accounts of the application of the whole sum. It is needless to cite other instances of a similar kind; those which have been shown must convince the whole House that the report is not explicit, and is extremely exposed to a false interpretation. The objection to this part of the report furnishes the strongest ground for a recommitment. It certainly cannot be the design to raise a belief, that millions of the public money remain unaccounted for, when the documents from which all our knowledge is derived show that a very small sum remains unaccounted for; and when I undertake to say, that the evidence before us is not sufficient to prove that there is a dollar due to the United States. Can it be the interest of any party in the nation, or of any member

upon this floor, to destroy the public confidence in the general administration of the Government? Let the peculiar honesty of one Administration be suspected, and their successors will soon sink under the same odious suspicion. On such a subject, we should banish our partialities and antipathies, not merely as a sacrifice which belongs to justice, but as an act required by a great national and common interest. I acknowledge that this part of the report will be harmless in the hands of those who will read, and are able to understand the documents on which it is founded. But the bulk of the document will probably exclude it from the public papers, and the great number of persons who read the report will read it without explanation. The probability, therefore, of the report creating false impressions, of a nature extremely derogatory from the honor of the Government, would alone be a sufficient motive with me to vote in favor of the motion to recommit.

There are many other grounds upon which I consider the report exceptionable. It is not however my intention at this late hour (six o'clock) to enter into all the details of the report. My observations will be confined to a few prominent and important points, upon which the different members of the committee held very opposite opinions. I had no knowledge of the resolution of my friend from Connecticut (Mr. GRISWOLD) to submit the motion on the table, before the meeting of the House this morning, and am therefore the more [1276] gratified that the honorable mover has taken so comprehensive a view of the subject, as to render it totally unnecessary for me to go over the whole ground.

I shall beg the indulgence only of a few words, upon one or two heads, respecting which the opinion I entertain is decidedly opposed to that expressed by a majority of the committee. I cannot well conceive of a plainer mistake, than what appears in the opinion, pronounced on the purchase of six navy yards, made by the late Secretary of the Navy. The committee, I think, ought to be allowed an opportunity of reviewing that opinion. Four of those six yards are considered

as purchased without authority, and the money paid for them misapplied.

By the act of the Legislature, of February 1799, the Secretary of the Navy was directed to cause to be built six ships, each to carry not less than seventy-four guns; and six sloops-of-war of eighteen guns. For this purpose, a million of dollars was appropriated; two hundred thousand were appropriated to the purchase of land, bearing timber suitable for the Navy, and fifty thousand dollars for the making of two docks. These laws, passed on successive days, indicated the design of a permanent Navy Establishment. It was perfectly understood that the ships of the line were not directed to be built for the occasional defence of the country at that period, but were intended as the commencement of a lasting system of defence, which was expected to increase with the growth of the commerce and resources of the country. It was far from our expectation that the Navy of the United States was to be limited to six ships of the line, or to any number within the convenient means of the country, short of a force adequate to render our flag respectable and our navigation secure. It was not supposed that the seventy-fours would be launched for several years, but we had hopes when they left the stocks, a flourishing commerce would enable us to lay the keels of new ships in their places. Under this view were the two hundred thousand dollars appropriated, to the purchase of land producing timber fit for a navy. With this knowledge, so plainly derivable from the policy pursued by the Legislature, what was the Secretary of the Navy to do? It was made his duty to build six seventy-fours and six sloops-of-war. It is surely not expected that they were to be built on the water or in the air, and of consequence it will be allowed that he had authority to provide yards, for the purpose of constructing them. The public had no yards, and it was therefore necessary to obtain ground from individuals. As there were no persons disposed to make charitable grants, it remained only for the United States to purchase ground in fee simple, or for a term

of years, paying a gross sum or an annual rent. The act of Congress, directing the ships to be built, appropriated not a dollar either for the renting or for the purchase of land. But a million of dollars were appropriated to the building of the ships, which was directed to be done, but which could not be done without an expenditure for land. Can there be a plainer proposition, than that an appropriation for a certain service embraces every article without [1277] which the service cannot be performed? In the present instance, the service imposed upon the Secretary could not be performed without obtaining navy yards at the public expense. It therefore rested in his discretion, for the faithful exercise of which he was accountable to the Government, either to purchase or rent the ground, necessary for the yards. It was his duty to conform to the views of the Legislature, and to make such an arrangement as would be most advantageous to the public. If it answered the object, and was most for the interest of the Government to rent, then surely he ought to have rented; but if it comported more with their views, or was more to their benefit to purchase, it was then his duty to purchase.

This inquiry, however, was never made by the committee. They never asked the question whether it was cheaper to buy or to rent, and they have condemned the Secretary for buying and not renting, when he had no more authority to rent than to buy, and when by buying he has probably saved to the United States several hundred thousand dollars. The situation of this officer is peculiarly hard. Having been directed to build a number of ships for the public service, he has purchased navy yards for the purpose, and in consequence has subjected himself to the accusation of expending public money without authority. If he had rented land for the purpose, he would have been equally liable to the same reproach; and if he had neglected to do either, he would have been exposed to an impeachment. The Secretary has it fully in his power to show, that his purchases will save a large sum of money to the United States. A navy yard, for a seventy-four, cannot be

prepared without great expense. Under this head, I am informed by the Secretary, that one hundred thousand dollars were expended on one frigate, the *Constellation*. This was occasioned in a great degree by leasing the yard. At the expiration of the lease, the public lose the benefit of all their expense in preparing and improving the ground.

In addition to the inference which the Secretary might fairly make, of an authority to purchase ground for the navy yards, if a purchase could be made on cheaper terms than a contract of lease, he had further to consider the intention, plainly manifested by the Legislature, of establishing a system which would require the use of these navy yards at a future time, beyond the duration of any common lease. Nay, he knew not what time was to be consumed in building the ships directed, and of course could not know for what term a contract could be made. At present, if the Government should be disposed to sell the ships on the stocks, they have the power to sell the navy yards, and they will have the same power when the ships are launched; and they may thus convert in effect the permanent purchase into a term for years, and restore to the Treasury the money which has been expended. But, sir, what I consider as the hardest act on the part of the majority of the committee, was their refusal to suffer the answer of the Secretary to the letter we addressed [1278] to him, explaining the grounds of his conduct, to accompany the documents annexed to the report. We have been told by the gentleman from Maryland (Mr. NICHOLSON) that it was not the business of the committee to report the opinions of the Secretary, or of any other individual. If this be correct, I believe it was as little the business of the committee to report their own opinions. They should have confined themselves to the statement of facts, and upon those facts have left the House and the nation at large to form their own opinions.

If this course had been pursued there would have been little occasion to publish the reasoning of Mr. Stoddert; but, as the

opinion of the committee is merely their inference from certain premises, it was due to the public, as well as to the Secretary, that the grounds should be explained which had led him to a different conclusion from that adopted by the committee. This report seems, at present, intended only for public information; certainly I must believe to give correct information. The letter of Mr. Stoddert throws great light upon a part of it, and when our object is only to inform the people on a subject, why should we refuse any light which places it more clearly before their eyes?

I shall be allowed to say a few words in relation to the case of Mr. Tracy. I am not satisfied with the opinion or the conduct of the committee in relation to it. The service rendered by Mr. T. was not incompatible with his appointment of Senator. He was employed to visit the posts on the frontiers, and to collect for the Government all the material information respecting them. This was a very delicate, confidential, and difficult service; but the employment constituted no office. It was a simple agency, confined to a single occasion, performed under instructions, but no commission. But, sir, if the case of Mr. Tracy presented anything irregular, some of us conceived that the case of Mr. Dawson, standing on the same ground, ought also to have been stated in the report. The gentleman from Maryland has contended, to-day, that there is a difference between the cases. I am sensible of the difference. The one is the case of Mr. Tracy, the other is the case of Mr. Dawson. I see nothing in it to censure, but still considering it in every material respect the same with that of Mr. Tracy, there was equal reason for making it a part of the report. The chief ground on which it has been attempted to distinguish the cases is, that Mr. T. was a Senator, at the time when he was sent on his mission, and that when Mr. D. was appointed to his, he was not a member of this House. This distinction exists, but I trust I shall be able clearly to show that it is not material. And give me leave here to tell the gentleman from Virginia, (Mr. Dawson,) that

in attempting to impeach the credit always due to the statements of my honorable friend from Connecticut, the imputed misstatement arose from his own misapprehension. The gentleman from Connecticut did not mean to state that he was a member of the House at the time of appointment, but that he was a member during [1279] a period that he was rendering service under Executive instructions.

I say, sir, that the cases are not materially distinguished by the circumstance that Mr. D. was not a member at the time of his appointment, because the holding a seat in either of the branches of the Legislature, under no Administration, has been considered as forming an incapacity to receive an Executive appointment. Under the former Administrations, several instances of such appointments occur; and under the present, I need only refer to the case of Mr. Pinckney, who was a member of the Senate at the time of his appointment as Minister to the Court of Madrid. The circumstance, therefore, of being or not being a member of the Legislature at the time of an appointment, is wholly immaterial. A member of the Legislature has an unexceptionable right to receive an Executive appointment, but the question is, whether the acceptance or exercise of an office under the Executive, does not vacate a seat in the Legislature. On this subject, I have no doubt that the acceptance of an office under the Executive, does vacate a seat in the Legislature. But the question still remains, whether the employments of Messrs. Tracy and Dawson are to be considered, under the Constitution, as offices. Upon this point, there cannot be a doubt but that the appointment of Mr. Dawson was as much in the nature of an office as that of Mr. Tracy. It will be remembered, that Mr. Dawson invited his constituents to elect him, proffered his services, and engaged to be at his post, when his duty should require his attendance. He was elected in April, and virtually accepted his place from the time of his election, and yet continued to serve under the Executive, and to receive pay for his services till October following. But, sir, I do not conceive that it belonged to the

committee, or that it belongs to this House, to interfere in any degree in the case of Mr. Tracy. The employment of Mr. T. was unquestionably unexceptionable. The only question is, whether the employment did not vacate his seat in the Senate? This question, the Constitutional privilege of the Senate confines to that body, and for us to decide upon it, is an invasion of those privileges. If any thing wrong has been done, which attaches blame, it is by the Senate. With a knowledge of the employment in which Mr. T. had been engaged, they allowed him to retain his seat as a member of their body.

It is stated, that Mr. Tracy received pay for mileage as Senator, while the pay of his agency continued. The compensation for travelling is governed by the law of its own nature. Mileage is due where there is no travelling. An allowance is made to members, which is regulated by the distance of the place of their usual residence from the seat of Government. This they are entitled to, independent on their coming from or returning home. When Congress adjourns, a member from Georgia is entitled to his mileage, whether he returns to his State, travels to the North, or remains at the Seat of Government.

It has been the practice in the Senate, when a [1280] member of this House, is appointed to that body, to allow him full mileage, notwithstanding his receiving mileage, for the same travelling, from this House. This happened in the case of Mr. Stone of North Carolina, and Mr. Sheafe of New Hampshire. They were both members of this House, during the last session, and held their seats till the third of March. On the fourth of March, they took their seats in the Senate, which had been called to meet on that day. They received full mileage as members of the respective Houses. Mileage is not a compensation for service, but an indemnification for a supposed expense. A person cannot be a member of the two Houses at the same time, but for the same time he is allowed mileage by each House. If, therefore, the employment of Mr. Tracy were a mere agency, there could be no objection to his

receiving his mileage, during the continuance of the agency. The discussion of this subject has been extremely unpleasant to me. It is always unpleasant to have occasion to introduce into debate the names of gentlemen, whose feelings are unavoidably excited and often injured. But considering as a defect in the report, and a reason for recommitment, the statement of a case under the former Administration, and the omission of one precisely similar under the present, I have felt myself justified, as the case of Mr. T. was stated in the report, to state the case of Mr. Dawson in the debate.

I need, sir, say very little relative to the expense attending the erection of the laboratory in the vicinity of Philadelphia. The subject has been well explained by my friend from Connecticut; the building was necessary for the preservation of the arms and stores of the United States, and the expense was therefore properly defrayed out of the appropriations for the Quartermaster's department.

The gentleman from Maryland, in justifying the erection of stores at Washington, has furnished ample authority for the erection of the buildings near Philadelphia. The public stores lately built here, are paid for out of an appropriation for making a wharf. The gentleman, however, has contended that the articles of naval equipment could not be preserved, without the covering and protection of stores, and thence he infers an authority to erect them. I am not disposed to question the soundness of the argument, but it applies with equal force in vindication of the expense incurred in erecting the stores, or the laboratory, as it has been called, which is the subject of animadversion in the report. We contended, on the committee, that the case of the stores erected in this city, ought also to be stated in the report, on the same ground with that of the laboratory, but distinctions satisfactory to the mind of the majority excluded it.

I ask pardon for having detained the House so long at this late hour. The subject is of considerable importance, and I confess I have felt not a little anxiety, to prevent a false im-

pression being made by the report upon some points. I see no reason, which I had the means of explaining, why gentlemen should not agree to recommit- [1281] ment. It is not proposed to act upon the report this session. The committee confess their task is very imperfectly executed. Why send out such an unfinished work to the world? Subject it to the labor of another session. Five months were scarcely sufficient to enable the committee to unfold the papers, which they were assigned to examine. In five years they could acquire but an imperfect knowledge of the several accounts on the files of the different offices. Upon a vast subject our time has been occupied with very small details. We have looked into half a dozen accounts, and discovered a few questionable expenditures. But as to the application of the millions, drawn from the Treasury, for the service of the different departments, it is still covered with the dust of the offices.

I must confess that, according to my view, a committee is altogether inadequate to the task assigned to the Committee of Investigation. In my opinion, the business belongs to the Secretary of the Treasury, or, if you distrust him, create a standing commission, with powers equal to the object. We were charged to examine into the accounts of all the public money, which had ever been drawn from the Treasury. Our duty confines us the greater part of the day to the floor of this House. How was it possible for a committee of seven, having everything to learn, with the fragments of their hours, to accomplish an object which would require the regular work of years? I conceive the subject, if gentlemen have serious impressions with respect to it, should be sent to the Secretary of the Treasury. He has already more knowledge relative to it, than a committee would acquire during a whole Congress; and if any important discoveries are to be made, it may safely be trusted that he will bring them to light.

Mr. NICHOLSON said he rose again on this subject, merely to answer the observations of the gentleman who had spoken of the manner in which business had been done in that com-

mittee. He (Mr. BAYARD) said it was usual to direct the chairman of committees in what way the report was to be made, and presented for acceptance. Having very little of this kind of business to do, Mr. N. said he was not very conversant in the precise manner, but he thought it was usual for the chairman to make propositions to the committee, to call forth their attention. He knew of no way to facilitate business so much, as by bringing in a sketch of a report, comprehending the principal features which the papers before that committee exhibited. This he did on the ninth of April: other business prevented it being done sooner. The length of the report, comprehending all the principles exhibited to view, and including the balances therein drawn, and afterwards copying it, took a considerable length of time. Being then presented to the committee as mere propositions, which they might strike out or amend at pleasure, (which was last Tuesday,) it was resolved to apply to Mr. Stoddert for his answer to that part of the report concerning him. That was done. It was afterwards proposed that Mr. Stoddert's [1282] answer should become a part of the report. This was overruled. A new proposition was then made, that Mr. Dawson's case should be made a part of the report. This the majority thought improper also. Proposition was then made that Mr. Tracy should be heard. A letter written by the gentleman from Delaware to him, for that purpose, was handed to the chairman to sign, but another gentlemen thought it better to wait on Mr. Tracy in person. This was agreed to with some amendment. The report was then postponed till the subsequent day, to hear what Mr. Tracy might say. The committee then met at nine o'clock and waited till twelve, but Mr. Tracy did not come; the report was therefore made up without hearing him. These facts he had thought proper to state, that the House might exonerate the committee from having done wrong.

Mr. [JOHN] RANDOLPH [of Virginia] said his illness, and the length of the sitting, rendered him too fatigued to proceed far in the investigation of the observations of the gentle-

man from Delaware, but he felt one observation so strongly merited reply, that he could not abstain from rising; he meant the particular wherein Mr. Dawson and Mr. Tracy were paralleled. He says, the difference is only in the name of the parties, but he has failed to prove this similarity. The difference is so palpable that no man can fail to perceive the dissimilarity (with the exception, I must say, of the gentleman from Delaware.) Mr. Tracy was a member of the Senate of the United States, when he received his appointment. That he was blameable for taking, or precluded from accepting it, no one will say; unless it can be proved to have been an office, created while he was a member of the Senate. But this was not the case with Mr. Dawson. Mr. Tracy being a member of the Senate, I will say that his constituents had no power whatever to revoke their confidence in him, because he did not return to their suffrages. The other gentleman was a private citizen, and the act of placing confidence in him, obtained after his appointment and during his absence on the mission. This was an act for which he was not responsible to any man upon earth, and, therefore, it does not belong to this House. Another distinction in the cases is, that Mr. Tracy accepted an emolument for services rendered, at the same identical time that he was receiving his mileage as a Senator. He certainly, therefore, received double pay for his services. If Mr. Dawson had received his pay as Member of Congress, and his compensation for his mission to France at the same period, the cases would have been so far similar. But it was not so, for his foreign mission ceased long before the House sat. Mr. Tracy received emolument at that time, for an office which he could not and did not fill; and which, if he had filled, was totally incompatible with the office of Senator. This is a true distinction between the cases. The question whether a person holding an office under the Government is eligible to a seat in this House, might easily have been determined by the gentleman, and the question whether Mr. Dawson was eligible to his seat, might also have been de- [1283] terminated

by him; because Mr. Dawson, submitting to the House, when he took his seat, whether or no it was proper was publicly invited, because it was considered that a foreign mission was an exceptionable case; and for this reason, because the person is elected by the people, when, from the nature of the case, he must be ignorant of his having been the depository of their confidence. If, therefore, there is any objection, that objection is removed by this necessary event. But the case of Mr. Tracy is totally different: he not only received and held two commissions at the same time, but he also received the double emoluments.

With respect to the double allowance for travel, the cases of the two gentlemen were mentioned in the Senate as parallels. I will remark that this is a case that does not come before this House, and we are told that it was not offered to the Committee. Indeed, how can we act at all upon the informal, inofficial, and unfounded statements of the gentleman who preceded me? Indeed I should lament if this were a fact: my knowledge of, and acquaintance with one of the gentlemen spoken of, (Mr. Stone,) is such, that to parallel it with the case of Mr. Tracy, would make me lament exceedingly. Indeed I cannot conceive, how they could be said to receive double compensation: they received their full pay for their services in this House, till the fourth of March; they went into the Senate chamber under a new appointment, but they did not in any way hold at the same time two distinct offices, or receive emoluments in that view. I do not mean, however, to defend the usage of the Senate in that particular, because though I cannot call it corrupt, I must call it an abuse; but being an usage it was received.

Another parallel mentioned, was that of building stores on the public grounds in this city, and the military arsenal or laboratory at Philadelphia. Now it appears to me, that you cannot very easily define the term "navy yard," without these appurtenances to preserve the materials in. But there is a material distinction, between building on ground where we

have the right of soil and jurisdiction, and building upon the ground of others. Of what importance is it to dwell on these cases, in order to prove that it is unnecessary to recommit the report? It amounts to nothing, but that different officers of the Government have put different constructions on the same law. Does this invalidate the report or the reasoning of the committee? Does it disprove the facts stated, or invalidate the charges exhibited against A or B? The gentleman really reminded me of the exertions of a counsellor defending a criminal at the bar of justice. But I would ask, does it diminish the crime of A or B, that C and D have committed the like crimes? This is a strange mode of defence, though not unusually offered.

Upon the whole, as the lateness of the hour nor my strength will admit of enlargement, I would observe that the committee were appointed to make certain inquiries; they have reported upon those inquiries, and now you are to be told that because different authorities have put different constructions upon the law, the report must be re- [1284] committed! Sir, this will be no way ever to discover and bring to light improper conduct; we did not wish to know their construction. The committee have reported in a manner and temper highly honorable to them, and I trust we shall not offer to give a kind of counter report, by sending it back to them, when there is no reason for that measure. This will be giving a color to transactions whose illegality is evident. I see no force in any argument used in favor of the motion.

Mr. GRISWOLD read, without comment, a certificate from the Secretary of the Senate, that Mr. Stone and Mr. Sheafe did receive their mileage from the Senate, for their coming and return to attend the Senate, on the fourth of March. [1285]

NO. 30

REPLY TO CHARGES IN NICHOLSON REPORT
ON APPLICATION OF PUBLIC MONEY.
(WOLCOTT), 1802⁸¹*July 12, 1802*

Soon after the commencement of the last Session of Congress, the House of Representatives appointed a Committee with an instruction "To inquire and report, whether monies drawn from the Treasury, had been faithfully applied to the objects for which they were appropriated, and whether the same had been regularly accounted for; and to report likewise whether any further arrangements were necessary to promote economy, enforce adherence to legislative restrictions, and secure the accountability of persons entrusted with public money."

At the close of the session, a Report was submitted to the House, founded, principally, on communications from Mr. Gallatin, Secretary of the Treasury. I am authorized to assert, that this report ought to be considered, as exclusively the act of the majority of the Committee; consisting, as is understood, of Mr. [Joseph H.] Nicholson of Maryland, Mr. [William B.] Giles of Virginia, Mr. [Robert] Williams of North-Carolina, and Mr. [Lucas] Elmendorf of New-York.—Mr. [James A.] Bayard of Delaware, Mr. [Roger] Griswold of Connecticut, and Mr. [Manasseh] Cutler of

⁸¹ Oliver Wolcott, *An Address to the People of the United States*, on the subject of the report of a committee of the House of Representatives appointed to "examine and report, whether monies drawn from the Treasury, have been faithfully applied to the objects for which they were appropriated and whether the same have been regularly accounted for," which report was presented on the 29th of April, 1802, Boston. Printed: Hartford: re-printed by Hudson and Goodwin, 1802. 70 pp. See Nos. 23-29.

Wolcott served the State of Connecticut from 1781 to 1789, being Comptroller of Public Accounts when he resigned to accept an appointment as Auditor in the United States Treasury. He became Comptroller in 1791, succeeded Hamilton as Secretary of the Treasury in 1795, and served as such through 1800.

Massachusetts, were indeed members of the Committee, but they were not apprised of the intentions of the majority, until a few days before the close of the session, when the report was already prepared and ready to be presented: even this communication with the minority of the Committee, produced no effect, as none of the alterations, which were suggested, were admitted.

The appointment of this committee, was certainly proper, either for the purpose of collecting information for the House of Representatives, or for the satisfaction of the community at large. To accomplish either of these objects, the Report ought, however, to have contained a full view of all the circumstances, which reasonable men would deem essential to assist their judgments, in forming correct opinions. For the purpose of preventing debates from being unnecessarily diffusive, in consequence of disputes, respecting facts, capable of being precisely ascertained, it has been a practice to compose committees, of those gentlemen, who were not only best informed, on the subjects referred to their consideration, but who [3] were also, most likely to be opposed in sentiment, on the same, or other relative questions. The utility, justice and policy, of this practice, are too obvious to require illustration. Men are sufficiently prone to differ, respecting the proper application of principles to facts, even when the latter, are not disputed. Notwithstanding every precaution, great difficulties will frequently attend legislative discussions of complex questions. It is a primary duty of Committees, to limit the grounds of controversy; to settle in concert, every question which is susceptible of a just compromise; to present digested and contrasted views of those facts and arguments, upon which there remains a diversity of opinion; and to deduce therefrom distinct propositions, susceptible of an affirmative or negative determination. When Committees fail of accomplishing these objects, they are worse than useless, by perplexing those subjects, which they were instituted to elucidate.

Judging by these principles, the conduct of the Speaker, in designating the members of the Committee, appears to have been candid and impartial; and whether in the mode of proceeding, which they adopted, the majority of the members, have discharged their duty, to the public, is a point, which I leave to the judgment of the House of Representatives and the community. So far as my personal interests are affected, I am not displeased with the course, which the enquiry has taken.—I rejoice, that at length there exists an official statement of those supposed errors in the former administration of the finances, which have caused much public inquietude; it is peculiarly satisfactory, that this statement has been prepared by Mr. Giles and Mr. Gallatin:—both these gentlemen are known to have been the most decided, efficient and perservering opposers of the former administration;—both have, for a series of years, watched every operation of the Treasury, with unceasing vigilance, and fortunately, as I trust, for my reputation, the latter has, for a considerable period, been in possession of every possible source of information, respecting the whole course of my official conduct.

The manner in which I mean to pursue the proposed inquiry, and which is intended to be merely *defensive*, perhaps requires me to absolve the committee of *any intention unjustly to wound the characters* of the former administration. When it is recollected, that according to the Constitution, the awful sentence of DISHONOUR can only be pronounced on the concurring votes of two thirds of the Senate of the United States, the highest tribunal of our country, on full proof of misdemeanors in office, after a public hearing, and a solemn impeachment by the House of Representatives, it ought not to be imagined, that a bare majority of a Committee, appointed by the Speaker, according to ordinary forms, would arrogate the power of inflicting the same punishment.—Such a suspicion, is peculiarly inadmissible, as there was no hearing; as no counterstatement was admitted; as the minority of the Commit- [4] tee were not even consulted.—In particular,

decorum forbids, that such a design should be imputed to the Chairman, Mr. Nicholson:—This Gentleman, was in the preceding session, a member of a Committee⁸² for inquiring into the State of the Treasury:—he concurred with the other members, in a report upon my official conduct, with which I have every reason to be satisfied:—I can testify to the candour and uprightness of his conduct on that occasion:—he will declare that I desired the Committee to dismiss every degree of reserve, and to extend their inquiries to every subject respecting which injurious surmises had existed:—he will also recollect, that I was present at the seat of government, during the last winter, and that he was informed at my request, that I was willing to appear before the Committee and answer any inquiries, which might be proposed, and that the absence of Mr. Giles, on a visit to Virginia, was assigned as a reason, why my proposal was not accepted; Mr. Nicholson, therefore, cannot have intended, that his last report should be deemed inconsistent with the first:—to suppose that he imagined it, proper, or possible, to injure my character by a partial representation, would be to question the soundness of his understanding; his honour as a gentleman; his justice, as the arbiter of the Committee.

But though *improper motives*, will not by me, be imputed to the Committee, yet sincerity requires me to declare, that by adopting a novel mode of proceeding, they have presented a very imperfect representation of transactions, which, if I do not greatly err, are susceptible of a vindication, perfectly satisfactory to the public:—this vindication, I now commence, supported by the recollection of numerous instances of the candour of my countrymen; and with a firm confidence, that they will examine with patience, and decide with justice.

1st. *The first subject of inquiry, relates to the construction which has been given by the Treasury Department, to various Laws, for appropriating money in the Treasury, especially those in relation to the expenses of the War and Navy Departments.*

⁸² See No. 23.

An example of the manner, in which appropriations have been generally made for the War Department, will be found in the first Section of an Act of Congress, passed on the 3d day of March 1795 [1 Stat. L., 438].—By the second Section of an Act, passed on the 31st day of December 1794 [1 Stat. L., 404, 405], a sum not exceeding five hundred thousand dollars had been appropriated “towards defraying the “expense of the military establishment for the year 1795.” By this Act, a partial appropriation was made, *without any specification of the particular* objects, to which the money was destined. According to the usual course of business, a great proportion of this five hundred thousand dollars, *must have been expended before the 3d of March* 1795. On this day, the Act first referred to, was passed; it declared, “that includ-
“ing the appropriation of five hundred thousand dollars, made
“for the military establishment for the year 1795, by an Act [5]“of the present Session, there be appropriated, for the said
“Military establishment, a sum not exceeding one million,
“four hundred and sixty-nine thousand, four hundred and
“thirty-nine dollars and twenty-nine cents.”—The same section then proceeds to *specify sixteen distinct heads of expenditure*, with sums annexed to each, amounting in the whole, to the aggregate sum of 1,469,439 dollars and 29 cents, first appropriated.

By the case now presented, the principles, upon which the Report of the Committee is founded, may be fairly tried. These principles are “that there are two previous requisites, “which are necessary to justify the expenditure of public “money, and without which no legal expenditure can be made: “—First, that the expenditure for the object to which it is “applied, should be authorized by Law; and secondly, that “an appropriation should be made, to cover that authorized “expense.”

The principles asserted by the Committee, well understood, and properly applied, are unquestionably correct; the question is, therefore, *merely how the principles ought to be applied.*

It shall be supposed that in the month of February 1795, a requisition had been made, for money to satisfy expenses in the *Quarter Master Department*.—No Law has at any time defined *what expenses shall be referred to this head of expenditure*—or in other words, no “objects” of expense have been “*authorized by Law*.”—besides, there existed no appropriation, except in general terms, “*towards defraying the expense of the military establishment*.” In this state of things, would it have been proper to have refused the money, on the ground, that there existed no *legal objects of expense*, and that no *specific appropriation* for the *Quarter Master Department* had been made?—It is evident that such a refusal would have been improper, *as it would have arrested the progress of the public service, and defeated the operation of an Act of Congress*. It was sufficient, to justify a compliance with the requisition, that the expenses of the *Quarter Master Department* were sufficiently defined by *usage*; that, with reference to many objects, *an established usage is equivalent to a written law*; and that a *general appropriation* had been made towards defraying the expenses of the *Military Establishment, which included those of the Quarter Master Department*.

It is true that the subject was revived in the act of March 1795, and that a sum of one hundred and fifty thousand dollars was, according to the construction of the Committee, *specifically appropriated for the Quarter Master Department*, which sum, upon their principles, could not *legally be exceeded*. It might, however, have happened, that a sum of *two hundred thousand*, instead of one hundred and fifty thousand dollars, had *been actually expended, before* the act of March 3d, 1795, was passed. Such a supposition is not extravagant, because, according to *established usage*, (the only rule in the case supposed,) the expenses of the *Quarter Master Department* embrace a great variety of objects; and indeed cover every [6] discretionary and undefined expenditure, incident to military operations. In such a case, the construction of the

Committee would lead to no other conclusion, than that a transaction completed in the month of February, 1795, and at that time *consistent with established usage, and contrary to no law whatever*, might be rendered *absolutely illegal*, by the operation of a *posterior act*, passed in March, 1795.

A construction, pregnant with such contradictions, and which would have rendered many of the acts of Congress altogether unsusceptible of execution, has, however, been perseveringly contended for, and is the construction upon which the Report of the Committee is principally founded.

The Report is expressly predicated on a letter from Mr. Gallatin, dated March 2d, 1802;⁵³ and on the basis of this authority the Committee have asserted, "that the appropriations for the army and navy respectively, have been considered as constituting but one general fund for each of these objects, although in most of the laws making appropriations, a variety of heads of expenditure are distinctly specified." Considering this position as proved, the Committee remark, "that *if the general construction be correct*, it may perhaps "be said, that, in *most instances*, monies have been drawn from "the treasury in the manner prescribed by law." The prepossessions of the Committee are sufficiently evident from this equivocal comment; for though they have not expressed a decided opinion, that the practice of the Treasury was unsupported by law, yet this idea has unquestionably been conveyed to the public.

The letter of Mr. Gallatin does not, however, authorize the declaration of the Committee. On the contrary, he enumerates a variety of accounts, both in relation to the War and Navy Departments, which he expressly admits "have been "considered as distinct from each other, and from all other, "made in relation to the Army and Navy respectively." It moreover appears, from two statements, annexed to Mr. Gallatin's letter, and which were printed for the Committee, that from the year 1797, to the year 1801, accounts were opened

⁵³ See No. 28.

with the *War Department*, under *twenty-four*, and with the *Navy Department*, under *seventeen heads of expenditure*. It is therefore manifest, that on a position erroneously assumed, and expressly contradicted by the document referred to as a voucher, and on which an hypothetical opinion is cautiously insinuated, the Committee have not only severely censured particular transactions, but have hazarded the unqualified animadversion, that in their opinion, "considerable sums of public money have been greatly misapplied, and that much expense has been incurred, without any legal authority."

This error, so easily detected, must have been accidental. It could not have happened, if any person, conversant with the practice of the Treasury, under the former administration, had been consulted. It is mentioned to prove the extreme insecurity of rep- [7] utation, if Reports of Committees are formed without previously considering the explanations of those, whose characters are to be affected.

The truth is, that all reasonable means were exerted to confine the expenditures within the particular estimates, and that according to a construction never disputed at the Treasury, it became necessary to open a number of accounts, in the offices of the Secretary and Comptroller of the Treasury, beyond what was useful. Different views of the same subject by various Committees, and especially the persevering efforts of individuals of the party now in power, to limit the operations of the Executive Departments, by minute subdivisions of appropriations, continually tended to produce an inconvenient complexity in the public accounts, and to paralyze every branch of the public service. It was the duty of the Treasury, so to interpret the Laws, as to counteract this tendency as much as possible:—I contend that the interpretation, adopted in practice, was, at all times, *reasonable*, that a different interpretation would have been *unreasonable*, and frequently have entirely *defeated their operation*. It is, however, a sufficient and unanswerable defence of the practice of the Treasury and the other Departments, *that it was at all times publicly*

avowed, and well understood, and deliberately sanctioned by Congress.

To prove this declaration, it is necessary to enter into a detail of transactions, which may appear tedious. It will however be remembered, that I have to contend against the weight of authority, apparently due to a Committee of the House of Representatives:—This I trust will be deemed a sufficient apology by a candid public.

The construction and practice of the Treasury, relative to acts, appropriating money, were for the first time, questioned by Mr. Giles. In the month of February 1793,⁸⁴ this gentleman proposed several resolutions in the House of Representatives, with the view of censuring the official conduct of Mr. Hamilton, then Secretary of the Treasury. One of the proposed resolutions was expressed in the following terms: “Resolved, that it is essential to the due administration of the government of the United States, that laws making *specific appropriations* of monies should be *strictly observed* by the administrator of the finances thereof.” No vote appears to have been taken on this question, on the ground, it is presumed, that it called for the opinion of the House, on an abstract proposition of indefinite import. The subsequent propositions, imputing to the Secretary violations of the laws and constitution, which Mr. Giles considered as *inferences* from his supposed *axiom*, were, after full inquiry and debate, rejected by a large majority. As Mr. Giles has, during the last session, alluded to the subject of these decisions, it may be reasonably concluded, that his mind is not yet exempt from the prejudices, which were excited by the disappointment.

During the session of Congress, which commenced in November, [8] 1794, immediately subsequent to the first insurrection, in Pennsylvania, the question of *specific appropriations* was again agitated. With the exception of Mr. [Edmund] Randolph, who was then Secretary of State, the heads of departments concurred in opinion, that the sums, ap-

⁸⁴ See No. 13.

propriated for the service of the War Department, might be properly applied to defray the expenses of the militia who were, on that occasion, ordered into service, by President Washington. On the meeting of Congress, the *doubts*, entertained by Mr. Randolph, of the legality of the expenditures, for the militia expedition, were extended to certain members of the Legislature. On the first day of February, 1795, I was appointed Secretary of the Treasury, on the resignation of Mr. Hamilton. Mr. Fitzsimons of Pennsylvania was Chairman of the Committee, appointed to consider the estimates, and prepare bills, for making appropriations for the War Department; and in consequence of discussions relative to these appropriations, I received a letter from this gentleman, inquiring, whether a surplus appropriation for the military establishment for one year, could be considered as a proper object of deduction from the estimate for the succeeding year. To this inquiry, I communicated the following official answer, which remains, with the other documents I shall recite, on record, in the Treasury Department.

“TREASURY DEPARTMENT, *February 25, 1795.*”

“The Secretary of the Treasury respectfully informs Mr. Fitzsimons, of the House of Representatives, that the question proposed by him has never been fully decided by any law, or by the practice of the Treasury.

“It has been usual for the Legislature to grant appropriations for the military service, on estimates of the *probable yearly expense*, and hitherto the yearly expenditures, at the Treasury, have been referred to the appropriations for the same year; *with the exception, however, of such expenditures as were susceptible of an application to some precise part of a general appropriation.*”

“By far the greatest part of the expenditures for military purposes are, however, unsusceptible of such a minute distribution, as are appropriations for other objects, and of course the expenditures for the military Department are

“kept under more general heads: for instance, certain sums
“are granted for pay, rations, forage, clothing, transportation,
“&c. It would be very difficult, if not impracticable, to issue
“money under these several heads; and if it were to be at-
“tempted, *excessive appropriations and advances would be-*
“*come necessary, and an extraordinary risk would be incurred*
“*by the public.* It has been my opinion, that the appropria-
“tions for mere military purposes, ought to be general grants
“of such sums, as are from time to time deemed requisite for
“the public service, to be issued according to exigencies, and
“applied [9] and accounted for according to law; and, in
“this point of view, a surplus appropriation for one year, be-
“comes a fair subject of deduction from the estimate for a
“succeeding year.

“As you have mentioned the question, *I shall be glad if*
“*some measure can be adopted, which will express the sense*
“*of the Legislature upon the subject.*”

If, with a full knowledge of the events, which have since occurred, I were to prepare a communication to protect myself against such a report, as that under consideration, it would be impossible for me to express my ideas with more precision, than in the terms, which were adopted in this official note. I am greatly deceived if the reasons, briefly assigned, for the practice of the Treasury, do not afford a conclusive justification. It was stated that such expenditures, as were susceptible of application to a *precise part* of a general appropriation, *were so applied*; but that other expenditures were referred to more general heads. It is self evident, that if *distinct funds*, for the different *branches of expenditure*, were to be issued to the public agents, that the *advances must greatly exceed* what would be necessary, and that with a *sufficient sum of money on hand*, the public service would frequently suffer, merely because the *particular fund was exhausted*. It is evident that such a practice would be *unsafe*, from the temptation it would excite to *misapply monies*, which would be *known to be useless*. It would be impossible for the Treasury,

or the other Departments, to prevent monies from being drawn, or, after being drawn, from being withheld, on *fictitious pretences*. Upon the principle of appropriating *distinct funds*, it would be necessary to provide, not only against contingencies of a *general nature*, but against contingencies, in relation to *each subordinate branch of the service*. It might of course happen, that *two millions* of dollars, granted under twenty distinct heads, would be found a less efficient and useful fund, than *one million* of dollars, subject to a general application. The result is, that the practice of the Treasury was alike conducive to order and economy.

That such, at least, were my sincere opinions, cannot be doubted, when my situation is considered: I had just entered on the duties of a most responsible office; it was impossible that there could exist more cogent motives to enforce a strict economy. The degree of order, which, with much labor, had been introduced in the collection of the internal revenue, had been recently disturbed by an insurrection. An expense of more than one million of dollars had been incurred by this object: a loan of eight hundred thousand dollars had just been negotiated, with the approbation of all parties, for effecting a peace with Algiers and the ransom of our citizens. Both these expenses were unexpected charges upon the domestic resources of our country; all expectation of foreign loans had been extinguished by the then recent conquest of Holland; powerful causes were operating, with incalculable force, to subvert public [10] and private credit, in every part of Europe, and it was impossible to foresee the extent of their influence in America; an act was on its passage through the Legislature, providing for the reimbursement of the domestic debt, and the reputation of the Department, committed to my care, depended on a successful execution of this measure,

Nor were my motives for a frank conduct, towards the Legislature, less influential than those of economy. I had witnessed the cares and excessive labour, which had been accumulated upon my predecessor, merely in consequence of

the misconceptions of Mr. Giles, and I knew that a question, not very dissimilar in principle, was then under consideration, relative to the expenses of the insurrection.

But notwithstanding the explicit information to Mr. Fitzsimons, who prepared the bills for making the appropriations, and though a number of members of Congress were acting under impressions that the expenditures, for suppressing the insurrection, were not strictly authorized, yet no modification of the laws on the subject of appropriations was introduced; except that, in the act [1 Stat. L., 433, 437, sec. 16] making provision for the redemption of the public debt, a clause was inserted, that no appropriation for the current service should continue in force for more than two years, after the year in which it was made, unless a longer duration was specially assigned by the law. Even this limitation, upon the validity of acts of appropriation, originated in a recommendation of my predecessor, Mr. Hamilton.

The construction of the Treasury Department, not having been *formally* ratified by Congress, I presented the question respecting *specific appropriations*, to the consideration of the Committee of Ways and Means, in a report dated the 17th of May, 1796. This report was accompanied with an estimate for the service of the War Department, and concluded in the following terms, being nearly the same, which had been adopted in the note to Mr. Fitzsimons.

“TO PREVENT FUTURE MISCONCEPTION, and for the immediate information of the Committee, I think proper to observe, that by far the greatest part of the expenditures, for the Military Department, are found, *by experience*, to be unsusceptible of that particular distribution, which is observed in the issues of monies for other objects—of course it has been the usage of the Treasury to open the accounts, with the War Department, under more general heads. Unless this mode of proceeding is continued, excessive appropriations and advances will be necessary, and an extraordinary risk will be incurred by the public.

"It follows, that appropriations, for military purposes, ought to be considered as general grants of such sums, as the public service is found to require, to be issued according to exigencies, and applied and accounted for, according to law."

Mr. Gallatin was a member of the Committee of Ways and [11] Means, to which this Report was addressed; and on the 1st of June 1796,⁸⁵ the following resolution was adopted by the House of Representatives, in consequence of this motion. "Resolved, that the Secretary of the Treasury be directed to lay before this House, within the first week of the next session of Congress, a statement of the monies expended for the military establishment, for each calendar year, from the establishment of the present government, to the 1st day of January 1796, distinguishing the sums expended under each of the heads, for which specific appropriations have been made; and also, a statement of the expenditure attending the militia, in their expedition to the western counties of Pennsylvania; under the several heads, for which specific appropriations were made."

In the autumn of the year 1796, before a report could be made, in compliance with this resolution, a volume was committed to the press, compiled by Mr. Gallatin, principally from public documents, which had been printed by the direction of Congress, entitled "*A Sketch of the Finances of the United States.*"⁸⁶

In this work, Mr. Gallatin referred to my report of the 17th of May 1796, before recited, and commented thereon, in the following manner. "It would seem, that if those appropriations (namely, the appropriations for the military establishment) are considered, by the Treasury Department, as general grants, to be issued according to exigencies; that, or some other Executive Department, is to judge: and if, therefore, the monies *specifically* appropriated to one head of service, are applied to another head, they are not applied

⁸⁵ *Annals of Congress*, Vol. 5: 1499.

⁸⁶ See No. 18.

“and accounted for pursuant, but *contrary to law*. Such a
“mode is undoubtedly liable to great *abuses*:—*it deceives the*
“*Legislature*, who, when appropriating one hundred thou-
“sand dollars for the defensive protection of the frontiers,
“did not think that the Treasury would assume a power to
“apply them to the Quarter-Master, or any other Depart-
“ment:—*it deprives the Legislature of any control*, not only
“over the distribution of monies amongst the several heads
“of service, *but even over the total sum to be expended.*”

Speaking of the expenditures for suppressing the insurrec-
tion, Mr. Gallatin observed: “Another *irregularity* has once
“taken place on an *extraordinary occasion*. Although the Pres-
“ident of the United States *was authorized to call out the*
“*militia, in order to suppress insurrections, no monies were*
“*appropriated for that service. When the western insurrection*
“*took place*, until Congress had covered the expenditures of
“the expedition, by an appropriation made only on the 31st
“of December, 1794 [1 Stat. L., 404], the expenses were de-
“frayed out of the monies appropriated for the military
“establishment.”——“But as the *militia, called out to*
“*suppress an insurrection, make no part of the military es-*
“*tablishment*, the expenses attending such a call *were not*
“*amongst the various objects enumerated in the law*, making
“appropriations for the military establish- [12] ment; the
“only item, applicable to militia, being expressly confined to
“the defensive protection of the frontiers. The monies drawn
“from the Treasury, on that occasion, were paid out of a
“fund, appropriated for other and distinct purposes:—*they*
“*were not drawn agreeably to the Constitution, in consequence*
“*of any appropriation made by law*. It might have been a de-
“fect in the law authorizing the expense, not to have provided
“the means, but that defect *should have been remedied*, by
“the only competent authority, *by convening Congress*.

“The necessity of the measure may, in the mind of the Ex-
“ecutive, have superseded every other consideration; the
“popularity of the transaction *may have thrown a veil over*

"its illegality; but it should by no means be drawn hereafter as a precedent."

Although many reflections are suggested by the authoritative style of these remarks, yet it is sufficient for the present purpose to observe, that strange and unexpected consequences have followed the official communications, which I have recited. Two reports had been made, in successive years, each addressed to the Committees, entrusted with preparing the bills for making appropriations; a *practice* of the Treasury was mentioned, with the *reasons*, on which it was founded; it was declared to be the object of these reports, "*to prevent future misconception,*" and to obtain the "*sense of the Legislature,*" on a *litigated question*; yet notwithstanding this practice was thus avowed, and appears to have been known only in consequence of a *voluntary disclosure*, it has, by a gentleman, who has since been appointed my successor, been represented *as an abuse, as contrary to law, as calculated to deceive the Legislature, and to deprive that body of any control, not only over the distribution of monies, amongst the several heads of service, but even over the total sum to be expended.* Still more strange, a Committee of the House of Representatives has referred to one of these reports, *not to justify the practice, therein mentioned, but merely as evidence of the existence of a practice, deemed liable to exception!*

On the ninth of December 1796, *during the first week of the session of Congress*, I transmitted four statements, exhibiting the appropriations and expenditures, for the War Department, from the establishment of the Government to the close of the year 1795. These statements were prepared, in obedience to the resolution moved by Mr. Gallatin, on the first of June 1796, and before recited. A laborious revision of all the accounts had been found necessary, and several Clerks, in the offices of the Register of the Treasury and Accountant of the War Department, had been employed on this business, during nearly the whole recess of Congress. These statements, with explanatory observations by the Officers,

were printed for the use of Congress, and they fully confirmed the representation in the reports of February 25th, 1795, and 17th of May, 1796.

On the 16th of December, 1796, a Committee of Ways and Means, consisting of sixteen members, was appointed; it was the [13] duty of this Committee "to inquire into the state "of the public debt, of the Revenue, and of *the Expenditures*, "and to report from time to time their opinion thereon." Mr. Gallatin was one of this Committee; he had just published a volume, in which the practice of the Treasury had been represented as illegal; three distinct reports had placed the controverted question, completely in the view of the Legislature; yet notwithstanding these circumstances, the appropriations were made according to established precedents; and no intimation was given that the Legislature considered the construction of the Treasury, as illegal, or in any manner, improper.

On the 28th of March, 1798,⁸⁷ the House of Representatives resolved, "That the Secretary of War be directed to lay "before the House a statement, *in detail*, of the expenditure "and application of the monies, appropriated by law for the "subsistence of the army, and for the Quarter Master Department; the Indian Department; bounties; the defensive "protection of the Frontiers, and all the contingent expenses "of the War Department for the year 1797, from which have "resulted the deficiencies, by him stated, in his estimate of "the 29th of January last, to amount to the two respective "sums of one hundred and fourteen thousand one hundred "and sixty five dollars and ninety-five cents, and fifty thousand dollars;—that he include, in the said statement, an "estimate of the number of rations, which have been issued, "during the same year, at the several posts and garrisons respectively; and that he also arrange, under a number of "general heads, the different expenditures, incurred in the "Quarter Master Department, Indian Department, and for

⁸⁷ *Annals of Congress*, Vol. 8: 1333.

“contingent expenses of the War Department respectively.”

To satisfy the objects of this resolution, it was necessary for the Secretary of War to have recourse to the Office of the Secretary of the Treasury. A statement was accordingly prepared and transmitted, by my direction, which exhibited, *in detail, every Warrant, with the purpose, for which it was issued.* Knowing, however, that the sums issued to subordinate agents had not been, and could not be, invariably applied to the purposes originally contemplated, I accompanied the accounts with the following observations.

“It is not in my power to class the expenditures incurred in the Quarter Master Department, under particular heads, as many of the accounts are unsettled. I have, however, given a detail of the purposes, for which the monies were required, as expressed in the Warrants to the Treasurer.

“But though I have done all in my power to confine the expenditures within the limits of the specific appropriations, I am confident, that results will appear on the settlement of the accounts, very different from the accounts, detailed in my office. Of the monies advanced under the head of subsistence, supplies have been purchased, which have been issued to Indians;—Stores destined [14] to one use, at the time of purchase, have been applied to another; the Public Agents, especially those at a distance from the seat of government, are frequently governed more by the real, or apparent urgency of the service, than by considerations, which have reference to the form of their accounts.

“I mention these things TO PREVENT FUTURE MISCONSTRUCTION OF MY CONDUCT, and that there may be a due understanding of the circumstances, under which the account, now presented, has been framed.”

At the time this Report was made, and which was printed for the use of Congress, a Bill [Military appropriations] was on its passage, in the House of Representatives, which had been previously reported by the Committee of Ways and Means:—Mr. Gallatin was a member of this Committee, and

the bill contained the principle, for which he had contended: this was proposed to be effected by a clause declaring, that the *specific sums*, mentioned in the Bill, *should be solely applied to the objects, for which they were respectively designated*. This Bill passed the House, without debate on the principle in question, and, as I presume, without observation of the new clause. The Senate, however, refused to concur in the *proposed innovation*, and on a question for introducing an amendment, to render the Bill conformable to established precedents, two Senators only, Mr. Mason and Mr. Tazewell of Virginia, voted in the negative. On reconsideration, the House of Representatives, *after solemn debate*, concurred in the amendments of the Senate, *and thereby, as I contend*, EXPRESSLY AND UNDERSTANDINGLY SANCTIONED *the construction and practice of the Treasury*. Mr. Elmendorf, one of the Committee of investigation, voted with the minority of the House, on this occasion.⁸⁸

It is not necessary for me to prove, that the construction and practice of the Treasury were *originally free from doubt*: it is certain, that the practical interpretation was principally to be defended, by shewing, that a different construction would produce absurd, or mischievous consequences. It was on this ground that legislative explanations were requested. The political adversaries of the former administration were not wanting in perseverance; they surely, in their writings and debates, availed themselves of every proper opportunity of establishing their rules of interpretation;—now that they have acquired the power, it may be proper, that their conduct should be governed by the principles formerly professed; if the public interests will permit, I shall not be displeased to see the result of a fair experiment; to be fair, it will be necessary, however, that the experiment be made when a considerable body of troops is forming, or in the field; or in a season of extensive military and naval preparations: but surely no rule of justice will give to these principles a retrospective op-

⁸⁸ *Annals of Congress*, Vol. 7: 572, 574; Vol. 8: 1542-45, 1554-58; 1874-75.

eration, injurious to the reputation of men, whose official conduct was avowedly governed by opposite maxims.

According to principles contended for by the Committee, many [15] of the laws, heretofore enacted, were utterly unsusceptible of execution. Reflection, aided by experience, has, I believe, at length induced Mr. Gallatin to adopt the same opinion; for though he has recommended "that* it be enacted, by a general law, *that every distinct sum, appropriated by any law, for an object distinctly specified in the law, shall be applicable only to that object,*" yet he has, at the same time, observed, that "*as Laws can be executed only, so far as they are practicable, and as unavoidable deviations will promote a general relaxation, it will be expedient in the several appropriation Laws, especially for the war and navy Departments, NOT TO SUBDIVIDE THE APPROPRIATIONS, BEYOND WHAT IS SUBSTANTIALLY USEFUL AND NECESSARY.*"

The feelings, which a collective consideration of the report of the Committee, and this part of the communication of Mr. Gallatin, are calculated to excite, will be most properly expressed by a virtuous community. All candid men will perceive, that *principles never recognized, and always disavowed*, are, with the utmost rigor, applied to *past* transactions of an administration, *which has retired*—to the transactions of a period, of *great difficulty, when preparations of all kinds, for the public defence, were progressing with activity*: they will, at the same time, perceive, that the *future* application of the *same principles*, in a period of *profound quiet*, and in respect to *reduced establishments*, IS DEPRECATED by the *present administration*;—the justice of the public will not permit, that men, who have served their country, in conspicuous stations, should be dishonored for a course of conduct, which their successors have *proposed to pursue*, under a change of the most *unessential forms*: it must pronounce, that the Report of the Committee is founded on a fallacious and untenable principle; that the repeated and explicit representations to the Legisla-

* See Appendix, C. [No. 28].

ture, which have been recited; the tacit approbation, which may be inferred from their silence, during several successive years, and the formal sanction of both houses of Congress, to propositions, which expressly involved the question under consideration, afford a compleat justification of the former administration.

2d. The Committee have observed, that “some *irregularities* are stated to have occurred, where monies have been “advanced upon the simple application of the Secretary of “the Treasury, by letter, without the formality of a warrant, “and sometimes even without a previous appropriation; but “in these cases, the *irregularity* has been afterwards covered “by subsequent warrants and appropriations, and the Committee do not discover, that it has been productive of any injurious consequences to the United States.”

It is satisfactory to find it admitted, that the numerous payments to and from the Treasury, have been so conducted, that *no loss or confusion*, has ensued. I trust that this will be considered by the public as decisive proof, that the deviations, from the *forms approved by [16] the Committee*, have not been very important:—it is no bad evidence of the propriety of a practice, that it has *uniformly* produced correct results. It is however true, that it has been the practice for the Secretary of the Treasury, to direct payments and remittances to be made, by letters to the Treasurer, and afterwards to cover the payments by warrants. This mode has been almost universal in respect to disbursements at a distance from the seat of Government. I do not understand that it is meant to be alleged, that monies have been advanced *from the Treasury* without an appropriation:—It is however certain, that monies have been frequently thus advanced, by *Banks* and by *Collectors*, and *Supervisors*, on Letters from the Secretary of the Treasury. These modes of payment are particularly described in a Report made in May 1794,⁸⁹ by a Committee of the House of Representatives, appointed to examine the state of

⁸⁹ See No. 14.

the Treasury, in consequence of propositions offered by Mr. Giles. This report was the result of a laborious and systematic enquiry:—I declare, without fear of contradiction, from any quarter, that this report was satisfactory to Congress, and that it has been ever considered as evidence, that the business of the Treasury was correctly and prudently conducted. No practice, therein described, can be justly questioned.

The instances, in which monies have been advanced by Banks, or applied by Collectors, to the public service, have been in cases where the expenditure *was authorised by Law*, and (when no appropriation existed) where the *public faith effectually obliged Congress to make such appropriation*. I can now recollect but one exception, in a case of urgent necessity, of no great amount, and which was in a few months sanctioned by Law:—It has frequently happened that protracted debates on important questions or other causes, have delayed the provisions for the current service, for several months, *after the commencement of the year*;—the delay was frequently very inconvenient, and always increased the labor and responsibility of the officers of the Treasury;—the manner, in which payments were made in such cases, *was perfectly understood*—I believe I am not mistaken, in my recollection, that the compensations of the members of the legislature itself, have sometimes been thus informally advanced. Is it not the extreme of rigour, at this period, when the Committee are doubtless satisfied that the future operations of the Treasury will not be influenced by precedents, deemed liable to exception, to describe a well known usage, which has been productive of no injurious consequences, and which was founded on a respectful confidence in Congress, by the offensive appellation of an “*irregularity*.”

3d. The expenses of the officers and clerks, attached to the Seat of government, for the removal of themselves and families from Philadelphia to Washington, and amounting, as is stated, to the sum of 32,372 Dollars and 34 Cents, the

Committee are of opinion "was drawn from the Treasury, "and expended without any legal authority." [17]

The act, establishing the temporary and permanent seat of the government of the United States, was passed on the 16th of July 1790 [1 Stat. L., 130], at which time, Congress and the public officers were convened in New-York. The act directed, that prior to the first Monday in December 1790, all the offices should be removed to Philadelphia, *where they were directed to remain, until the first Monday in December 1800. No provision was made for defraying any expenses, incidental to the removal from New-York, to Philadelphia.*

The Section, directing the removal from Philadelphia to Washington, and upon which the Committee have founded their opinion, is expressed in the following words.

"That on the said first Monday *in December in the year* "1800, the seat of the government of the United States, shall, "by virtue of this Act, be transferred to the district and place "aforesaid; and all OFFICES, *attached to the said seat of Gov-* "ernment, shall accordingly *be removed thereto, by their re-* "spective holders, and shall, after the said day, cease to be "exercised elsewhere; and that the *necessary expense of such* "removal, shall be *defrayed* out of the duties on imposts and "tonnage, of which *a sufficient sum is hereby appropriated.*"

In March 1791 [1 Stat. L., 216], after the removal from New-York to Philadelphia, Congress, by a special law, directed, "that there be allowed to the Clerks, employed in the "several offices, attached to the Seat of Government, in ad- "dition to their respective salaries, their reasonable and nec- "essary expenses, incurred by the removal of Congress, from "the city of New-York, to the city of Philadelphia."

During the same session [1 Stat. L., 215], a temporary addition was made to the Salaries of the Attorney-General, Comptroller, Assistant Secretary of the Treasury, Auditor and Register, which was sufficient to cover the expenses of the removal.

On the 24th of April, 1800 [2 Stat. L., 55], Congress by Law, authorised the President, to direct the various offices to be removed to Washington, at any time, *after the end of the then session*, and before the time appointed *for such removal, by the act of July 16th, 1790.*

By the same act of April, 1800, a sum not exceeding fifteen thousand dollars, was appropriated for providing furniture, for the house, allotted for the President of the United States; a sum not exceeding nine thousand dollars, for furniture, for the Capitol, and for the removal of the records and papers of the two Houses of Congress; a sum not exceeding ten thousand dollars, for making footways, for the greater convenience of the members of both Houses of Congress, and a sum not exceeding five thousand dollars, for the purchase of Books, necessary for the use of Congress, and for fitting up a suitable apartment for containing them. The execution of all these directions, except in respect to the purchase of Books, was committed to the Secretaries of the four Executive Departments.

In the Bill, a provision was at first inserted, or proposed, for allowing a sum to each of the Clerks, proportioned to their respective Salaries; but this clause was rejected, when it was understood, that the act of July 16th, 1790, *authorized the allowance of all necessary expenses*, both to the Clerks and officers. I distinctly recollect to have been present in the House of Representatives, to have been consulted by several members, and to have then expressed an opinion, that a special provision, for the Clerks, was unnecessary.

The avowed motive for passing the act of April 1800, for expediting the removal of the offices, was, that it would stimulate the exertions of the citizens of Washington, to make better provision for the accommodation of Congress, than could otherwise be expected.—Some reliance was placed on the exertions of the executive officers, and I trust, that experience proved, it was well founded.

The Committee observe, that the appropriation made by

the act of July 16, 1790, "is indefinite in its nature," and that "perhaps some *contrariety of opinion* may exist, as to the "extent of the expense it was intended to cover."—They however conceive, that a *strict adherence to the letter of the Law* would confine the appropriation to the expenses, actually incurred, in removing the *books, papers, records and furniture of the respective offices.*"

If there was perceived to be ground for a "*contrariety of opinion,*" the obligation of declaring an opinion that the expenditure was "*without any legal authority,*" is not obvious, as the Law had been *completely executed*, and as even an erroneous construction could lead to *no future inconvenience.*

The Committee have not said, and I presume will never say, that the construction, which prevailed, was *inequitable*; their objection rests solely on a supposed departure from the *strict letter of the Law*; I am willing that what has been done, shall be examined by this criterion.

The Law declares, that the NECESSARY EXPENSE of removing the OFFICES, shall be defrayed out of the duties on imposts and tonnage, of which a SUFFICIENT SUM is appropriated. This appropriation was indeed, in a certain sense, "*indefinite,*" but it cannot be denied, that it was *coextensive with the "necessary expense."*

This "*necessary expense,*" thus expressly authorized by law, was that occasioned by the removal of certain "*offices;*" the Committee say, *that the strict letter of the Law*, will confine the appropriation to the expenses of removing the "*Books, papers, records and furniture;*"—if this be true, it seems to be a necessary inference, that, according to a *strict definition of the term office*, the *Books, papers, records and furniture of an office* are, in fact, *the office.*

An execution of the law on this principle, would have been very unsatisfactory to the citizens of Washington, it would have been deemed full evidence of a malignant hostility to the Seat of Government, and have been justly pronounced, by all men, to be malicious and perverse. [19]

It was my understanding of the Law, that *the institutions of the Government were to be removed to Washington, and at the public expense*; this construction was doubted by no one, before the appointment of the Committee of Investigation; no person can, in imagination, separate these *institutions* from the *individuals of which they are composed*; these consisted of the officers, clerks, messengers and their families; and there were cogent reasons, why the allowances ought, on every principle of justice and policy, to comprise a full indemnification.

The Session of Congress terminated on the 14th of May 1800, only twenty days after the act passed. The President, in compliance with the expectation of Congress, then directed the removal to take place *as soon as possible*, and it was actually accomplished, in the month of June.

It was as much a public stipulation, that the offices of Government should remain in Philadelphia until December 1800, as that they should be removed to Washington *at that time*:—the *losses* in consequence of engagements for *Rent in Philadelphia, from June til December 1800*, became therefore a just charge against the public.

In consequence of the *short notice* which was given, many persons attached to the Seat of Government, had not engaged Houses or Lodgings in Washington, and were obliged to live, for some time, at expensive Taverns; the *extra expense* occasioned by this necessity, was deemed a just charge.

It is well known, that in every family, there are a number of necessary articles of furniture of considerable bulk, and small comparative value;—it was found, on calculation, that the loss on the sale of such articles, would be of less amount, than the expense of transportation: this loss which, on no principle, ought to be borne by individuals, was allowed, on principles, which the Committee will, on reflection, approve—*on principles of economy*. It was to be expected, that notwithstanding the utmost care, some articles would be damaged, or destroyed by transportation: the obligation to repair

this damage, was considered a consequence of the general principle, that the expenses of removal were to be borne by the public.

The general principles, upon which the accounts were to be adjusted, were, after full reflection on the subject, determined at Philadelphia, before the removal: if less liberal principles had been adopted, it is certain that some of the most capable, faithful and experienced men, in the public service, would have retired. If censure has followed the course, which was pursued, still severer censure would have followed a different course. There was, indeed, no ground to doubt that Congress considered those expenses as provided for; and that, having liberally provided for their own accommodation, it was not intended to oppress the Executive Departments.

The subsequent measures of the Legislature prove, that, in the judgment of that body, the allowances were not excessive. Du- [20] ring the first session [2 Stat. L., 117, 119], after the removal of the Government to Washington, Congress granted the sum of eleven thousand eight hundred dollars to the Clerks in the Executive Offices, in addition to their former compensations. This grant was made, after it was publicly and universally known on what principles the expenses, incident to the removal of the government, had been adjusted. It was made, after the account, which I personally exhibited on retiring from office, had been printed in the newspapers, and every possible attempt made, by a favorite of the present administration, to excite prejudice against me, on the score of that account.

As the same account has been recently republished, with the opinion of the Committee, that I have received *five hundred and ten dollars*, being the amount of the account by me exhibited, to which, according to the *strict letter of the law*, I had no legal title, it appears, that this is regarded as a serious accusation. The public are now informed of all the circumstances, and they must pronounce whether I have mis-

judged. I shall, indeed, feel the most sincere regret, if my reputation is injured for so trivial a consideration. During nearly twelve years, in which I was in the service of the United States, the aggregate amount of my expenses somewhat exceeded the different compensations I received. These expenses were much below those, of some zealous professors of economy. During this whole period, I contracted no debts, except for the necessary expenses of my family. These debts have been fully discharged. I do not recollect to have derived the emolument of a single dollar, from any business or services, except from the United States. I was, indeed, restrained by law, from engaging in those employments, which afforded a prospect of much profit: but the restriction, I imposed on myself, was still more extensive: under these circumstances, I cannot perceive, that, there existed any obligation on my part, to renounce a just, though inconsiderable, claim on the public.

If the Committee had permitted their eyes to explore objects, not connected with individuals of the former administration, they might have found precedents, which would perhaps have restrained them from indulging strict interpretations, on subjects where there may exist an honest "*contrariety of opinion*." Unless it has been closed since his elevation to the Presidency, they might have found an account open with Mr. Jefferson as Minister to the Court of France; they might have discovered, that in May 1784,⁹⁰ Congress declared *that the Salary of a Minister of the United States, at a foreign Court, should not exceed nine thousand dollars per annum*, and that, notwithstanding this restriction, Mr. Jefferson retained, in addition to his Salary, and on the score of *personal expenses, a sum considerably exceeding five hundred and ten dollars*. I do not mention this as a mistake committed by Mr. Jefferson, I should scorn to justify a known error, even under the authority of his example.

Fourth. The Committee say, that "the expenses in relation "to [21] the Civil List, being *chiefly* for Salaries, are not

⁹⁰ *Journals*, Vol. 26, p. 349.

“otherwise liable to abuse, than in cases where monies advanced to agents, have not been applied to the objects, for which the advance was made, and have not been afterwards regularly accounted for;” and that amongst the *“subordinate Agents, to whom monies have been advanced, for miscellaneous objects of a civil nature, some appear to be delinquent, and some not to have rendered their accounts; as will be seen by a reference to the document marked (D), here-with reported.”*

The document marked (D), which could alone render these observations intelligible, *has not been printed*; at least, it is not connected with the printed report which was laid before the House of Representatives. The imagination of the public is therefore left to wander without restraint. It is only to be inferred from the report, that *some part* of the expenses of the Civil List are *liable to abuse*; that some of the *subordinate agents, to whom monies have been advanced, for objects of a miscellaneous nature, appear to be delinquent, and that others have not rendered their accounts; the nature of the abuses, to which the expenditures were liable, the names of those individuals, who appear to be delinquent, and whether there are, or are not good reasons, why the accounts are not fully rendered, are the only interesting facts, which the Committee should have investigated, and all these are left, in a state of total uncertainty.*

It is fortunately in my power to supply some of these deficiencies; I am as well acquainted with the state, in which the business of the Treasury was left, at the close of the year 1800, as any Committee of Congress can possibly be. The accounts, to which the Committee refer, as those of *subordinate agents, and which are described by a form of expression, which may lead the public to consider them, as mere agents of the Executive Departments, appointed to receive and disburse the compensations of the Civil List, are, in fact, the Marshals of Districts; officers of the government of the United States, of high rank, and great responsibility; whose duties are, in-*

deed, attended with much risk to their estates, but who give bonds to indemnify the public and individuals.

The monies which the Marshals receive out of the funds, appropriated for the Civil List, are chiefly for the compensations of jurors and witnesses, the contingent expenses of Courts, and the custody of prisoners. These expenditures are made in small sums, and to a great number of individuals. In proportion to their amount, they perhaps comprise a more tedious detail, than any other accounts. It is a fact, which I well know, and which cannot be disputed, that this class of accounts has, in general, been rendered with punctuality. In a few instances, monies have been paid under *special circumstances*, chiefly for expenses occasioned by insurrections, and to jurors and witnesses, which the Officers of the Treasury have not considered themselves authorized to allow. One case, at least, of this description, is well known to the Legislature. The questions, [22] which have arisen, are in respect to sums of inconsiderable amount, and they are only evidence of a diversity of opinion, which, in all human affairs, is unavoidable. I am certain, that, if every real question, in relation to the expenses of the Civil List, shall be decided against the claimants, and if they, and their sureties, prove insolvent, suppositions, which can never be realized, that the public loss, on the score of Civil List expenses, can never exceed a few thousand dollars. I have examined statements, and am unable to discover, and therefore do not believe, that, in the payment of the compensations and salaries of the members of the Legislative, Executive and Judicial Departments, of every grade, from the establishment of the government, the public have sustained a loss of a single dollar. If, in particular instances, any of the Marshals are found to be delinquent, the cases ought to be specified; the penalties of the law ought to pursue the offenders. I do not mean to be the advocate of delinquency; but merely to dispel the obscurity, with which the Report of the Committee has surrounded transactions,

which have been conducted with fidelity, regularity and success.

5th. The next subject, to which the Committee have directed their attention, relates to the expenditures, "incident "to the intercourse between the United States and foreign "nations."

It is truly stated, in the Report, that monies, for defraying the expenses of intercourse with foreign nations, were, "till "lately, paid to the Secretary of State, who used to disburse "the same." From the letter of Mr. Gallatin, it appears, "that "the Secretary of State *no longer receives any money;*" that the sums, "required for this part of the public service, are "paid immediately at the Treasury, to the agents, or other "individuals, to whom they were formerly advanced by him, "and these are at once charged, and *made accountable to the "Treasury.*" That "those agents are principally the purveyors "of public supplies, at Philadelphia, and bankers in England "and Holland."

An obvious question arises:—What consequences are expected from this deviation from a practice, commenced when Mr. Jefferson was Secretary of State, and continued to the era of the present administration? The only answer, which can be given, involves a dilemma, which cannot recommend the new practice. Either the requisitions of the Secretary of State are *imperative*, or they are *not*. If they are *imperative*, if the Secretary of State can *designate the agent*, who is to be the receiver, and *the sum to be advanced*; if he is, moreover, competent to direct the mode of *applying the money, after the advance has been made*; if the Treasury, as formerly, are merely to judge whether there exists an *appropriation by law*, and afterwards to *adjust the accounts of the Secretary of State*; then the new practice is a mere change of *form*, without any *real object or effect*, except that of obliging the officers of the Treasury, *to perform the duty of Clerks of the Department of State*. On the other hand, if the Secretary of the

Treasury is to *designate the agents*, [23] judge of the *expediency* of making advances, or in any manner, to direct the *subsequent application* of the money, so as to *exempt the Secretary of State from responsibility*, then the Secretary of the Treasury has, indeed, acquired *a new and solid addition of power and influence* in the government, at *the expense of a co-ordinate Department*. Upon either supposition, it may be doubted, whether the innovation does not tend to *confound authorities*, between which there ought to be preferred a *clear and visible distinction*.

The Committee proceed to observe, that "the accounts of Messrs. Jefferson, Marshall, and Madison, who have, at various periods," been Secretaries of State, "have been settled, and no balance is due thereon. A suit, not yet decided, has been instituted against Mr. Randolph, formerly Secretary of State, for a balance unaccounted for by him. The accounts of Mr. Pickering are not yet finally settled. He remains charged with a sum of 3,383 dollars and twenty cents, *erroneously* paid by him, for the freight of a vessel *supposed* to have been employed by the Consul at Tripoli; and with another sum of 3,289 dollars and 50 cents, being the balance of an advance, made to Samuel Hodgdon, for the purpose of being remitted to Mr. Humphreys at Madrid, in part of his salary, which Mr. Humphreys did not receive. Both these sums, it is believed, may and will be recovered from the persons, to whom they were respectively advanced. But the *principal reason*, which appears to have prevented an ultimate settlement with him, arises from the circumstance of his not having applied the whole of the money, drawn by him from the Treasury, to the *specific objects*, for which it was appropriated by law. For the extent and result of this *misapplication*, the Committee refer to the statement marked (C), accompanying the communication of the Secretary of the Treasury, under date of the 2d of March. From this statement, it appears, that Mr. Pickering drew from the Treasury, under the appropriations made for

“defraying the expenses incident to the intercourse with foreign nations; for negotiating treaties with the Barbary Powers; and for the contingent expenses of government,—the sum of *sixty-three thousand nine hundred and ninety-nine dollars and fifty-seven cents*, more than he applied to those several objects, *which, together with the sum of fourteen thousand five hundred and eighty-eight dollars and fifty-four cents*, gained by him on the purchase of Bills of Exchange, for the use of the Government, *form an aggregate of seventy-eight thousand five hundred and eighty-eight dollars and eleven cents*. The same statement (C) will shew, that the whole of this sum was expended by him, on objects of a public nature, (*as far as the Committee can ascertain the fact*), but this expenditure having been made from appropriations, designed for other objects by law, the *misapplication* of the money has prevented the Comptroller of the Treasury from settling his accounts.”

With a view to a due explanation of the true state of Mr. Pickens's accounts, I deem it proper to transcribe the observations of Mr. Gallatin, upon the accounts of the several Secretaries of State, that they may be more conveniently *compared* with those of the Committee. It is, however, proper to premise, that the diversity, between the two representations, respecting the accounts of Mr. Marshall, is to be attributed to a settlement, subsequent to the date of Mr. Gallatin's letter on the 2d of March, and prior to the report of the Committee on the 29th of April 1802.

“In relation to the accounts under the control of the Department of State, those of Mr. Jefferson have been settled since the 31st of December, in the year 1793, and no balance is due thereon. Those of Mr. Randolph have been adjusted, and a suit instituted, ever since the year 1797, for a balance of about 51,000 dollars, *which, notwithstanding the strenuous efforts of the Comptroller, to bring it to issue, has not yet been decided. The difficulty to recover balances, due to the United States, being one of the great impediments*

"to the public service, extracts of the correspondence of the
 "District Attorney of Virginia, on that subject, marked (B),
 "are annexed. The accounts of Mr. Marshall have been ren-
 "dered, but are not settled. Those of the present Secretary of
 "State, for the short time, during which he received public
 "monies, are settled, and no balance is due thereon. Those
 "of Mr. Pickering have been rendered, and his *general ac-*
 "*count has been stated by the auditor. By this it appears, that*
 "*with the exception of two items, suspended for want of*
 "*vouchers, or disputed by the parties, he has accounted for*
 "*all the public monies received by him, so far as to show, that*
 "*the whole has been applied for public purposes. But, as he*
 "has only designated the persons, to whom the monies were
 "advanced by him, without specifying, under their respective
 "appropriations, the objects for which they were thus ad-
 "vanced, it is not practicable to state, with precision, how much
 "has been paid by him, under each *distinct head* of expendi-
 "ture. It is, however, evident, from the account itself, and
 "from a sketch, stated by Mr. Kimball, late Clerk in his De-
 "partment, that, although he drew the monies from the
 "Treasury, under *distinct appropriations, he did not suffi-*
 "*ciently attend to these, in the application of the money, but*
 "has, in many instances, applied the sums drawn under one
 "head, to another head of expenditure; and has therefore, in
 "some cases, spent less, and in others more, than was author-
 "ised by Law. The statement (C) shews the excess, which it
 "appears has been thus expended, so far as the same can be
 "ascertained. *The greater part of the sums thus expended for*
 "*certain objects, is covered by appropriations made principally*
 "*after the expenditure had taken place; and in order to en-*
 "able the Comptroller to pass the whole of the accounts, *some*
 "*further appropriations are still necessary."*

The statement marked (C,) referred to by Mr. Gallatin,
 exhibits the following sums *expended by Mr. Pickering be-*
yond the sums drawn by him, under the appropriations to
which they refer: [25]

CONDUCT OF WOLCOTT

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Under the head of <i>Prize Causes</i> - - - - -	13,231 83
<i>British Treaty</i> - - - - -	27,094 35
<i>Spanish Treaty</i> - - - - -	32,747 36
<i>Payments</i> by James Munroe, Esq. to Madam De La Fayette - - - - -	5,509 57

Total, dolls. 78,583 11

The sums before mentioned are represented to have been paid out of the *following funds*, received, or acquired, by Mr. Pickering:

<i>Foreign Intercourse</i> , being a balance of monies received under this head - - -	22,734 81
<i>Expenses</i> in relation to <i>Mediterranean</i> Powers - - - - -	36,928 42
<i>Contingent Expenses</i> of Government - - -	4,331 34
<i>Gain</i> on the purchase of Bills of Ex- change - - - - -	14,588 54

Total, as before, dolls. 78,583 11”

The following remarks are, however, added by Mr. Gallatin to this statement:

“It is believed that the Secretary of the Treasury may, with
“the consent of the Secretary of State, draw warrants, in favor
“of T. Pickering, to be paid out of the unexpended balances
“of appropriations, which will cover the whole of the above
“expenditure, the following sums excepted, for which new ap-
“propriations will be wanted, viz.

“Prize Causes - - - - -	8,231 82
“Spanish Treaty - - - - -	1,020 63
“General La Fayette - - - - -	5,509 57

Dolls. 14,762 02”

I desire any candid man to peruse the Report of the Committee, and the Letter of Mr. Gallatin, and pronounce, which

presents the most intelligible, as well as favorable, representation of the transactions of Mr. Pickering.

Mr. Gallatin expressly admits that Mr. Pickering's accounts have been *rendered and stated by the Auditor*, and that, with the exception of two items, (*suspended for want of vouchers, or disputed by the parties*) *he has accounted for all the public monies received by him, so far as to shew, that the whole has been applied for public purposes.* With the exception of Mr. Madison's accounts, of which I have no knowledge, I can assert, that no Secretary of State *has ever accounted in any other manner.* Unless in relation to expenditures [26] for objects within the United States, neither Mr. Jefferson, Mr. Randolph, or Mr. Marshall, could, at the time their accounts were settled, do more than exhibit vouchers for monies, paid by them *to accountable agents of the public.* The ultimate account, which is to exhibit the *application of the money to the destined object*, must, from the necessity of the case, be exhibited by the *Ministers, Consuls, Agents and Bankers of the United States, in foreign countries:*—on this point, the accounts of Mr. Pickering stand on *equal ground* with those of *either* of the Secretaries.

In vain do we seek, in the Report of the Committee, for the important facts, that the accounts of Mr. Pickering have been *stated by the Auditor*, and that *subsequent appropriations*, by Law, have *sanctioned the principal part* of the sum of 78,583 dollars and 11 cents, which they represent as a *mis-application* of money, which prevents the Comptroller from settling the accounts. In respect to the *suspended and disputed items*, there is a *positive opinion* advanced, that one sum, being 3,383 dolls. 29 cts. was "*erroneously paid* for the freight of a vessel, *supposed* to have been employed by the Consul at "Tripoli;" and that the other sum, being 3,289 dollars and 50 cents, is the balance of an advance made to Samuel Hodgdon "for the purpose of being remitted to Mr. Humphreys "at Madrid, in part of his salary, which Mr. Humphreys did "not receive." It appears clearly, that the officers of the Treas-

ury have formed no definitive opinion on these claims: it is certain, that they relate directly to two of the most abstract, litigated and artificial principles of law; in any event, they involve no question of reputation. Why, therefore, was it mentioned, that Col. Pickering "*remains charged*" with these sums? why was it so emphatically represented, that he conducted "*erroneously?*" especially if the opinion is considered correct, that both these sums "may and will be recovered "from the persons, to whom they were respectively advanced?"

The Committee have repeatedly represented, that there has been a "*misapplication*" of the public money, and that this *misapplication* has prevented the settlement of the accounts. Without inquiring whether it was intended that this word, of doubtful import, should or should not be understood by the community, in an odious sense, or the propriety of applying it to this subject, in any sense, it may be confidently asserted, that the amount so applied, has been greatly exaggerated by the Committee. The sum stated by the Committee is 78,583 dolls. and 11 cts. and though it appears, from the statement, annexed to Mr. Gallatin's Letter, that there exist *nominal balances* to this amount, yet it also appears, that without the *actual receipt or payment* of one dollar, by the mere form of *issuing warrants*, and which *transaction the laws authorized, when the Report was made*, these balances may be reduced to 14,762 dollars and 2 cents. The system of specific appropriations requires, *that, until these warrants are issued*, the accounts should remain in their [27] present situation: no act on the part of Mr. Pickering can be effectual; it remains to be performed by the *present Administration, whenever it may suit their convenience.*

The amount of the misapplication, if such it must be called, is thus at once reduced in fact to 14,762 dollars and two cents, being less than two hundred dollars above the sum gained to the public on the purchase of Bills of Exchange.

This sum is composed of advances, for defraying

the expense of prize causes in England, and remitted to the Bankers of the United States in London, - - - - -	8,231 82
Advances for expenses of running the line be- tween Florida and the United States, in pur- suance of the Treaty with Spain, - - -	1,020 63
Advances to the family of Gen. La Fayette, by Mr. Munroe [Monroe], and supposed to have been made in the year 1795, - - -	5,509 57
	<hr/>
Total, dolls.	14,762 02

Perhaps no subject will more fully illustrate the perplexity which minute specific appropriations occasion, than a view of those, made in relation to the treaty with Great Britain.

The first appropriation was in *general terms*, "towards defraying the expenses, which may arise, in carrying into effect, "the Treaty of Amity, Commerce and Navigation, between "the United States, and the King of Great Britain." There have been since *distinct* appropriations, for defraying expenses under the *fifth*, and *awards under the sixth and under the seventh articles*: these have been still subdivided into appropriations, for the payment of *agents, under the sixth article*, and for the expenses of *prize causes in England*, which is a special expense, arising under the *seventh article*. In March, 1801, there was a *general appropriation*, for satisfying *any expenses*, under this treaty, and a *distinct appropriation*, for prosecuting the claims of American citizens, *for property captured by the belligerent powers*.

The natural division of the subject would have been, to appropriate a certain sum for the payment of awards, and another sum, for the expenses of executing the several commissions, instituted by the treaty: if it had been judged expedient, to limit the compensations of all the agents, and regulate the other expenses, so far as they were susceptible of regulation, there could have existed no objection.

But the perplexity, which these subdivisions of appropriations tended to occasion in the Departments of *State* and the *Treasury*, was not the only obstacle to their adoption. To execute the system, it would be necessary, that each of the Ministers, Consuls, Bankers, and Agents of the United States, in foreign countries, should be completely instructed in all the intricacies of the *new science of specific appropriations*. [28]

This science has, hitherto, been in a state of progressive improvement; yet, even upon principles, conceded in the report of the Committee, comprising the latest refinements, the transactions of Mr. Pickering appear to be susceptible of a defence.

The report contains the following clause. "Although the Committee will not say, that there are no cases, in which a public officer would be justified in applying monies, appropriated to one object, to expenditures on another, yet they are of opinion, that in every deviation, the necessity for the application ought to be for *some obvious benefit to the United States*; and in every such case, a *disclosure thereof to Congress ought to be made*, at the next session, which should immediately thereafter ensue."

It is certain, that, when Executive Officers, in consequence of some *urgent necessity*, venture to adopt measures, *not authorized by law*, they cannot too soon apply to the Legislative Body, for acts of indemnity. Such applications must, however, in all cases, be preceded by a *consciousness, that legal boundaries have, in fact, been exceeded*. The equitable principle of the Committee, when applied to *specific appropriations*, may hereafter prove a convenient shield for the *present administration*, although not equally calculated to protect the measures of the *former administration*.

It has, however, *happened*, (for I will not pretend it was the *result of design, founded on a conviction that the laws had been violated*) that estimates were exhibited by Mr. Pickering, and his immediate successor, Mr. Marshall, and that *specific appropriations were made by Congress, more than*

sufficient to cover the advances, under the heads of *Prize Causes*, and the *Spanish Treaty*, by Mr. Pickering. That warrants cannot now be issued, to cover these expenditures, in the manner, which it is admitted may be done, in respect to the other *nominal balances*, before mentioned, is solely owing to the circumstance, *that the funds have been otherwise applied by his successors.*

Mr. Pickering retired from office, between the 10th and 14th of May 1800. On the 7th of May [2 Stat. L., 62, 66], there was appropriated, for executing the treaty with Spain, twenty thousand dollars, and on the 13th of May [2 Stat. L., 83, sec. 4], forty-four thousand dollars, for "defraying the expense, which *has been*, or, during the *present year*, may *be, incurred*, by the payment of costs, in *Prize Causes*, before the Court of Admiralty and Court of Appeals, in *England.*"

During the next session, on the 3d of March 1801 [1 Stat. L., 117, 120], Congress appropriated "forty-six thousand five hundred dollars, for a *deficiency of former appropriations*," for carrying into effect the treaty with *Spain*; also, "fifty-eight thousand eight hundred and sixty-four dollars, for carrying into effect" the treaty with Great Britain; and "sixty-four thousand dollars, for prosecuting the claims of American citizens, for property captured by the belligerent powers." Either of the two last mentioned sums might be lawfully applied to defray the expenses of prize causes, in England. [29]

Nothing can be more evident, than that these appropriations were, in the *first place*, applicable to the reimbursement of all advances, which had been *previously made*, and secondly, to the payment of *future expenses*.

To prove an "*obvious benefit to the United States*," arising from the advances made by Mr. Pickering, and to bring them therefore within the rule of the Committee, it is only necessary to observe, that the records of the Department of State will prove, that, in respect to the expenses of prize causes,

*a debt was actually due, and demanded, which the public faith required should be discharged:—*this reason must be deemed sufficient.

In respect to the advances for executing the treaty with Spain, it is proper to say, that the expenses of running the line between Florida and the United States, greatly exceeded the first calculations: the obstacles arose entirely on the part of Spain, and over these, the United States had no control. The line being through a wilderness, and the whole subject requiring the aid and concert of the Spanish government, and the concurrence of the Indian tribes, it was impossible to foresee what expenses would be necessary. The advances were principally, if not wholly, made, to satisfy bills of exchange, drawn by Mr. El[1]icott, payable on short notice, not exceeding, if I am not mistaken, the period of ten days. Any hesitation in paying these bills, would have blasted their credit, and proved exceedingly injurious to the holders, who had received them on the credit of a public agent. To have denied credit to Mr. Elicott, might, in his actual situation, have defeated the execution of the treaty, and, by depriving him of his resources, possibly have exposed him and his party to destruction, in the wilderness:—surely these reasons are sufficient.

But, as before observed, these *advances were covered by subsequent appropriations*, and have been completely *sanctioned*. If the funds cannot be so applied *at this time*, Col. Pickering, who is out of office, is not to be censured. Mr. Madison has received at least two thousand dollars, and so far impaired the fund appropriated for *Prize Causes*; and he has received out of the fund appropriated, *during the former administration, for satisfying deficiencies in former appropriations*, in respect to the treaty with *Spain*, a sum exceeding six thousand dollars, being more than five times the sum required to liquidate the remaining balance of advances by Mr. Pickering.

Let it not be imagined, by any one, that I am defending Mr. Pickering, at the expense of his successors. This gentle-

man would disdain such a defence. There are abundant and obvious grounds, which fully justify the conduct of Mr. Marshall and Mr. Madison. Their attention, in a new and important situation, was very properly directed to other objects, than an examination of the accounts of their predecessor; they did not, and could not, doubt, that the application of the public money, by Mr. Pickering, had been *proper*; they knew that these appropriations had been made on *esti-* [30] *mates*, and that the expenses for both objects could not be ascertained, but in consequence of *progressive information*; they also knew, that the obligation of the Government, to make the necessary appropriations, was *absolute*; and, under such circumstances, all men will agree, that it would be unjust to judge of their conduct by the captious subtleties of a hyper-critical logic.

The remaining item is a sum of 5,509 dolls. 57 cts. paid by Mr. Munroe, while minister to France, to relieve the necessities of the family of General La Fayette. I presume that this sum was *passed to the credit of Mr. Munroe*, on settlement with *Mr. Pickering, while Secretary of State*, and in this way constitutes a *charge against the latter*, in the public books. This being the fact, the payment must have been made by Mr. Munroe, out of *monies advanced, or paid out of the general fund, for expenses of intercourse with foreign nations*, or out of the fund for the *contingent expenses of government*. The details in my possession do not enable me to state how the payment was considered *at the time*; it is however certain, that no monies are *now to be advanced* from the Treasury, and that the only question is, whether Mr. Pickering *shall be allowed credit* for a sum, which *he has passed to the credit of Mr. Munroe*.

Whatever may be the opinion of others, I do not question the propriety of the credit, which Mr. Munroe obtained. The advance was probably authorized by the government, and I have an indistinct recollection that such was the fact: if the point is deemed important, it may be proper to inquire, whether the advance was not made at several times, and

whether the first payments were not authorized by Mr. Randolph. The fact, however it may appear on inquiry, is not in my opinion important, as the representation, on which the authority was given, must have been made by Mr. Munroe, as otherwise the necessities of the family of Gen. La Fayette could not have been known in the United States.

Assuming these facts, which must be essentially correct, or at any rate not so erroneous as to affect the argument, it appears, that, on the representation of Mr. Munroe, a minister of the United States, payments were authorized to the family of Gen. La Fayette, out of funds advanced from the Treasury in 1795, or the beginning of 1796; that Mr. Pickering passed the amount of these payments to the credit of *Mr. Monroe*, and now claims a corresponding credit, in the settlement of *his own accounts*.

If credit is refused to Mr. Pickering, it must be on the principle, asserted in the President's message of the 8th of December 1801, of "*disallowing all applications of money, varying from the appropriation in object, or transcending it in amount.*" Those who receive money *hereafter*, to be accounted for according to *this principle*, will have no right to complain of its operation; but before it is applied to transactions of so early a date as the years 1795 and 1796, the *state of the laws*, and the complexion of *existing precedents*, ought to be examined. [31]

By referring to preceding observations, it will be found, that the discussions respecting *specific appropriations* had but commenced; and that the payments in question were made, even before the publication of Mr. Gallatin's "Sketch of the Finances of the United States." In the year 1793, Mr. Jefferson, while Secretary of State, had authorized a payment, *for the use of Gen. La Fayette*, which if I recollect correctly, was not very different in amount from that in question: Although there existed no *specific appropriation*, no embarrassment delayed the settlement of Mr. Jefferson's accounts; the subject was communicated to Congress, and, so far from disapproving of what was done, that body voluntarily granted

24,424 dollars, being the pay and emolument which General La Fayette had renounced, while in the American service. It is known to some of the present administration, that unfortunate circumstances rendered this grant less beneficial than was expected. The public sympathy for the misfortunes of the General had not abated. His family, in consequence of the disorders of the French revolution, was in a state of destitution. The application of the monies granted for defraying the expenses of intercourse with foreign nations, was *then* believed to be *discretionary* with the President, subject to a limitation in respect to the salaries of *ministers and their secretaries*. The same opinion existed in respect to the fund appropriated for the *contingent expenses of government*: This was known to have been the opinion of Mr. Jefferson, as in August, 1790, he authorized the fund for expenses of foreign intercourse to be applied in "*necessary aids to poor American Sailors.*" If this application was *lawful*, (which cannot for a moment be doubted, by any mind not shielded against every sentiment of humanity, policy and justice) upon what grounds can it be denied, that it might also be *lawfully applied* in "necessary aids" to the family of a General, *highly distinguished by American favour?*

There is one fact, relative to the report of the Committee on the accounts of Mr. Pickering, which ought to be stated, that the censure, if any is due, may attach where it belongs, and there only. The letter of Mr. Gallatin, to the Committee, certainly conveys an opinion, that there exists a delinquency, on the part of Mr. Randolph, while Secretary of State, amounting to about 51,000 dollars; and he refers to extracts of a correspondence with the District Attorney of Virginia, marked (B), as being annexed to his letter. In the official publication of Mr. Gallatin's letter, the statements marked (A) and (C), the latter being relative to the accounts of Mr. Pickering, were *printed* but the *intermediate* documents, marked (B), relating to the accounts of Mr. Ran-

dolph, were *suppressed*. Surely, on questions of such moment, an exact impartiality ought to be observed; surely, the fame of Mr. Pickering is, and ought to be, as dear to the public as that of Mr. Randolph. [32]

6th. The next observations of the Committee relate to the advances for the service of the War and Navy Departments.

The whole sum, "chargeable to the War Department, from the year 1797, to 1801, both inclusive," is stated by the Committee to be

Dolls. 10,213,116 43

Of which they report, that "the Accountant "has settled, and rendered to the Treasury ac-

"counts, to the amount of - - - - - 6,335,923 93

"Leaving a balance of - - - - - 3,877,192 50
 "unaccounted for, or not yet settled."

It is to be observed, that the first sum includes the amount of all balances, open on the books of the Accountant of the War Department, on the first of January 1797, *comprising every unsettled account, from the establishment of his office, being 1,756,391 dollars, thirty six cents.*

The expenditures of the War Department, during five years, from 1797 to 1801, inclusive, were therefore only 9,846,963 dollars, twenty-nine cents. This last amount comprises all the expenditures of the year 1797, a year, when the army was on a very reduced establishment, and before any measures, attended with expense, had been adopted, to repel the hostilities of France. It also comprises all the expenditures of the year 1801, although the new army was disbanded in the summer of the year 1800, and though the expenditures, since March 3d, 1801, *have been made under the direction of the present administration.*

The expenditures of the War Department, on a reduced peace establishment, before the year 1798, may be estimated at one million two hundred thousand dollars per annum; this for five years would amount to dollars 6,000,000.

The extra expenditures of the War Department, in consequence of the preparations against France, therefore, amounted to no more than dollars 3,847,000.

This last sum not only comprises the pay, subsistence and clothing of the new army, but all expenses of fortifications, magazines, the fabrication of cannon and other arms, and the purchase of military stores:—the value of these objects may be estimated at one half of the sum last mentioned.

A part of the military stores were consumed in service; the residue, constituting a liberal supply, compared with the quantity on hand in 1797, with all the other public property, acquired by these expenditures, was delivered over to the present administration.

The first experiments for casting cannon were but partially successful, owing to a deficiency of skill in the country: it was even necessary to borrow cannon of the state of New-York, to equip the first frigates for sea. All difficulties were finally surmounted; and the cannon, afterwards cast in the United States, were equal to any [33] which could be imported, and were attainable in any quantities, which were desired.

Manufactories of small arms were established, the productions of some of which, rivalled those of the first establishments in Europe. The acquisition of this skill is solely to be attributed to public encouragement, and its value is not to be estimated in money.

In respect to the Navy Department, the Committee state the whole expenditures, from 1798, when the Department was established, to the 31st of March, 1801,
at

	dolls. 9,981,313 73
Of which the Accountant has rendered, to	
the Treasury, accounts to the amount of - -	5,810,661 98

Leaving, to adopt the expression of the Committee, "an <i>unaccounted for, or unsettled</i>	
<i>balance of</i> " - - - - -	4,170,651 75

The expenditures for the Navy Department include the *cost of the navy itself, and its equipments*, except cannon, and a part of the military stores; also the cost of the navy yards, stores and magazines, which came into the possession of the present administration. The only exception, recollected, is in respect to three frigates, which, though nearly finished, were not equipped for sea, when the Navy Department was established.

It is necessary that these facts should be known, and well considered; they will certainly dispel many prejudices: they demonstrate, that a *great proportion of those expenditures*, which have excited so much inquietude, have been for objects, which the most sincere patriots of our country have deemed proper preparations for the public defence, even in periods of the greatest tranquillity.

The sums which the Committee represent as *unaccounted for, or unsettled*, are,

In the War Department,	dolls. 3,877,192 50
And in the Navy Department,	4,170,651 75

The Committee, by adopting the expression that these sums were "*unaccounted for, or unsettled*," did not mean to suggest, that there existed any *uncertainty respecting the situation of the accounts*, or any *doubt*, whether the *whole of these sums had been advanced for the public service*.

There has been a time, when doubts were expressed, of the propriety of *advancing monies for the public service*: such doubts could only have been suggested by ignorance, want of reflection, or a desire to delude the public. It is certain, that if no payments were to be made at the Treasury, but of *ascertained balances*, it would be necessary for the public agents to draw from the community a capital equal to the public expenditure, and for the Treasury to hoard another equivalent capital, for the purpose of being enabled to make payments. The disorders, which such an attempt would occasion, need only be imagined, to justify the practice, which has obtained.

Advances of money being indispensable, it only remained

for the [34] Government to adopt the best measures, for securing a faithful and economical application of the public funds, and a regular settlement of accounts, at convenient periods.

Though the Committee have criticised particular transactions, yet they have not suggested any doubts of the propriety of the principles, by which the expenditures have been governed, or that the officers have not proceeded with all practicable celerity, in adjusting the accounts; they merely remark, on the statements of the Accountants, that "although they exhibit balances, apparently unaccounted for, to a large amount, they likewise shew, that accounts have been rendered for a *considerable portion*, which are in a *train of settlement*, but not finally closed."

Such a state of things, as is described, must forever exist in a public office, for the settlement of accounts: there will be accounts on hand, which have not been examined; others, which have been examined, but not stated, according to the forms requisite for entry; others, which have been stated, but not entered in the public books: even after all these formalities are completed, it remains for the accountants to prepare statements of the accounts, which have been adjusted in their offices, and to transmit them, with the original accounts, to the Treasury, for revision. The balances, reported by the committee, comprise all accounts, which had not been "*rendered to the Treasury*;" they must of course comprise an amount of accounts, which had been *settled in the offices of the Accountants, when the Report was made*. This amount cannot be conjectured, as the *periods, to which the Accountants have made their returns* to the Treasury, are not stated in the Report.

The misconceptions of the public, from well-known causes, in the summer of the year 1800, in respect to the state of the public accounts, led me to a critical examination of this subject, before I retired from office. The information then obtained, and the result of inquiries at the seat of government,

during the last winter, enable me to make the following declarations:

That there exists no delinquency, in the offices of the *Pay Master General*, or the former or present *Purveyor of Public Supplies*, or the former or present *Quarter Master General*.

That the public will sustain no loss, in consequence of the contracts for *clothing*: this I infer, from a statement, in my possession, which exhibits only one balance due to the public, of less than two thousand dollars, and which is well secured by bond:—The contractor discharged his duty faithfully, but was rendered insolvent by an unexpected rise of the prices of cloth. If it is judged equitable, the debt can be recovered of his surety.

All the *principal contracts* for supplying the army with provisions, to the latter part of the year 1800, have been finally settled; most of the *subordinate contracts*, for supplies at recruiting posts, have also been settled.

From its first establishment, until the summer of 1798, it was [35] the duty of the Treasury Department, to provide, by contract or otherwise, for all kinds of stores and supplies, for the army and navy. As many transactions were commenced, but not finished, when the act of 1798, was passed, my agency in procuring stores and supplies necessarily continued for a considerable time longer, and did not entirely terminate till I resigned my office. I am well informed of the characters of the different contractors, the state of their accounts, and the responsibility of their sureties, and perceive no reason to believe, *that the public will sustain any loss by any contract, which I formed while Secretary of the Treasury.*

In respect, therefore, to all the *principal offices of expenditure*, and *all contracts of much importance*, it appears to me safe to affirm, that there has been NO DELINQUENCY, and that the public business has been executed, *with as much success as has ever attended like transactions.* It is possible, that, amidst such a variety of concerns, as are embraced by this

statement, some, which ought to form exceptions, have been overlooked. If such is the fact, I desire that the error may be corrected by the present administration. There is no transaction, which I am not willing should be correctly and fully understood by the public.

It is true, that there are a *great number* of accounts open in the public books; but this is a necessary consequence of *numerous establishments*, over an *extensive country*. The *aggregate amount* of unsettled accounts is also considerable: but this amount must always be *proportioned to the Revenue and Expenditure*. Particular transactions may have issued unfortunately, and contrary to original expectations; let these be scanned with a critical eye; let them be fully understood, and they will need no apology.

In respect to the Navy Department, a single observation will suffice. The expenditures have been principally made by the Purveyor of Public Supplies, and by agents, in Portsmouth, Boston, Newport, Philadelphia, Baltimore, and Norfolk. I believe that no member of the present administration will, at this time, impute any delinquency to either of the agents at these places. Indeed, as no individual is mentioned by the Committee, it is right to presume, that no suspicions were entertained. To foster a suspicion against an individual, merely because he has an account open with the public, is to reason perversely, as the circumstance, distinctly considered, proves nothing more, than that he has been deemed worthy of confidence.

The Committee say, that "the late hour, at which the *vol-
"uminous documents*, accompanying this report, were received
"by the Committee, (upon the 9th of April) and the labor
"necessary to *investigate such a mass of accounts, and of ad-
"vances unaccounted for*, particularly in the War and Navy
"Departments, embracing an expenditure of *twenty millions
"of dollars*, have rendered it impossible for the Committee,
"consistently with their attention to other duties, to form an
"opinion, as to the manner, in which this sum has been ex-
"pended." [36]

These observations lead to an inquiry, *what kind of investigation was proposed?* Whether the *statements of the officers* ought to be regarded as *evidence of facts?* Or whether it was the duty of the Committee to examine *all, or any of the original accounts and vouchers?*

The statements, to which the report refers, are not annexed to the printed report, which was laid before the House of Representatives. There is certainly danger, that unjust prejudices may be excited against individuals, especially if the practice of printing *extracts from these statements is continued*. Not having seen the statements, I can only conclude, that they are such as have been prepared on former occasions: that they exhibit the *amount of accounts settled*, under proper *heads of expenditure*, and the *names of all individuals*, charged with monies in the public books, with remarks, shewing whether accounts have, or have not, *been rendered*, and the opinion of the officers, whether the monies have, or have not been *properly applied* and whether a *loss* will or will not, probably be *sustained by the public*.

In forming these statements, there is little danger of *error*, as the *general amount, for which an account is to be taken*, can at all times, be readily ascertained *at the Treasury*. There is, moreover, the least possible danger, *of an improper bias on the mind of the officers*, as his reputation is always interested in assigning true and satisfactory reasons, *why the accounts remain unsettled*, and because it has ever been an established principle, *that the officers who settle accounts, are in no manner responsible for making advances*.

If the statements are regarded as *evidence of facts*, then I venture to assert, that an opinion might have been formed, in a very short time, whether the public business has, or has not, been well conducted. In making this assertion, I cannot be mistaken, because such investigations are familiar to me, and have been frequently made. On the other hand, if the *truth of the statements is to be questioned*, then, indeed, the Committee have assumed a task of serious difficulty, of the extent of which, some of the members are, probably, not ap-

prized. Mr. Giles has had much experience of the duties of similar Committees; but though he possesses this advantage, which is of great use, in enabling him to *form Reports*, he will, I presume, continue to be disinclined to the labour of *investigating vouchers*.

7th. The remaining part of the Report is confined to criticisms upon *particular transactions* of the former administration; each of which I hope to place in a satisfactory light, before the public.

For reasons, which justify the purchase of scites, for navy yards, the public are referred to a recent publication of Mr. Stoddert, the former Secretary of the Navy.* I can add nothing to the force of his arguments, which must be considered as conclusive by all men, who are not decided converts to the theory of specific appropriations:—For the satisfaction of such minds, however, I take the liberty to state a fact, not noticed by Mr. Stoddert: [37]

In March 1801 [2 Stat. L., 122, 123], Congress expressly appropriated, “*for the expenses ATTENDING*” (not “*completing*,” as mentioned by Mr. Gallatin) “six seventy-four-gun ships, and for COMPLETING NAVY-YARDS, DOCKS AND WHARVES, the sum of five hundred thousand dollars.” It is proved by Mr. Stoddert, that the purchase was attended “*with an obvious benefit to the United States.*” The whole expense has been *expressly sanctioned* by a *subsequent if not prior* appropriation. Upon principles, *conceded by the Committee, and upon which their system of specific appropriations rests*, the whole transaction, therefore, stands completely *justified*. When will accusations against the former Administration cease, if their conduct cannot be protected even by the acts of the Legislature?

8th. Referring to the purchase of navy-yards, the Committee observe “that, in the War Department, there likewise appears to have been a transaction, *equally unauthorized*. “In the year — a pile of buildings was commenced, under

* See Appendix A.

“the directions of the then Secretary of War, on the banks of
“the Schuylkill, near the city of Philadelphia, which have
“since been carried on in a manner *highly expensive*. These
“buildings have been called a *Laboratory*, and, although yet
“in an *unfinished state*, have already cost the United States
“152,608 dollars and 5 cents, which sum has been paid out
“of the appropriations heretofore made for the *Quarter-*
“*Master Department*. The Committee are of opinion, that
“this expenditure of money could not be justified *at any time*,
“but more particularly at a moment when the United States
“were borrowing money, at a *high rate of interest*, to meet
“objects, which the Legislature considered necessary, and had
“sanctioned by Law.”

There is doubtless much propriety in classing the purchase of the navy-yards, and the expenses of erecting these buildings, under one head, and considering them as “equally unauthorized” by Law. Though, in some particulars, the two establishments may be justified, on distinct grounds, yet the *general principle* is the same, that *both were necessary to the successful execution of measures, enjoined by law*. It is presumed, that no valid objection can be drawn from the name of *laboratory*, for though it may be suitable, yet that of *arsenal*, or *magazine*, is equally proper. Before these buildings were erected, I believe there did not exist, in the United States, a single public building, accessible by water transportation, in which arms, military stores, clothing, and other valuable articles of public property, could be deposited. No less a sum than twelve hundred thousand dollars, was appropriated, in 1798, for the purchase of cannon, small arms, ammunition and military stores. A considerable proportion of these supplies was expected to be drawn, and was actually drawn, from the market of Philadelphia and its vicinity. At least one central magazine, accessible by water, was necessary for receiving such supplies as were imported, and for affecting distributions to the navy and to garrisons on the sea-coast. Be- [38] fore these buildings were erected, the public prop-

erty was distributed in private buildings, in various parts of the city of Philadelphia, and its vicinity, where they could not be conveniently inspected, and where they could not be guarded by the military, without hazard of disturbing the order of the city: a great accumulation of military supplies, in the midst of a populous city, was unsafe; the powers vested in the Executive Department, in a season of military preparations, were known to be of the highest importance, and the nature of the discretionary authority, actually entrusted by Law, to the President of the United States, seemed necessarily to imply the right to judge of the most suitable means of *preserving the public property*; a power, which, when compared with others, was of no importance.

The Committee say, that these buildings have "been carried on in a manner highly expensive, and are yet in an unfinished state." If it was intended that it should be understood, that *more money has been expended than was necessary, considering the extent and solidity of the buildings*, then it is certain a hasty opinion has been expressed, without acquiring due information. If the suggestion is, that the *materials, decorations, or workmanship were too costly*, then it is answered that the buildings are *brick structures*, and an appeal is made to the public, on a comparison with buildings erected by the different *states*, or by the city of *Philadelphia*, or by incorporated *companies*, whether the design was *unsuitable*. It is true that the *whole design has not been completed*, but this idea is not communicated by the expression that *this pile of buildings is yet in an unfinished state*.

The public understand, that the expenditures, hitherto made *are useless*; let the senses of the people of Philadelphia, and its vicinity, decide on the correctness of *this impression*.

The Committee say, that the expense has been defrayed "out of the appropriations heretofore made for the Quarter Master Department." I shall not attempt to reconcile this assertion with their first declaration, "that the appropriations for the army have been considered as constituting but one

“general fund,” but proceed to remark that the observation appears to imply an opinion that the fund appropriated for the *Quarter Master Department* could not lawfully be applied for erecting *necessary magazines*. With such men, as on reflection maintain this opinion, it will be in vain to reason, respecting the measures of the former administration; as the opinion will prove, that there remains no common source, from which arguments can be deduced. Unquestionably it has been considered as a *primary duty* of the Quarter Master Department, to *provide all Magazines, by purchase, lease or otherwise, as should be deemed expedient*:—this was the *established principle*, during the revolutionary war, and every subsequent regulation and instruction, with which I am acquainted, has proceeded on the same idea. It cannot surely have been imagined, that *specific appropriations*, for *distinct* items of expense in the *Quarter Master Department* were necessary; if not, the expense has been defrayed out of the *proper fund, even upon the principles assumed by the Committee*.

There is an allusion to the Loans, negotiated for the public, at an interest of eight per cent for ten years, which cannot be misunderstood:—These are said by the Committee to have been obtained at a “high rate of interest.” Mr. Gallatin has not thought it unsuitable, in an official report, to represent the interest as “*exorbitant*.” I shall at all times be ready to explain the reasons of my conduct, when required, but to indirect imputations, from any quarter, it must be sufficient to observe, that this subject has been fully considered by a Committee of equal authority with the Committee of investigation, the members of which, with the concurrence of Mr. Nicholson, unanimously reported, that they saw “no reason to doubt that these Loans were negotiated upon the best terms, which could be procured, and with a laudable view to the public interest.”

9th. The next subject relates to the application of money for purposes of a confidential nature, in the war and navy

departments, upon which the Committee express their opinion in the following terms:

“The Committee beg leave likewise to refer to an important principle formerly settled by the Executive, and actually practised upon, in the war department, in relation to the expenditure of public money, which they deem improper, in a government like ours, where taxes cannot be imposed but by public consent; and where monies, arising from those taxes, cannot be disbursed, but upon the authority of a law, previously passed by the Representatives of the nation. By an act passed on the 9th of February, in the year 1793, the President is directed to cause the monies drawn from the Treasury, for the purpose of intercourse with foreign nations, to be settled by causing the same to be accounted for specifically in all cases, wherein the expenditure thereof may, in his judgment, be made public; and by making a certificate, or certificates, or causing the Secretary of State to make a certificate or certificates, of the amount of such expenditures; as he may think it advisable not to specify;—and such certificates are to be taken as sufficient vouchers, for the sums expressed to have been expended. The policy of this law, the Committee do not intend to question, but it is clear, that it extends only to cases of compensation, for what are usually called ‘*secret services*’ that may be rendered to the United States, in their intercourse with foreign nations. The Section above recited, has been ingrafted into two Laws, passed in the respective years, 1798, and 1800, but in every Law on the subject, it has been expressly confined to foreign intercourse; and in the act of 1800, is farther limited to the *contingent* expenses only of foreign intercourse. It has not therefore been without considerable surprise, that the Committee have seen the same principle applied to the expenditures of the war department.” [40]

“In the instructions, given by the Secretary of war to the Accountant of the War Department, in his letter of the 28th of December, 1797, herewith reported and marked (L,) a

“rule is positively laid down, that expenditures for secret services, rendered in relation to the duties of the War Department, are to be admitted. And on the 20th day of December, in the year 1799, the Secretary of the Treasury made a report on this subject, to the President of the United States, (subjoined and marked (M,) in which the principle is again recognized, as applicable to the departments of State, War and the Navy. On the subsequent day, the President accordingly, signed two Certificates, as vouchers for monies, said to have been expended, in relation to the duties of the War Department, which certificates are annexed to this Report, and are marked (N. and O.) The Committee entertain no doubt, as to the illegality of this measure, as it is authorized by no law whatsoever, and they had flattered themselves that the Federal Government required no services of any nature, which ought to be concealed from the officers of the Treasury, or from the Legislature. They consider these facts as coming properly under the head of expenditures, not authorized by law.”

I do not possess a copy of the letter of the Secretary of War, but I recollect that the Accountant of the War Department, declined complying with a requisition of the Secretary of War, respecting an expenditure of a confidential nature;—that a representation of the case was made to the President, who required my opinion in writing. The following is a copy of my report to the President.

“The Secretary of the Treasury, in obedience to the command of the President of the United States, has considered the letter of the Secretary of War, dated, November 29th, 1799, and thereupon most respectfully submits the following Report.

“That by an act of Congress, passed on the 9th of February, 1793, it is declared *“That in all cases, where any sum, or sums of money, have been issued, or shall hereafter issue, from the Treasury, for the purpose of intercourse, or Treaty, with Foreign nations, in pursuance of any Law, the Pres-*

ident shall be, and he is hereby authorized to cause the same to be duly settled with the Accounting officers of the Treasury, in manner following, that is to say, by causing the same to be duly accounted for, SPECIFICALLY in all instances wherein the expenditure thereof may in his judgment BE MADE PUBLIC; or by making a Certificate or Certificates, or causing the Secretary of State to make a Certificate, or Certificates of the AMOUNT of such expenditures as he may think it advisable NOT TO SPECIFY, and every such Certificate, shall be deemed a sufficient voucher for the sum or sums therein expressed to have been expended.

"The foregoing express provision by Law, contains, as is believed, a safe and proper rule, for controlling the expenditure of all monies disbursed for secret purposes:—it is impossible to con- [41] duct the business of the Departments of State, War and the Navy, without sometimes incurring expenses, the precise objects of which cannot be safely disclosed: It is however at the same time necessary, that such expenditures, should be made, in a manner best calculated to shield the officers of Government from odium, or suspicion.

"To reconcile these objects in the best manner possible, and to preserve the means of ascertaining the aggregate amount of all secret disbursements, it is respectfully submitted as the opinion of the Secretary, that all such expenditures, ought to be ascertained to the satisfaction of the President, and certified according to the form hereto annexed."

"All which is respectfully submitted."

The following is a copy of the form referred to.

"By * * * * *

"President of the United States."

"It is hereby declared, that by the representation of the Secretary of the Department of it appears to my satisfaction, that dolls. cents, have been disbursed, for objects in relation to the duties of the said Department, and to promote the interests of the United States, the speci-

“fiction of which disbursements, at this time, is deemed in-
 “expedient. This certificate is therefore granted to serve as a
 “voucher, for the sum aforementioned, which is (here insert
 “the words, “*to be paid,*” or the words, “*to be passed to the*
 “*credit of,*” as also the name) by the proper officer, or officers,
 “of the Government of the United States.”

“In witness whereof, I have signed these Presents, this
 “ day of and caused the same to be
 “countersigned by the Secretary of the Department of
 “ and the Seal of the said Department to be
 “hereto annexed.”

It will be perceived, that it was merely the object of this Report to establish such a form for controlling expenditures of a confidential nature, as would most effectually prevent abuses, and “shield the Officers of Government, from odium, “or suspicion.” I never doubted for one instant, that such expenditures were *lawful*, and that the principle should now be questioned, has excited a degree of *astonishment* in my mind, at least equal to the “surprise” of the Committee.

Is it then seriously asserted, that in the War and Navy Departments;—establishments, which from their nature presuppose an actual, or probable state of *War*;—which are designed to protect our country against *enemies*, that the precise *object* of every expenditure must be *published*? Upon what principle are our Generals and Commanders, to be deprived of powers, which are sanctioned by universal usage, and expressly recognized as lawful, by all writers on the Law of Nations? If one of our naval Commanders, now in [42] the Mediterranean, should expend a few hundred dollars for intelligence, respecting the force of his enemy, or the measures meditated by him, ought the present Administration to disallow the charge, or publish the source, from which the intelligence was derived? Is it not equivalent to a publication, to leave in a public office of Accounts, a document explaining all circumstances relating to a payment?—Ought the truth to be concealed, by allowing fictitious accounts? Could a more

effectual mode of preventing abuses be devised, than to establish it as a rule, that all confidential expenditures should be ascertained to the satisfaction of the Chief Magistrate of our country, that his express sanction should be obtained, and that the amount of all such expenditures, should be referred to a *distinct account*, in the public Records?

There exists no colorable excuse, for exciting the public jealousy on this subject;—I am confident that the secret expenses of the War Department, since the establishment of the present government, do not exceed a few thousand, probably not more than five, or six thousand, dollars;—The first expenditure, which I can recollect was made in 1790, or 1791, and from the nature of the object, as well as the usual mode of conducting such affairs, it is highly probable that it was known to all the then heads of Departments;—information, that such expenditures were made, was given to Congress in 1792, as is proved by the following extract from a printed Report, in relation to an estimate for the contingent expenses, of the War Department.

“It is to be observed upon this article, as well as every other in this estimate, that for every cent expended in pursuance thereof, vouchers must be produced at the Treasury, *excepting perhaps the sums, which may be expended for secret intelligence, where the names might be important to be concealed*;—but for the propriety of the small sums, which might be expended, *the reputation of the Commanding Officer is pledged to the public.*”

An explanation is due for Mr. Ross of Pennsylvania, who, in consequence of the certificate of President Adams, obtained a credit for five hundred dollars. It is within my knowledge that the expense was incurred in 1796, that the object was authorized by President Washington, and that it related to supposed designs of a foreign nation.

The Committee seem to suppose that the act of February 9th, 1793 [1 Stat. L., 299], first *authorized secret expenditures*, in relation to the Department of State. In my opinion

they have neither traced the subject to its source, nor comprehended the object of the regulation which they have cited;—the act, which made the first provision for the expenses of foreign intercourse, was passed on the first of July 1790; this act first gave activity to the operations of the Department of State, under Mr. Jefferson; it authorized the President *to draw from the Treasury, Forty Thousand Dollars annually, for the support of such persons, as he might commission to serve the U- [43] nited States in foreign parts, and for the expense, incident to the business, in which they might be employed; except in respect to the Salaries of Ministers and Secretaries, which were limited, the expenditure of the fund, was absolutely committed to the discretion of the President;*—this discretion could not however be more *unlimited*, than that which was vested in respect to the Fund for the *contingent expenses of the Department of War;*—the proviso of the Law of July 1st, 1790, only directed that the President should account *specifically* for all such expenses, as in his judgment *might be made public*, and also for the *amount* of such expenditures as he might think it advisable *not to specify*:—it is certain that this proviso, did not *extend the discretionary power* previously given, and is to be understood merely as a direction respecting the *mode of rendering accounts*.

The Act of February 9th, 1793, cited by the Committee, expressly *revives* the Act of July 1st 1790 [1 Stat. L., 128], then about to expire:—this circumstance is not stated by the Committee:—it is however important, because the *discretionary power* of the President, was thereby *continued in full force*:—while the second Section, which the Committee have pleased to consider as a *special authority* to expend money for *secret services*, merely provides for the *settlement of accounts*, according to principles, *pre-supposed to be well understood, or defined*.

The Act of May 10th, 1800 [2 Stat. L., 78], the last cited by the Committee, is, if possible, more irrelevant to the subject

than the former;—it merely considers expenditures for secret services in the Department of state, as a description of *contingent expenses*;—they must truly be so viewed:—they have been so considered by the Department of War;—no person ever imagined that such expenses were an *ordinary charge* of the government, requiring an *established provision*.

The result of this examination, therefore, proves, that certain sums have been appropriated for the *Contingent Expenses* of the Departments of State, War and the Navy: that no *specific objects* have been defined in the laws, to which these funds should be applied: that the application, in respect to *all* the Departments, has been *equally discretionary*; and therefore that *all the expenditures* have been *equally lawful, or unlawful*: that a few inconsiderable expenses have been incurred in the War Department, the objects of which could not, with propriety, be communicated to the public: and that, in the *mode of adjusting the amount of these expenses*, a rule has been pursued, which the Legislature had previously established, in respect to the Department of State.

The Committee wish to have it believed, that a *special authority* has been given to the *Department of State*, to expend money for *secret services*, and to infer, from the defect of a similar authority in the *other Departments*, that the expenditures have been *illegal*. As the facts, relating to the subject, were not fully and correctly stated, the inferences have been demonstrated to be unsound: if, how- [44] ever, the erroneous premises of the Committee must be assumed, it is proper to note, to what conclusions a spirit of charity would lead. It might be observed, that it is the duty of the Secretary of State, to conduct negotiations, in time of war, for the purpose of obtaining peace; and in time of peace, by friendly and *sincere* representations to the agents of foreign nations, to preserve the peace; and that no duty has been assigned to this officer, which has not a pacific tendency or relation. If the refinements of casuistry must be substituted for the maxims, which ordinarily govern men of business; if the possession of

a *secret* necessarily implies the *concealment* of some *immorality*; and if the funds for *secret services* are always employed for purposes of *corruption*, (positions which I do not admit), still it might be urged, with a semblance of argument, at least equal to that of the Committee, that the Laws of War authorize the employment of *Spies*, and, in many instances, the *seduction of enemies*; but that all *artifice, bribery and corruption*, in the *Civil Intercourse* of nations, is declared to be unjustifiable: from hence it might be concluded, that, while no doubt could exist, of the right of a Secretary of War, or a Secretary of the Navy, to employ money as an engine of *hostility*, a *Legislative dispensation* was requisite, to satisfy the philosophic scruples of a Secretary of State.

The suggestion of the Committee, that the practice of the former Administration is not reconcilable with the *principles* of a representative government, is as incorrect as their other observations. If they had proved, that the Government had united all the citizens in one bond of affection and confidence; that it had purified all exotic and *spurious* elements; that it had so elevated the virtue, and confirmed the patriotism, of the people, that the funds of *foreign nations* could here find no employment; then indeed there would be cause for congratulation, that these *principles* had received a desired illustration: but to be silent on these topics, and to deny to *our Government* the means of repelling the force, or combating the intrigues, of *foreign nations*, is virtually to declare, that our *own magistrates*, chosen by ourselves, have no integrity, and that unlimited confidence may be placed in the justice and virtue of *foreign rulers*.

10th. The last items in the catalogue of financial crimes committed by the former Administration, and which were sufficiently "*prominent*" to attract the attention of the Committee, are thus described:

"Two other cases of *exceptionable expenditure* in the War "Department, have been *sufficiently examined to warrant a "report upon them*. The first relates to an appointment con-

“firmed by the late President on Uriah Tracy, Esq. in the “summer of the year 1800, while he was a member of the “Senate of the United States:—the second relates to a pay-
 “ment made from the contingent fund of the War Depart-
 “ment, to Mrs. Ariana French, of Georgetown, [45] in the
 “month of July, 1800. *Neither of these are very extensive in*
“amount, but both deemed important, for the precedents they
“may hereafter furnish.

“It appears, from a document herewith exhibited, and
 “marked (P), “that Mr. Tracy was appointed to visit and
 “examine into the actual state of the garrisons, Indian trad-
 “ing houses, factories, &c. in the North Western Territory,
 “on the Mississippi and on the frontiers of Tennessee and
 “Georgia,” and that Mr. Tracy received, for this service, the
 “sum of one thousand nine hundred and eighty-five dollars
 “and five cents; seven hundred and fifty-three dollars and
 “five cents being for travelling and other incidental expenses,
 “and twelve hundred and thirty-two dollars for his compen-
 “sation, from the 16th of June, to the 16th of November, in
 “the year 1800, at eight dollars per day. From the account
 “exhibited by Mr. Tracy for his expenses, it will be seen, that,
 “during these five months, he visited Pittsburgh, Presque
 “Isle, Niagara, Detroit and Michilimachinac, but did not
 “fulfil the other objects of his mission.

“The Committee cannot forbear to remark, that Mr.
 “Tracy’s acceptance of this appointment has the appearance,
 “at least, of inconsistency with that part of the Constitution,
 “which provides, that “no person, *holding an office under the*
“United States, shall be a member of either House of Con-
 “gress.” Mr. Tracy was, at the time of receiving the appoint-
 “ment, during the whole of its continuance, and has ever since
 “been, a member of the Senate of the United States; and,
 “from an inspection of the pay-roll of the Senate, the Com-
 “mittee find, that, for the last seventeen days of the five
 “months of his service under the above appointment, he not
 “only had his expenses borne by the public, to a considerable
 “amount, and received likewise eight dollars per day, but

“that he at the same time received, as a member of the Senate, “six dollars per day, for travelling from Litchfield, in Connecticut, to the Seat of Government—a distance of three “hundred and forty-four miles; twenty miles being allowed “for travelling one day.

“James M’Henry, Esq. former Secretary of War, resigned “that office, it is believed, in the month of May 1800, and the “document marked (R), hereto annexed, shews that, in the “month of April preceding, Mrs. Ariana French leased a “house to him for one year, to commence from the first of “June following: that an award was made between the parties, by which it was declared, that Mr. M’Henry should “pay to Mrs. French two hundred and eight dollars and “ninety-five cents, for damages sustained by her, by reason “of his not occupying her house, agreeably to the contract; “and that, in conformity to the opinions of the Secretary of “the Treasury and the Secretary of the Navy, and by the direction of the Secretary of War, this sum was paid to Mrs. “French, out of the fund for defraying the contingent expenses of the War Department.” [46]

The ideas to be collected from this narrative, in respect to Mr. Tracy, are, that this gentleman, while a Senator of the United States, received an appointment, which has the *appearance* of inconsistency with the constitution; that but a small proportion of the duty assigned was performed; that an excessive allowance has been made for his services as agent, and that for seventeen days he received a double compensation, both as an agent and as a senator.

From what the people have heard of repeated violations of the Constitution by the former Administration, and what they have observed, during the short career of the present, it is but fair to conclude, that, owing to the force of the passions of men, or other causes, an observance of its injunctions is a task of no little difficulty. After what has happened, it is high time to dismiss all concern about *appearances*, and consider whether the Constitution has, or has not *in fact*, been violated.

Though the Committee have cited a part of the Constitu-

tion, they have not said, in what manner it has been violated. They surely do not maintain the opinion, that the President cannot appoint agents for special services, without being expressly authorized by law: this power has been exercised from the commencement of the government, and repeatedly by Mr. Jefferson, since his election to the office of President. They will not say, that Mr. Tracy was *incapable of receiving the appointment*. The violation of the Constitution, if it has been violated, is therefore imputable to the *Senate*, in consequence of having permitted Mr. Tracy to retain his seat in that body, after it was known that he had accepted this appointment. If, however, the Committee intended to cast any reflection on the Senate, (which I do not suspect) then they may be justly charged with the *appearance* of having usurped a power, which cannot be constitutionally exercised by the whole House of Representatives—*that of judging of the qualifications of Senators*.

The phantom raised by the imagination of the Committee will, however, vanish, when it is considered, that *all offices of the United States* are derived immediately from the *Constitution*, and created by *legislative acts*; that the agency entrusted to Mr. Tracy originated with the Executive Department; and that the authority to employ agents, for a variety of purposes, results from the nature of the Executive power, and has never been questioned. If no distinction between an *Executive Agency*, and an *Office*, is permitted, the consequence must be, that all persons, who *perform services of any kind for the United States, for a compensation, must be considered as Officers*. The perplexities, which such a construction would occasion, in administering the government of the United States, and the still greater perplexities in executing the constitutions and laws of the particular states, most of which have declared, that *offices* under the two governments shall be *incompatible* with each other, sufficiently evince, that the idea suggested by the Committee would be as mischievous, in practice, as it is unsound, in principle. [47]

The Committee were probably convinced, that the circumstances of the public service were such as rendered the employment of an agent proper. The military posts of the United States extended through an immense region: the communications between these posts and the Government were so uncertain, and attended with such difficulty, that it was reasonable to presume, that many of the advantages in respect to discipline and economy, which result from military subordination, had been but partially realized: it is notorious, that influential individuals of the party now in power, had continually represented the arrangements of the military establishment and the public factories, as being greatly defective. At no time had their complaints been more vehement than just before the period when this agency was instituted. Under these circumstances, it was the right, and it became the duty, of the Administration, to ascertain, through an impartial channel, whether there existed any just cause for the clamour, which had been raised.

There is much reason to fear, that party-prejudice against *individuals* has too frequently prevented a fair estimate of the merit of *measures*. The appointment of Mr. Tracy has accordingly been exclusively attributed to personal favor. It is true that Mr. Tracy has been a distinguished advocate for the system of the former administration; but it will be admitted by his opponents, that, with the exception of questions, having a direct relation to that system, upon which a diversity of opinion has existed, that no person has given more uniform or decided evidence of a disposition to protect the public against improper expenditures. No one of his adversaries will assert, that on the score of information of the laws and existing arrangements of the government, and the views and wishes of the different parties, respecting the military establishment, a more suitable appointment could have been made. All will agree, that, being a stranger in the western country, and having no connexion with the army, his representations were likely to be entirely impartial; every objection against

the *person designated*, is therefore resolved into one—that he was personally esteemed by the members of the former Administration:—whether this ought to be urged, when the only object of the agency was to acquire information, to direct the *future measures of that Administration*, and for the propriety of which they were to be responsible to their country, the public must judge.

The most important fact on this subject, however, is, that the result has proved, that the agency was proper, and was well executed. I assert, with confidence, that the report, now in the possession of the Secretary of War, embraces important and various information, which must have been highly useful to him, in conducting the business of his Department. At the same time, the report proves, that the alledged abuses did not exist, and that what were represented as defective arrangements, were necessary consequences of the unsettled state of the country, or of public establishments too [48] slender for the objects, proposed to be accomplished. That these establishments were not more efficient, and of course more expensive, will not now be deemed an error of the former Administration.

That there should appear, in the report of the Committee, any suggestion, however indirect, that the services mentioned in the instructions, were not performed, is much to be lamented. It could not have been unknown, that these services were interrupted by a severe and dangerous illness; surely this is an excuse; surely the grievous consequence, a loss of health, ought to have excited so much sympathy, as to have prevented the Committee from representing, a personal misfortune, as a political error.

On the subject of compensation allowed to Mr. Tracy, it is sufficient to say, that it was no greater than was judged reasonable, considering the nature of the service; that it is believed that a like inspection was never accomplished at less expense; and that, compared with an agency instituted by the present administration, it may even claim the merit of

economy. The suggestion that a double compensation was received is unjust: the law directs that each of the members of the legislature "shall be allowed, at the commencement and "end of every Session, six dollars, for every twenty miles of "the estimated distance, by the most usual road, from his place "of residence to the seat of Congress." It is well known that this allowance has been constantly paid, although the members of Congress have continued at the seat of Government during the whole recess; the allowance was established as a compensation for *services in Congress*, not for *travelling*; and an *appearance in the House* has ever been deemed evidence of a title.

The circumstances relating to the payment on account of Mr. M'Henry are: that this Gentleman engaged a house at Washington for his family, and that a new appointment to the office of Secretary of War was made by the President before a removal. It was right, that the proprietor should be compensated, having *removed from the House, which she had leased*; it was clearly inequitable that the compensation should be made by Mr. M'Henry; it seemed to follow, that payment ought to be made by the public. If an error was committed, then the United States of America have lost two hundred and eight dollars and ninety-five cents! Was this case really "deemed important, for the precedent it might here-
"after furnish?"

I have now finished my remarks upon the different subjects mentioned in the report of the Committee, and from which they have concluded "*that considerable sums of the "public money have been greatly misapplied, and that much "expense has been incurred, without any legal authority.*" I appeal to the integrity and candour of my Countrymen:—I entreat them to consider the explanations I have offered, and then to pronounce, WHETHER THE INFERENCE IS JUST.

OLIVER WOLCOTT.

LITCHFIELD, CONNECTICUT,
July 12th, 1802. [49]

APPENDIX.

A.

TO THE PUBLIC.

GEORGETOWN, MAY 1, 1802.

A Committee of Congress, styled "the Committee of Investigation," was appointed, early in the present session, for purposes, which the resolution for their appointment will best explain. A majority of this Committee, after consuming nearly five months in inquiring into the frauds alledged to have been committed by former Administrations, have at length at the close of the session, made a report, when it is too late to vindicate in debate, on the floor of Congress, the fair fame of men, who have performed meritorious services to their country, from the foul aspersions contained in the report.

From the Chairman of this Committee, I received a letter, at three o'clock on the 27th of April, dated that day, desiring to know by what authority six navy-yards had been purchased, while I was Secretary of the Navy; and observed, that my answer must be in writing, and must be delivered to him by ten o'clock the next morning, as the Committee would report in the course of the day. The subject was familiar to me; no time for deliberation was necessary; I answered him the same evening. But as it would be swelling to an unreasonable length a newspaper address, to insert my answer here, I omit it, contenting myself with the single observation, that I doubted not the explanation it contained, was sufficient to satisfy gentlemen of candid minds, and conversant with public affairs, that not a single navy-yard had been purchased, nor a single shilling of money expended on their improvement, without full and ample legal authority.

This letter produced no effect on the majority of the Committee. It had been previously determined, that the purchase of navy-yards should at all events be condemned, and it was

urged in vain by gentlemen on the Committee, who concurred not with the majority, and whose utmost abhorrence could not fail to be excited by the conduct of that majority, that the letter should at least be suffered to accompany the report to Congress, that the defence might be as public as the accusation: but this would have been fair proceeding, and it suited not the views of the majority, that the poison it was their purpose to instill into the public mind, should be attended by its antidote, and the letter was suppressed. From this instance of the uncandid course of the majority of this Committee, in relation to a person on the spot to answer them, a just estimate may be made of the treatment, which former servants of the public, absent, and at a distance from the seat of government, have experienced at their hands.

Fortunately for the free citizens of the United States, a report of a majority of a Committee of Congress is not condemnation—is not even proof of guilt. No person laments more than I do, the too great probability that such reports will soon lose the power of creating even the slightest suspicion of guilt, in the persons they shall accuse.

As far as their power extended, the majority of this Committee have gone, to rob me of that, which is dearer than fortune, or life—reputation, in reward for having, at a crisis portentous and alarming, to the neglect and infinite injury of my private concerns, devoted, and most zealously, a small portion of my life to the public service. From their unjust decision, I make my appeal to a tribunal where truth will be heard, and will not be suppressed; and where reason and justice prevail. Before the tribunal of the public, I am as sure of an acquittal the most complete, and the most honorable, because my conduct has been right, as I am that the men who, to indulge party rancour, have dared to accuse me, will quickly find that public delusion is rapidly on [50] the decline. It is for these men to reflect on the estimation, in which their present conduct will be held, when this delusion shall have passed entirely away.

But it is time to attend to the report of the majority of the Committee, with their reasons for an unqualified condemnation of the late Secretary of the Navy.

After quoting the act, directing six seventy-four gun ships to be built within the United States, and not to be built or *purchased*, as they wish to have the act understood; and two other acts, which had no more connexion with the building of ships than of houses—one of them authorizing two docks to be erected for the purpose, as expressed in the act, of repairing ships; meaning docks, into which ships might enter without unloading, and be left dry at the fall of the tide, or after the water should be pumped out, and be repaired without the expensive operation of heaving down, things totally dissimilar from building yards. And the other authorizing the purchase of timber, not for the use of six seventy-four gun ships, as these gentlemen certainly meant to imply, if they understood their own meaning; but, as expressly stated in the act itself, to be preserved, for the future use of the navy. (All these acts were passed in February '99.) I say, after quoting these several acts, these gentlemen proceed, "under that authority only, (meaning the three acts) the then "Secretary "of the Navy expended the sum of 135,846 dollars, in the "purchase of six navy yards. For this expenditure, the Com- "mittee conceive that *no authority was given by law, nor any "appropriation made, except for the two docks above men- "tioned, as the sum of 1,000,000 of dollars was appropriated, "by the act of '99, for building or purchasing the ships only— "and the sum of 200,000 dollars for the purchase of timber. "As public ships of war had been before built under similar "authority, for the use of the United States, at private yards; "and as Congress did, at the same time that they authorized "the building or purchasing the ships, provide for the erection "of two docks only, the Committee are of opinion, that four "of the navy yards were purchased without authority, and "the money misapplied, which was paid for them."*

The then Secretary of the Navy informs these sagacious

gentlemen, the majority of the Committee, that it never was contended, or imagined, that the acts for procuring timber for the future use, and for erecting docks, conferred any power to buy, or even to hire building yards, or as they are more frequently called navy yards—the whole power, to buy such yards, was communicated by the single act, directing that six 74 gun ships should be built within the United States, not *built or purchased*, as they represent the act: If this act did not confer the power to purchase the yards, then the purchase was made without the authority of law, and the report of the majority of the Committee, though malignant, is correct.

The short question, then, before the public, is, Did this act confer the power to purchase yards?

I will not labor to establish a self-evident position. Is there a man, of common reason, in the United States, who will believe that an act of Congress, directing a thing to be done by the Executive, and appropriating money for doing it, does not confer on the Executive full and ample legal authority, not only to do the thing itself, but to do everything incidental to it—every thing, without which the thing directed by the act could not be performed? In the present instance, an act had passed, directing that seventy-four-gun ships, should be built: There was not a stick of timber, nor an article of any kind, in the public arsenals, necessary to be employed in their building: they could not be built without the necessary materials: the act, then, intended to confer, and did confer, complete power to procure the materials. So of yards, in which to build the ships—there was not one yard in the United States, public or private, fit for building ships of such a size. It was essential that such yards should be procured: and the act intended to give, and did give, full power to procure them, and to procure them by hire, or by purchase, [51] as should best comport with the public interest:—the argument of the Committee, that it would have been legal to hire, and was not legal to purchase, because, under the preceding Administrations, yards had been hired, and had not been purchased, is

really too puerile to merit serious refutation, and I am not disposed to trifle with the public. So much for the legality of the purchase of navy-yards: and as the majority of the Committee have attacked the measure on the ground of its illegality only, I might here close my address; but it may be proper to add some remarks, to shew, that the measure of buying yards was economical, as well as legal.

I know not how many years have elapsed, since Congress authorized the building of three frigates. At that time, the business of building ships of war of large size was new in this country; and it is not surprising that great errors were committed in making the arrangements for building these ships. One very great error, and for which the public have severely paid, was, hiring instead of buying ground to build them upon. After hiring the ground, it was found indispensable that wharves and other improvements should be made on the ground so hired, and at the public expense. But the evil did not stop here, for the yards were too contracted, as all private yards are, to admit of such distribution of the enormous quantities of timber, required for large ships, as to enable the workmen to get at the pieces, hourly wanted in the progression of the ships; hence it became necessary to employ great numbers of laborers, merely for the purpose of removing timber. I have not such accurate knowledge of the expense incurred in the improvements made on private property, and useless to the public when the ships were finished, and in the employment of laborers whose services, under a different system, might have been dispensed with, as to pretend to exactness in stating the sum; but I have no hesitation in averring, that it exceeded the whole cost of the six navy-yards purchased by me.

With a full knowledge of these facts before me, would it have been a proper discharge of duty, to have fallen into the same error? Would it not have been a shameful sacrifice of the public interest, a wanton waste of the public money? It is my pride that the error was avoided, and that such a course

was pursued, as will restore to the public a large portion of the money expended on the yards, should a measure so pregnant with folly and madness, be resorted to, as a sale of them.

BENJAMIN STODDERT. [52]

NO. 31

ACCOUNTABILITY OF DISBURSING OFFICERS
IN THE WAR AND NAVY DEPARTMENTS.
REPORT (GALLATIN), 1809⁹¹

To House of Representatives, February 15, 1809

I beg leave, for the information requested by the Committee of Ways and Means, respecting the present mode of advances and accountability of public moneys in the War and Navy Departments, respectfully to refer to the letter and report of the Secretary of the Treasury to the Committee of Investigation, dated March 1st and 2d, 1802,⁹² and to the report of that committee to the House. But in suggesting, in conformity with the request of the committee, such provisions as may render the accountability of those Departments more prompt and efficient, and have a tendency to check abuses by subordinate agents, experience and a wish to propose only such alterations as are essentially important, and cannot, in any degree, impede the public service or derange the general system, induce me to submit, for the present, only, the following regulations:

I. That all the warrants drawn by the Secretaries of War and of the Navy, upon the Treasurer of the United States, should specify the particular appropriation to which the same should be charged; that the advances thus made should, in conformity therewith, be charged in the books of the Accountants, to accounts corresponding with the appropriations;

⁹¹ American State Papers, *Finance*, Vol. 2, pp. 335-36. See Act of Mar. 3, 1809, 2 Stat. L., 535.

⁹² See No. 28.

and that the persons to whom the advances are made should render distinct accounts for each branch of expenditure, according to such appropriations. .

That rule is observed in relation to all the disbursements of money by, and expenditures settled directly at, the treasury, and is attended with no inconvenience whatever. Its extension to the War and Navy Departments will introduce the requisite correspondence between the accounts kept in the several Departments, and, in conformity with the constitution, prevent the application of public moneys to other objects than those for which they have been appropriated.

II. That all permanent agents employed in purchasing supplies, or who receive and disburse public moneys, should, in every instance, be recognized by law, and appointed in such manner as may be provided by law; that their compensation, as well as that of all other officers, should be fixed by law; that they should give security for the moneys advanced to them, and that they should, whenever practicable, keep such moneys in a bank designated for that purpose, and make monthly returns of their cash account, which would be checked by the returns made by such bank. [335]

III. That all the contracts or purchases, whether made by the Treasury, War or Navy Departments, or by their agents, should be made public, and be approved by the President of the United States.

I also think that the accountability would be rendered much more prompt and efficient, if the Accountants of the War and Navy Departments were considered, in every respect, as auditors of accounts for the same; that is to say, if each individual account as it is audited by either, was sent immediately to the Comptroller for settlement. According to the present mode, the Accountants render quarterly accounts which embrace all the individual accounts they may have audited during the quarter. Those quarterly accounts are then settled by the Auditor and Comptroller in the usual manner; but that system is attended with great delays: and the treasury settle-

ment has become little more than a matter of form, individuals being paid either in advance, or, at farthest, when the account is adjusted by the Accountant. The provision which authorizes an immediate appeal from the Accountant to the Comptroller, forms an exception, but can operate only in favor of individuals, and never in favor of the United States.

I fear, however, that this important alteration cannot take place without the creation of a new officer in the treasury, to whom should be given the superintendence of the revenue. For the office of the Comptroller being now burthened with that laborious branch, in addition to his legal duties of settling definitively all accounts, of recovering all the debts due to the United States, and of directing and superintending all the suits instituted for that purpose, of acting as commissioner of loans for the treasury, &c., it would be impossible for him to settle, in an efficient manner and with the necessary despatch, each individual account sent from the War and Navy Departments, unless he was relieved by a new officer from the general superintendence of the revenue. I am even of opinion that, supposing the accountability of the War and Navy to remain as it is, the public service would be much promoted, public accounts generally be settled with greater despatch, and delinquents be sooner brought to account, if the suggested office was established. And the superintendence of the lands which has grown into an extensive and complex system, might be annexed to it with equal advantage to the public and to individuals.—February 4, 1809. [336]

ALBERT GALLATIN, Secretary of the Treasury, to GEORGE W. CAMPBELL, Chairman, Committee of Ways and Means.

ACCOUNTABILITY OF DISBURSING OFFICERS
IN THE NAVY DEPARTMENT. REPORT
(SMITH), 1809⁹⁸

To Senate, February 25, 1809

Mr. [WILLIAM B.] GILES [of Virginia] communicated the following letter and statement from the Secretary of the Navy:

* * * *

Warrants drawn by the Secretary of the Navy upon the Treasurer of the United States, do, at this time, and for many years have, specified the particular appropriation or appropriations to which the same should be charged. This is the established usage of the Navy Department, and there are to it but a few exceptions, in cases of inevitable necessity, wherein bills have been drawn to defray contingent expenses, incurred on a distant station.

The moneys paid by virtue of such warrants, are charged in the books of the Accountant of the Navy, in such manner and form as the Treasury Department have, and from time to time may prescribe, the Accountant of the Navy having ever considered himself, as to the forms of keeping his accounts, altogether under the controlling superintendency of the Treasury Department.

It is, at present, the duty of all navy agents to make their requisitions upon the Navy Department, for moneys, agreeably to the specifications of the appropriation law, and to render, monthly, distinct accounts of the application of all moneys, according to the appropriation or appropriations under which the same shall have been drawn. Papers A and B

⁹⁸ American State Papers, *Finance*, Vol. 2, pp. 348-50; *Annals of Congress*, Vol. 19: 1770-77. See Act of Mar. 3, 1809, 2 Stat. L., 535.

are copies of the instructions to the navy agents, upon this subject.

In this, first section, I find the following provision: "Nor shall any credit be allowed to either of them, (agents) except for expenses authorized by law, and for the amount appropriated for the same." Under such restrictions, no agent would make a purchase, or, indeed, incur any expense, without having money in hand to meet it, because he could not know the exact state of the appropriation out of which such expense was to be paid; or, if he knew the unexpended balance of each appropriation, he could not know what dispositions the Department might have made respecting such balances; he would, therefore, never make a purchase without having in hand, money of the appropriation under which such purchase would fall. What would be the effect?

Suppose, in time of war, a public vessel should arrive at any port distant from the seat of government, viz: New Orleans; should be in want of repairs and supplies, and should be on important service, which requires her departure from such port with the least possible delay; her commander calls upon the agent for the requisite supplies, which amount to \$2,000 worth of provisions and \$3,000 of repairs; the agent has in hand, money enough for the [348] repairs, but not for the provisions, he must then write to the Secretary of the Navy for money for the provisions, and before he gets an answer from the Secretary, three months may have expired. In this case, the vessel would be detained three months for want of provisions; and, if the agent should have a balance of \$5,000 in his hands, out of any other appropriation than that of provisions, it would not prevent the detention of the vessel: for, if he applied any part of that \$5,000 to the purchase of provisions, he could not be allowed credit for such purchase. The agent could not, in this case, or in any other, negotiate a bill on the Department, because he would never know the exact state of the appropriations.

Would it be possible for the Secretary of the Navy to keep

the agents precisely informed as to the actual balances on hand, of each and every appropriation; or could he convey such information in any useful degree? Although he might direct, daily, returns of each and every warrant, upon each and every appropriation, to be made to the agents, still, before such returns could reach them, and particularly those at a distance, the balances would be considerably reduced by the daily drafts upon them, and might, possibly, be exhausted.

If it were possible to convey such information as would enable the agents to ascertain the exact balances on any day of the year, this would not remove the objection stated. No agent could tell, without previous instructions from the Secretary of the Navy, how far he could safely draw upon such balances, as he could not possibly know what other agents might have drawn for. Suppose a balance of \$40,000, on account of repairs, and that the agents at New York, Norfolk, Charleston, and New Orleans, know of this balance; that, at each of these places, there are one or more vessels requiring repairs; how can each agent know what the others may want? No one of them can judge; they will, therefore, all write for instructions to the Secretary of the Navy, and wait to receive them before they commence the requisite repairs. Under the provisions of this section, it would be the duty of the Secretary of the Navy to instruct the agents to this effect.

Such instructions, as to public vessels on foreign stations, would, in a still greater degree, impede the public service. Such a vessel might be detained in port six months, at an expense of \$50,000, for want of \$6,000, for provisions and repairs, as the agent would not undertake to make an advance for the Government to such an amount; because, if he did, and should happen to exceed the appropriation, he would not have credit for the same.

The provision in the latter part of this section, which authorizes the President, "during the recess of Congress," on the application of the Secretary, and not otherwise, to direct "a portion of the moneys appropriated for a particular branch

of expenditure, to be applied to another branch of expenditure, in the same department," would not remove these difficulties. This provision would be found a deception, in practice; it would not enable an agent to make such application of moneys, without a previous special instruction from the Secretary of the Navy. Hence, "the public service would be nearly as much impeded" with, as without this provision. The agents would not presume upon the sanction of the President, and draw on the Department; that would be applying the money before the President is consulted; whereas, the President can only sanction such application before it is made. He has not power to do it afterwards. But, if this objection could be removed, it might happen that the bill would arrive at the seat of government, not "in the recess," but during the session of Congress; in such case, the President would have no right to give his sanction. What, then, would be the consequence? The bill is drawn payable at sight; the appropriation on which it is drawn is insufficient to pay it; it cannot, therefore, be paid; the holder protests the bill, and resorts to the drawer for payment of principal, interest, costs, and damages.

The provisions of the second section may be useful. It may be proper, however, for me to observe, that I know of no "injurious delays," on the part of the accountant of the Navy, in the settlement of accounts.

As to the provisions of the third section, not knowing how many agents the War Department will require, I can form no opinion as to the number that may remain to the Navy Department. I would only respectfully submit to the consideration of Congress, whether the number of essential agents of one department should, at all, be affected by the number that may be deemed necessary to a distant department of the Government. Under the limitations contemplated, serious injuries to the public service might, and probably would happen. A public vessel might, by stress of weather, or any other cause, be compelled to put into a port where there is no agent. The commanding officer, in such case, would not under-

take to purchase supplies himself; he knows nothing about the state of the appropriations, and would not choose to put to hazard all his pay, probably all his fortune. He must write to the Secretary of the Navy for instructions; and hence would result injuries, necessarily produced by such unavoidable delays, and by the appointment of some temporary agent, who would, probably, be ignorant of his duties.

The Navy Department has, hitherto, distributed the advantages of public expenditures, so that every part of the Union has participated. Under the provisions of this section, those advantages would be monopolized by the towns in which the Department would have agents. In these towns all purchases would be made.

With respect to the provisions of the fourth section, it is proper, and it is at present prescribed by law, that the Comptroller of the Treasury shall give instructions to the accountant of the Navy, as to the forms of rendering accounts, and as to his giving such forms to the navy officers and agents; and this, I presume, is the intention of this section. It is not, I trust, intended, that such forms shall be sent directly from the Treasury Department to agents of the Navy Department.

The fifth section provides, that "no purchase or contract for supplies or services, shall be made without the President's approbation," &c.

Is a piece of kentele to be purchased, the President must previously approve the purchase; is a laborer or a seaman to be hired, the President must previously approve the hiring. What does the duty of approving or disapproving a purchase imply? It implies a knowledge of the quality, value, use, and quantity required, of each and every article, the purchase of which is to be approved or disapproved. If such knowledge is not possessed, the duty cannot be properly performed.

But, independently of the impropriety—the unfitness of imposing such duties upon the first magistrate of the nation—what would be the effect, in practice? In some few cases, it might be partially done; in most cases it would occasion great losses and delays. In cases of purchases at the seat of

Government, it might be partially done; but, in purchases required at distant ports, it would, obviously, produce great delays. Suppose a public vessel is at Gibraltar, and requires supplies; not a single purchase could be made without the previous approbation of the President; and, indeed, under the provisions of this section, not a man could be entered, to supply the place of one that might have deserted, or died, or have been killed in action.

The President, it is provided, may approve, either before or after the purchase, &c. This subsequent approbation of the President, to purchases, &c. will not be considered as a matter of course; he will exercise his judgment, and approve or reject, as it shall dictate. Who then would make a purchase, at the hazard, 1st, of losing the whole amount, because there might not be funds; 2d, of having his purchases disapproved by the President? No agent could, especially at a distance, make a condition with the vender, that, if the President did not approve the purchase, the articles should be returned to him without any compensation; because no person would sell under such circumstances.

I take this occasion to suggest for consideration, whether it would not be an improvement of the present system, if the several Departments of the Government were, by law, required to make to Congress, annual reports of the expenditures of the respective Departments, so that Congress might see, whether, in any case, they varied in object, or transcended in amount; the estimates upon which the appropriations are founded; and, if they did, that a satisfactory explanation might be therefor made. [349]

ROBERT SMITH, Secretary of the Navy.

A.

Circular to the Navy Agents.

NAVY DEPARTMENT, 9th March, 1803.

The appropriation law of the present year, changing the classifications made by the law of the last year, renders it

necessary that you should receive additional instructions, as to your future conduct, in making requisitions, and in the manner of expending them.

The law of the present year appropriates—

For the pay and subsistence of the officers and pay of the seamen,	\$283,993 00
For provisions,	157,360 20.
For medicines, instruments, and hospital stores, and all expenses on account of the sick,	7,700 00
For the purchase of ordnance and other military stores,	15,000 00
For repairs of vessels, store rent, and other contingent expenses,	182,000 00
For timber, ordnance, and other materials for 74 gun ships, and transportation,	114,425 00
For the erection of sheds and navy yards, including docks and other improvements, the pay of superintendents, storekeepers, clerks, and laborers,	48,741 87

There are other appropriations, which, however, either relate to the marine corps, or are for deficiencies in the appropriations for 1802, for objects which are comprehended under the above heads.

I have commenced, and shall progress, in the expenditures, under the determination not to exceed either of the particular sums appropriated. I cannot, therefore, lay my injunctions on you in terms too forcible, to be extremely particular in designating, in your requisitions, the objects upon which the expenditures are to be made, that we may, at all times, be able to ascertain under what heads of appropriation to make remittances. It will also be expected, that you will always give a prospective detail of the expenditures as they are contemplated; that we may make remittances with a full understanding of the objects for which they are made, and thus be enabled to avail ourselves, if necessary, of the whole sums

appropriated, without exceeding either in the expenditures.

In your letters of requisition, you will be pleased to exclude all matter irrelative to the requisition. Should it be necessary to write to the Department on other points at the same time that you write for a remittance, be pleased to communicate them in a separate letter.

We shall pay no money upon your requisitions unless made in conformity to the preceding arrangements, and I confidently rely upon your exertions to enable me to carry these arrangements into complete effect.

The accountant of the navy will give you instructions as to expenditures.

ROBERT SMITH.

B.

The system adopted at this office, for arranging the expenditures of the Department, requires that the several objects and expenditures should be kept separate and distinct, as they fall under the following heads, viz:

Pay of the navy, &c.

Provisions.

Hospital.

Contingent.

Ordnance.

Navy yards and docks.

Pay of superintendents, storekeepers, &c.

Gun Boats.

The first of these heads will embrace all payments made on account of the pay or subsistence of officers, or the pay of seamen.

The second will include all payments for, or on account of, provisions.

The third, all medicines, instruments, and hospital stores.

The fourth, all expenditures, of whatever nature, on account of repairs to vessels, and, indeed, all other expenses not falling under any of the other specific heads.

The fifth, all ordnance or military stores purchased for, or on account of, the navy.

The sixth, all expenses, of whatever nature, incurred in the improvement of the navy yards, docks, and wharves.

The seventh, the salaries and wages of superintendents, storekeepers, &c.

The eighth, all expenses, of whatever nature, incurred in building and equipping gun boats.

The form, herewith transmitted, is framed on the principles of this system, agreeably to which, you will render your accounts to this office, *monthly*. It may also be necessary to observe, that it will be proper to accompany your summary statement by abstracts for expenditures on account of each vessel, or other specific object, extending in your summary in one line the aggregate amount expended on the particular object. And further, that, as the commanding officers are held responsible for regulating all expenses on account of the vessel under their immediate command, no supplies can be furnished, but by the direction, or with the concurrence, in writing, of the officer commanding; and, in all cases where articles are delivered, or services of any kind rendered, to a vessel, it will be the duty of the commanding officer to receipt for the articles, and to certify that the services were rendered; and this evidence, in addition to bills with receipts, stating the amount paid for all expenditures whatever on account of the vessel, will be necessary, to entitle you to credit at this office. And for all expenditures, of whatever nature, bills and receipts will be required. It also may not be unnecessary to observe, that all receipts must be signed by the person entitled to receive, and that the receipt of one person for another will not be admitted, unless accompanied by an order, in writing.

No payments or advances are to be made to any officer of the navy, on account of pay, &c., unless particularly instructed from this Department.

Herewith, you will also receive a *form* for the return of public stores. The object of this return is to exhibit a clear and distinct view of the number, quality, and value, of the

articles purchased, and not immediately expended, or delivered; and also those received from agents or vessels of war, arranged in appropriate columns. *Quarterly returns* of these accounts will be made to this office, exhibiting the number, quantity, and value, of the several articles on hand at the beginning of the quarter, the articles purchased within the quarter, and also those received from other navy agents or vessels of war, as well also those that may be delivered within the quarter, thereby showing the balance of articles remaining on hand, at the end of the quarter. Vouchers for all deliveries must also accompany the return.

* * * *

The foregoing is a copy of instructions that issue from this office to the navy agents, in relation to the manner of keeping and exhibiting their accounts, varying the heads of expenditure, from time to time, as it may be necessary to correspond with the specific appropriations.

This system it was thought advisable, *by this Department*, to adopt, in the year 1803, and it has been pursued ever since. Antecedent to that time, the accounts were kept under heads of expenditure, according to instructions from the Comptroller of the Treasury, without regarding the specific heads of appropriation.—February 24, 1809. [350]

THOMAS TURNER, Accountant of the Navy Department.

NO. 33

ACCOUNTABILITY IN THE WAR AND NAVY DEPARTMENTS. REPORT (RANDOLPH), 1809⁹⁴

House of Representatives, June 27, 1809

Mr. [JOHN] RANDOLPH [of Virginia], from the committee appointed to inquire into the expenditures of public money, &c., made the following report:

⁹⁴ *Annals of Congress*, Vol. 20: 448.

"Report, in part, of the committee appointed to inquire and report whether moneys drawn from the Treasury since the 4th of March, 1801, had been faithfully applied to the object for which they were appropriated, and whether the same have been regularly accounted for:

"Your committee beg leave to lay before your honorable House such information as they have obtained from the several departments touching the application of public moneys, which, from the pressure of time and business, they have not found leisure thoroughly to investigate, but which they deemed would prove acceptable to the House of Representatives. It will be perceived that the respective communications from the War and Navy Departments are of an unsatisfactory nature, differing in character from those required by the committee. A representation to this effect has been made to the heads of these departments respectively, and they have been notified that the information sought by the committee is essential to the prosecution of the inquiry with which the committee have been charged by the House of Representatives. Expectation is held out that it will be prepared by, or during the course of the next session."

The documents accompanying the report having been partly read, a motion was made that they lie on the table, and carried . . . and the report and documents were ordered to be printed.⁹⁵

NO. 34

BALANCES AND UNSETTLED ACCOUNTS.

REPORT (QUINCY), 1810⁹⁶

To House of Representatives, March 23, 1810

Mr. [JOSIAH] QUINCY [of Massachusetts] made the following report:

The Committee to whom was referred the report of the

⁹⁵ 11 Cong. 1 sess., H. repts. 6-7. 64 pp. Documents not here reprinted.

⁹⁶ American State Papers, *Finance*, Vol. 2, pp. 415-17; *Annals of Congress*, Vol. 21: 2201-07. See also No. 35.

Comptroller of the Treasury, transmitting a statement of the unsettled accounts of the Treasury, War, and Navy Departments, in conformity with the act passed the 3d of March, 1809 [2 Stat. L., 535], have taken that subject into their consideration, and have deemed it their duty particularly to inquire into the actual state of those balances, which, by that report, appear of great nominal amount, and of which no account had been rendered, notwithstanding a considerable length of time had, in many cases, elapsed, since the termination of those services, on which the public moneys had been originally advanced. It appeared to your committee due, both to the individuals charged with those balances and to the public, that all the knowledge possessed by the officers of the treasury, tending to reduce the amount of those nominal balances, should be ascertained and communicated, to the end that, on the one hand, injurious suspicions should not be allowed to circulate under the sanction of a treasury statement; and, on the other, that real delinquency should not remain concealed, or find countenance in the number and greatness of these unsettled balances. Your committee, therefore, addressed a letter to the Comptroller of the Treasury, containing a list of the names of all those individuals who appeared, from his report, to have "rendered no account," and whose accounts, from the greatness of the balances stated, required, in the opinion of the committee, a more distinct elucidation, and requested, in relation to these accounts, a particular statement of all credits, which, either from informal evidence, or from the operation of the laws relative to appropriation and expenditure, or from known services rendered, were, within the knowledge of the officers of the treasury, just and certain offsets against the nominal balance stated, in his report, as due from each individual. The letters marked A and B, annexed to this report, contain the information requested from the Comptroller of the Treasury, and compress, as far as the knowledge of the officers of the treasury authorizes, the sphere of apparent delinquency of each of those individuals.

The greatness of these nominal balances, and the length of time which had been permitted to elapse, with respect to some of them, without account rendered or demanded, indicated, in the opinion of your committee, a state of accountability for public moneys, not sufficiently safe for the public, nor just to individuals. The laws, also, relative to this subject, appeared to them, upon examination, susceptible of amendment. They establish no fixed periods, within which receivers of public moneys shall account with the treasury. They leave the time of calling receivers of public moneys to account wholly to the discretion of the Comptroller of the Treasury. They require, in order to charge the debtor with costs, a previous notice from the Comptroller, which protracts and embarrasses the enforcing adjustment of accounts. The tendency of these defects in the law has been to render receivers of public moneys negligent in rendering their accounts, and to expose the officers of the treasury to inconvenience in compelling settlement. By entrusting so wide and general a discretion to those officers, there is thrown upon them an unnecessary and inexpedient responsibility. With respect to receivers of public moneys, in foreign countries, the effect has often been to procrastinate any settlement of their account until their return to the United States; when, from the length of time which has intervened, and the difficulty of rectifying mistakes or deficiencies in vouchers, at a distance from the place where expenditure was incurred, an expeditious and satisfactory adjustment is almost always difficult, and sometimes impracticable. Your committee, therefore, addressed a letter to the Secretary of the Treasury, making inquiry whether, in his opinion, the provisions of the law, relative to the accountability of the agents and receivers of public moneys, both at home and in foreign countries, were as complete as the public good requires, or as the nature of each particular service will permit, and requesting that, if the present system, in his opinion, was susceptible of any practical amendment, so as to ensure a more regular and punctual

adjustment of the public accounts, that he would furnish your committee with a statement of such as he thought advisable. The letters marked C and D, annexed to this report, contain the reply of the Secretary of the Treasury to that letter. In conformity with the principles recommended by him and the Comptroller, your Committee have prepared a bill, which accompanies this report, and which they ask leave to present for the consideration of the House. [415]

* * * *

C.

I communicated your letter, of 3d ultimo, to the Comptroller of the Treasury, with a request that he would state those amendments to existing laws, which, in his opinion, would ensure a more regular and punctual adjustment of the accounts of public agents and other receivers of public moneys. I now have the honor to transmit his answer, to which I have nothing to add beyond what I had verbally suggested, viz: An express provision, directing all public agents, or other receivers of public moneys, to render quarterly accounts, if residing within the United States, and at least annually, if abroad. In case of failure, the Comptroller should be authorized, for the reasons he states, to institute suit, without being obliged to give the notice now required by law.—
March 14, 1810.

ALBERT GALLATIN, Secretary of the Treasury,
to JOSIAH QUINCY.

D.

I have had under consideration that part of your letter of the 6th ultimo, requesting my opinion with respect to any improvement which may be made in the present system regulating the settlement of accounts and collection of the balances due to the United States.

The system appears to me to be susceptible of amendment. The acts which at present exist, and prescribe the rules to be observed, in recovering debts due to the United States, are,

1st. An act for the more effectual recovery of debts due from individuals to the United States, passed on the 3d day of March, 1795 [1 Stat. L., 441]; and

2d. An act to provide more effectually for the settlement of accounts between the United States and receivers of public money, passed on the 3d of March, 1797 [1 Stat. L., 512].

The first of those acts, in prescribing the preliminaries to a suit, in order to charge the debtor with the costs, is too circuitous and dilatory in its provisions. Letters by mail are subject to casualties, and the delay or mistake of a day frustrates the whole proceeding. I think it would be sufficient, after a debtor had refused to render his accounts at the period required by law, to fix a stated period, say three months, beyond which he should not be indulged, and if his accounts should not be rendered in that time, he should be liable to pay costs, in case of suit, which it should be the duty of the Comptroller to order, after the expiration of three months.

It should also be made the duty of the accountants of the War and Navy Departments, in all cases where persons entrusted with the expenditure of public money should die, resign, or otherwise cease to be employed, to make, forthwith, a separate report, in each case, to the accounting officers of the treasury, in order that a suit might be directed for the recovery of the balance, after adjustment. If this be prescribed by law as a duty, it would produce a more ready compliance than instructions to the same effect, from this Department.

The great object to be obtained is to prescribe regulations which will coerce public debtors to render their accounts regularly, at stated periods. After they are rendered, there is seldom any difficulty in adjusting them.

The accounts of all foreign ministers, and other agents, should be rendered to the Department of State, and from thence should be transmitted, without delay, to this Department, for settlement.—March 7, 1810. [417]

G. DUVAL, Comptroller of the Treasury,
to ALBERT GALLATIN.

NO. 35

UNSETTLED BALANCES. REPORT (HUGER),
1816⁷

To House of Representatives, April 24, 1816

Mr. [BENJAMIN] HUGER [of South Carolina], from the committee appointed . . . to examine generally into the subject of unsettled balances, submitted the following report:

At an early period after their appointment the committee proceeded to turn their attention to the subject submitted to them. Although prepared to meet many difficulties, in the proposed investigation of unsettled balances, they had by no means anticipated that these difficulties would have been so serious, or to the extent they have experienced. They found themselves advancing into a labyrinth, the intricacies of which increased at every step they progressed. Little versed in the laws under which they were established, and still less in the rules, regulations, and modes of proceeding adopted by the different departments, it became necessary that they should, in the first instance, endeavor to obtain some information on these points, and having no particular clue to guide them in making an investigation, the labor, zeal, and attention they were able to devote to this or that particular object of research not unfrequently turned out to have been unnecessary, or of little or no avail. The want of time, arising from their other official duties, the fast approaching period of the adjournment, and more than all, the measure wisely adopted by the House, of appointing distinct standing committees to examine hereafter in to each respective department, have, therefore, induced the committee to suspend, at least for the present session, any further attempt to investigate the details

⁷ American State Papers, *Finance*, Vol. 3, pp. 123-27; *Annals of Congress*, Vol. 29: 1721-33. See Act of Mar. 3, 1817, 3 Stat. L., 366. See also Nos. 34, 36, 39, 40.

of particular balances, and rather to confine themselves to a general view of the subject of the causes which have given rise to so many unsettled balances, and of the provisions which presented themselves as likely to remedy or at least check the evil, and which it might be deemed expedient to submit to the consideration of the House.

It will be recollected that, at its commencement, and first establishment under the new constitution, large and extensive powers and duties devolved upon the General Government, which had been previously vested in the several States. They had, of course, to enter upon a wide and unexplored field of action, and wise and efficient as the regulations and measures adopted for the collection of the revenue in the first instance no doubt were, it was impossible to anticipate all the difficulties or mal-practices which would necessarily arise under an administration of the affairs of this growing country, co-extensive with the Union. Hence, various inconveniences were, in progress of time, experienced, and, among others, unsettled balances and defalcations in other branches of the public revenue, but more especially among the collectors, and in the customs, began at an early period to be experienced and complained of. Occasional checks and amendments were devised and adopted, as experience showed the necessity of them; but it is believed that there is great room for improvement, and that a general revisal of the organization of the several departments in regard to the management of their fiscal concerns, with additional checks in the collection and expenditures of the public moneys, is most desirable and requisite. On the propriety, therefore, of offering a resolution directing the Secretary of the Treasury to prepare and submit at the next session of Congress some such general and improved system, the committee feel confident that they are supported by the opinion of all those connected or acquainted with the actual state of the several departments.

In the mean time they feel authorized, not only by what has fallen under their own observation, but by the concurrent

approbation of all those whom they have consulted, and in particular by that of the Comptroller, and of the Secretary of State himself, to recommend that provision be immediately made for establishing the office of accountant in the Department of State. The business of that, as well as of most other of the Departments, has greatly increased within a few years, and is likely to continue to increase. There is, moreover, a great mass of unsettled accounts in the Department of State; nor is it easy to anticipate, under the present organization, when they can be finally acted upon and settled. Its transactions embrace a wide and most extensive field, and it is impossible that the high officer of this branch of the Government, upon whom the whole burden now devolves, can pay the proper and requisite attention to all the little minutiae of the office, and to the increased, increasing, and various pecuniary transactions with agents in every habitable country with which the United States have had, or may have, intercourse or political relations. To all who have attended to the subject the necessity is, indeed, evident; for, having such a subordinate officer, whose immediate duty it will be to bring up the business at this time so much in arrear, to retain precedents, and thereby establish greater system and uniformity in the final adjustment of different accounts, and to bring all those who have transacted or may hereafter transact business, and have accounts with the Department, to frequent and regular settlements. On the other hand it would seem not less expedient to oblige all foreign ministers and public agents to send in a regular and semi-annual account current, with the usual and necessary vouchers of all their money transactions with and on account of the Government. This appears to have been heretofore left very much to the individual himself to do or not, as he judged proper, and instances are not wanting of those in high and responsible situations who have never furnished any account whatever of their expenditure, or of the moneys which have passed through their hands. From these considerations the committee have deemed it incumbent

on them to report a bill for the establishment of the office of accountant, and directing regular accounts to be rendered by foreign ministers and agents, which, if time permit the House to act upon during the present session, it is believed will save the United States many thousand dollars.

With respect to the unsettled balances, (the subject more immediately submitted to their consideration,) which are, by law, annually submitted to the House and published, they may be divided into three separate and distinct classes, viz:

- 1st. Balances of a doubtful or equitable nature.
- 2d. Balances on accounts not finally liquidated or acted upon.
- 3d. Balances liquidated, acted upon, and evidently due to the United States.

The first class includes such of the balances as the Departments may not have been able, under existing laws and circumstances, or have felt a difficulty, and, perhaps, even a delicacy, in acting finally upon. These are not very numerous, but they relate, in several instances, to characters and persons who have held the highest offices under the Government; some of them are, moreover, of long standing, and not likely ever to be finally adjusted under the existing state of things. It appears, therefore, to the committee, both expedient and desirable that some mode should be adopted for disposing of them, or some tribunal established which might pass them in review, and decide finally upon them, or report them with their opinions in each respective case, to the House for their further examination and ultimate decision in regard to them.

[123]

The second class embraces that description of balances which appears, upon accounts, from whatever cause, not finally settled at the several departments. This sometimes happens in cases where further time is allowed for procuring vouchers, or bringing forward additional charges or pretensions to which the individual believes himself, or affects to be entitled. On other occasions unsettled balances are published in obedience

to the laws, where the accounts are still in a course of liquidation, and where there is, in fact, no balance actually due, but the balance published as such is what appears to be due at the end of three years on the face of the account, and as far as it has been liquidated. In some instances, it would seem that unliquidated and unsettled balances are published, in cases even where the individual has been ready and prepared to settle finally his accounts, but, for want of time, or from doubts in regard to some undecided points, or from some other cause, proceeding not from him, but the Department, a final settlement has taken place.

The necessary publication of some of these unsettled balances, in the manner pointed out by the existing provisions of the law is, perhaps, to be regretted; for, whilst defaulters and those guilty of peculation deserve to be thus published and made known, it tends greatly to diminish the odium and contempt which they would experience, that their names should be coupled to, and appear with, those who are less culpable or, perhaps, in nowise defaulters. Nor can it fail to be peculiarly painful and aggravating to the feelings of honest and honorable men, to find themselves in such company, and held up to the public under at least the appearance of having committed like frauds upon the Government.

It would seem, indeed, that no account ought to remain unliquidated and unsettled after a lapse of three years. Yet as this may, and has happened, the committee are of opinion that the Comptroller ought to have the discretionary power of distinguishing cases of this kind, as well as those which fall under the first class, from the general mass of unsettled balances, and to present them in a separate and special report, stating the circumstances of each, and the course, where necessary, he would recommend to be pursued in regard to them.

It might, perhaps, be likewise proper to render it a part of the duty of the several Departments to keep a regular annual account in the name of each and all of the salary officers, and of any other persons, whose accounts might at all times be

satisfactorily stated without recourse to the individual for vouchers. And it seems evidently proper, on the other hand, that each and every person having money transactions with the Government should be bound to render at least semi-annual accounts, and, where possible, to make an annual settlement in full of all receipts and expenditures of public moneys which have passed through their hands, or under their management.

To the third, last, and most important class of unsettled balances, belong those of all real defaulters, who either acknowledge themselves to be such, or are found to be so upon a final settlement of their accounts. It is much to be regretted that this class of defaulters should be so numerous, and, in some instances, for considerable sums; nor is it less to be regretted that the names are found among them of persons of high standing and consideration in society.

The committee, although for reasons already mentioned, they have declined entering into a strict and detailed examination of the accounts of each individual, or bringing any of them forward at the present time, have devoted considerable attention to, and taken into serious consideration this class of cases, with a view of devising means to lessen the number already existing, and prevent, as far as possible, if not altogether, the recurrence of them in time to come. A hope that the greater experience, and better practical information of the Secretary of the Treasury would enable him to come to their aid in promoting these desirable objects is, likewise, one of their principal inducements for recommending a call upon him to submit a new and revised financial system to Congress at their next session; and, though they are aware that the advanced period of the present session will necessarily prevent any measure on the subject from being brought to maturity at this time, yet the committee deem it not amiss to suggest, for the consideration of the House, the following provisions as likely to contribute, in some degree, to prevent such large defalcations in the future receipts and expenditure of

the public revenues as are found on the face of many of the unsettled balances. In this view the committee respectfully propose:

That the Comptroller and Secretary of the Treasury be authorized to review and examine such cases of doubt, equity, or difficulty, in regard to the unsettled balances, as fall under the description of the first or second class specified in this report, and to dispose of them, either by adopting some equitable mode of bringing them to a final settlement, or by specially reporting them, with their opinions in regard to each particular case, to the House, for their further examination and ultimate decision in regard to them.

That the district attorneys, or others, employed on behalf of the United States, be required to make an annual and detailed report to the Comptroller, by him to be laid before Congress, of their proceedings in regard to public defaulters, in their respective districts.

That the heads of the several Departments be required to specify, in their annual reports to Congress, the names of the persons to whom advances of the public moneys, or with whom contracts have been made, the amount of the sums advanced, and the objects for which they were advanced; also, the names of their sureties, and the amount for which the several sureties are respectively liable.

That all collectors of the customs, and all other receivers of the taxes, duties, or other public moneys whatsoever, be required to pay over weekly, or as frequently as the Secretary of the Treasury may direct, to the Bank (or branch bank) of the United States, when established and in operation, or to such other bank in the town or neighborhood in which they reside, as the Secretary of the Treasury may fix on or approve of, all moneys which they may have collected or received; provided, in the opinion of the Secretary of the Treasury, their vicinity to such bank, and other circumstances, render it convenient and proper to be done.

That all persons whatever, having pecuniary transactions

with the Government, be bound to furnish quarterly, or at least, semi-annual accounts, and, where the nature of the case permits, be brought to an annual settlement in full.

That all balances found on settlement to be due the Government, which are not paid up in the course of three months, be forthwith, and without favor or distinction, put into suit; leaving to the Comptroller, however, the authority to make such exceptions to the general rule as he may, in his discretion, deem necessary and expedient; but, in every case where the suit is postponed, the Comptroller shall report, at the next session of Congress, the inducements to, and reasons for, such postponement.

That all judgments obtained against defaulters be rigidly enforced, unless otherwise directed by the Comptroller, who shall report, at the ensuing session of Congress, all such cases, and the reasons for granting further indulgence.

That no defaulter, against whom a balance upon settlement of his accounts may be found, be qualified to receive an appointment to any office of trust or profit under the United States, or to obtain any contract from the Government, until such balance be paid up and finally settled.

That the pay and emoluments of all public officers and agents, as far as it can constitutionally be done, be retained and appropriated to the discharge of any balance found upon settlement to be due by them, until such balances be finally paid and satisfied. [124]

The committee further submit, and recommend for the adoption of the House, the bill accompanying this report, to establish the office of Accountant in the Department of State, together with the following resolution:

Resolved, That the Secretary of the Treasury be required, and he is hereby directed, to report, at an early period of the next session, whether any, and, if any, what, modifications or amendments may be advisable in the present organization of the several Departments, and especially in regard to their pecuniary concerns; and to submit such general plan or revised

system for their future regulation and management, as may, in his opinion, be likely to promote economy, and responsibility in the receipt and expenditure of the public moneys, despatch in the public business, and the public interest in general.

I am directed by the committee appointed to "examine generally into the subject of unsettled balances due the United States," to communicate for your consideration certain points or matters, concerning which they wish to receive information in detail, and to request that you will return as early and as full an answer, in regard to each of them, as circumstances may permit. The most prominent of these are as follows:

How, and with what checks, are accounts received and settled at the respective Departments?

What are the nature and description of the accounts in particular received from the Department of State, and what are the conditions and regulations governing their settlement?

Are there any defects in the laws establishing the respective Departments, in relation to the mode of adjusting and settling their accounts respectively; and, if there be any such defects, what provisions suggest themselves by way of remedy?

In the settlement of accounts is priority given at pleasure; or, are they taken up in rotation, and according to certain fixed rules?

Is the period, at which ascertained balances are sued, fixed; or, is there any rule, or principle, according to which all unsettled balances are indiscriminately sued; or are suits directed and postponed, at pleasure, by the Comptroller? In the latter case upon what principles are suits upon ascertained balances commenced or deferred?

To what are the large outstanding balances to be principally or generally attributed?

Do any further checks, penalties, or changes in the man-

agement of the several Departments suggest themselves as likely to remedy, or at least lessen, the evils complained of, in regard to such numerous and large unsettled balances, or to facilitate and render more speedy and easy the settlement of accounts in all or either of the Departments?

Are the officers receiving salaries, the agents of, and contractors with the Government, obliged by any law or penalty to render in their accounts quarterly, annually, or at any specified period; or do they render them in at pleasure?

Are the same unsettled balances, which appear on the first or any subsequent annual report, continued to be published in each subsequent annual report, unless finally settled?

It has been complained of that officers and other persons, having accounts to settle with the several Departments, are frequently delayed, sometimes detained at the seat of Government an unreasonable length of time, at an enormous and ruinous expense. If these complaints be not altogether groundless, does this detention arise from the want of clerks, &c.; or does any mode suggest itself, which would secure a greater facility, and an earlier examination and settlement of their accounts to persons so attending at the seat of Government?

Is there any other mode of recovering balances due the United States than by suit at law, or any penalty attached by law or custom to defaulters? For example: when considerable balances appear due by individuals for three years and upwards, is it customary, or any thing like a fixed principle, to suspend them from further public agencies, or to refuse to make further contracts with them?

In general, any information or suggestion which may be deemed useful, or likely to throw light on this subject, either as to the past, or in relation to measures hereafter to be recommended, is requested.—March 9, 1816.

BENJAMIN HUGER,
to JOSEPH ANDERSON, Comptroller of the Treasury.

Your letter, dated the 9th instant, as chairman of the committee appointed to "examine generally into the subject of unsettled balances due the United States," I had the honor to receive upon the 11th, and I take leave to present my answers to your several questions in the order following:

"How, and with what checks, are accounts received and settled at the offices of the respective Departments?"

"What are the nature and description of the accounts in particular received from the Department of State, and what are the conditions and regulations governing their settlement?"

At the Treasury Department, accounts which exclusively belong thereto are received by the Comptroller, the Auditor, Commissioner of the Land Office, and Commissioner of the Revenue; all of which, except those belonging to the Land Office, are placed in possession of the Auditor, who states them, and examines and reports them to the Comptroller, who revises and finally decides upon them. The accounts received by the Commissioner of the General Land Office are such only as properly appertain to that department of the Treasury; and they are stated and examined by that officer in the manner accounts are stated and examined by the Auditor, and are reported to the Comptroller, who finally decides upon them. When these accounts are thus acted upon by the Comptroller, they are sent to the office of the Register of the Treasury to be recorded, and the accounts remain under the care of the Register of the Treasury. This mode of settlement comprehends all the checks that belong to the whole accounts of the Treasury Department.

Department of State. The accounts received from the Department of State, by the accounting officers of the Treasury, are those of ministers, consuls, special agents, messengers, and generally all such as relate to foreign intercourse, and other pecuniary concerns of that Department. Since the year 1801, the settlement of these accounts, agreeably to an arrangement then made by the Comptroller, has devolved upon the ac-

counting officers of the Treasury, under the direction of the Secretary of State; that is, the Secretary of State states the nature and time of service of the persons employed, the allowance to be made for contingent and other expenses, and, in cases where the law is silent, the compensation to be received. All the requisite information being possessed by the [125] Secretary, he decides on the principles of settlement, and the officers of the Treasury have little more to do than to arrange and give form to the account, to make the necessary calculations, and to see that the party is charged with all advances or payments on account, which they can ascertain to have been made to him.

The accounts of the War and Navy Departments are (or should be) rendered by their respective agents, contractors, &c., according to forms and rules prescribed by the accountants of those Departments: when received, they are settled without any immediate check. The sums admitted to the credit of individuals for supplies, services, &c., are entered in the accountants' books to the debit of the general account of expenditure to which they belong; each of these general accounts is closed at the end of the quarter by passing its amount to the debit of the United States, and they, of course, form the debtor side of the quarterly account which the accountant transmits, with all his settlements and vouchers, for revision at the Treasury. If any errors are discovered the accountant is advised of them, in order that he may make the necessary corrections in his book, and hold the parties accountable. In the revision, thus made, consists nearly all the control which the accounting officers of the Treasury possess over the accounts of those Departments.

It may be proper to observe that, whenever an account is settled by either of the accountants of the War or Navy Department, and a balance is found due from the United States, a warrant is issued by the Secretary of the Department, countersigned by the accountant, and the money received by the party. Many items are admitted in the accounts, under rules,

regulations, and ordinances of the Departments, over which the accounting officers of the Treasury do not consider themselves as having any control; and, when it is considered what a length of time must necessarily elapse, in consequence of the immense accumulation of accounts which now have to pass the accounting officers of the Treasury, before any control can be exercised, the effects of its utility must be very limited.

“In the settlement of accounts is priority given at pleasure; or are they taken up in rotation, and according to certain fixed rules?”

At the Treasury there are no fixed rules as to the time of taking up accounts for settlement. They are, however, generally taken up according to the time at which they are rendered; and, if the necessary vouchers accompany them, they are finally acted upon. If vouchers be wanting the party is advised thereof by letter, and the account suspended until the vouchers be supplied; though it is sometimes found necessary to settle the account, as far as the vouchers furnished will enable the accounting officers to do so, and suspend the items, not vouched, until vouchers are supplied.

“Is the period at which ascertained balances are sued fixed; or is there any rule or principle according to which all unsettled balances are indiscriminately sued; or are suits directed and postponed at pleasure by the Comptroller? In the latter case upon what principles are suits upon ascertained balances commenced or deferred?”

There is no period fixed at which ascertained balances are sued for; sometimes suits are instituted immediately upon the balance being ascertained, according to what may be the circumstance of the case. In important cases the Secretary of the Treasury is always consulted. In minor cases the Comptroller has heretofore been governed by his sound discretion, which has been regulated by the advice and information of the several district attorneys of the United States within whose district the debtors might reside. This mode has been deemed expedient, because more correct and proper information was

to be expected from them than could be had by any other means; but information has been sought and sometimes obtained through other channels, and in many cases we have not been able to find out where the debtor lives; this is one reason why a number of suits have not been brought against defaulters. Suits are sometimes continued upon the special recommendation of the district attorneys, with a view of obtaining better security where the debt is doubtful; and, upon that condition, allowing further time for payment, and upon some occasions where the debt is secure, and the vigorous prosecution of the suit would ruin the party, indulgence is given.

“To what are the large outstanding balances to be generally or principally attributed?”

By a law passed on the 3d day of March, 1809 [2 Stat. L., 535], it is made the duty of the Comptroller to lay an annual statement before Congress of the accounts in the Treasury, War, and Navy Departments, which may have remained more than three years unsettled, or on which balances appear to have been due more than three years prior to the 30th of September then last past. In consequence of this law all the balances found due, according to its provisions, were reported, and the names of the persons upon the annual list which have been submitted, have all been retained on the respective reports, the Comptroller not conceiving himself authorized to discontinue the names of any person, except in case where the accounts have been paid, or finally settled, which have been but few. The increase of these annual lists may be attributed to the delays of persons claiming credits, furnishing the necessary vouchers to establish such credits as will be seen in numerous cases remarked on the list of balances; to the tediousness of the legal proceedings, to returns of balances against officers of the Government for moneys advanced, many of whom reside abroad, and whose accounts are unavoidably continued open for more than three years.

It is, however, believed that, in many cases, nothing is real-

ly and justly due from those apparent debtors, some of whom were salary officers who have not rendered their accounts, and have been charged with the money they have received upon drafts made on account of salary.

“Are the officers receiving salaries the agents of, and contractors with, the Government, obliged, by any law, or under any penalty, to render in their accounts quarterly, annually, or at any specified period, or do they render them in at pleasure?”

The several laws, which establish the salaries of the officers of Government, authorized the compensation to be paid at the Treasury of the United States in quarterly payments; and although there is no positive law which obliges any salary officer to render his account quarterly, or at any particular period, the law, making the salary payable quarterly, implies that the account ought to be rendered accordingly, and this, I learn, has been the constant understanding at the Treasury since its organization. The salary officers at the seat of Government render accounts quarter yearly for themselves, and the agents of salary officers render quarterly accounts for them. On the adjustment of which accounts, by the accounting officers of the Treasury, the amount found due is passed to the credit of the party, and a warrant is drawn on the Treasurer of the United States, and the warrant itself is debited to the officer in whose favor it was issued.

Officers who have an annual salary, and, in addition thereto, receive fees, perquisites, and emoluments, render their salary accounts quarterly with their accounts of fees, perquisites, emoluments, and expenditures; collectors of the customs quarterly, under a penalty of \$1000, to be recovered by suit; and collectors, naval officers, and surveyors, render their accounts of emoluments and expenditures annually under a penalty of \$500. Collectors of direct taxes and internal duties render their accounts quarterly under the forfeiture of their official bond, and judgment to be entered thereon at the return term, on motion in open court by the attorney.

From the recent establishment of the internal duties no penalty has yet occurred. The Receivers of Public Moneys, on the sale of lands, are required, by law, to render their accounts quarterly.

The agents of the United States render their accounts quarterly, such as agents of the marine hospitals, for the payments of invalid pensioners, light-houses, &c. [126]

The contractors with Government render their accounts agreeably to the time and terms specified in their respective contracts, or according to the rules and regulations which may be established in the different offices where the contracts are made.

“It has been complained of that officers and other persons having accounts to settle with the several Departments are frequently delayed, and sometimes detained at the seat of Government an unreasonable length of time at an enormous and ruinous expense. If these complaints be not altogether groundless, does this detention arise from the want of clerks, &c., or does any mode suggest itself which would secure a greater facility and an earlier examination and settlement of their accounts to persons so attending at the seat of Government?”

I am warranted in stating that, as a general rule, no officer nor other person, having accounts to settle at the Treasury Department, who have personally attended, with proper vouchers, have been detained longer than was absolutely necessary for their accounts to be fairly examined, and pass the usual forms of settlement.

The accounts of the principal assessors have not been acted upon as promptly as other accounts. The several laws establishing the internal revenue, and the instructions given by the Secretary of the Treasury upon these laws, have both been so differently construed by the respective principal assessors, and their accounts differing considerably from the view entertained at this office of the allowance to which they are entitled, that more than usual time is required to examine them, and

compare the several changes and respective statements which have been made, with the laws and instructions under which they acted. A number of these accounts have also been necessarily suspended for want of proper vouchers, the assessors advised thereof, and the defects stated according to the established practice of the office.

The accounts of the General Land Office are greatly in arrears; some of them remain unsettled from seven to ten years. These accounts are intricate, and generally very large; from ten to fifteen days is required for the best accounting clerks to examine one of them.

Additional clerks have been asked for by several of the Departments, as will be seen in the estimate which was presented to Congress by the Secretary of the Treasury.

“Is there any other mode of recovering balances due the United States than by suit at law, or any penalty attached by law or custom to defaulters? For example, when considerable balances appear due by individuals for three years and upwards, is it customary, or any thing like a fixed principle, to suspend them from further public agencies, or to refuse to make further contracts with them until the old balances are settled up?”

The general mode is by suit; but summary process is authorized in the cases of collectors of direct tax and internal duties. The Comptroller of the Treasury is authorized, by law, immediately upon a delinquency happening in this case, to issue a warrant of distress against the delinquent collector and his sureties. When a public agent becomes a real defaulter, or where it appears that he is likely to become so to any considerable amount, the practice has been to remove him. Contracts are seldom or never made with defaulters who have old balances against them. I know of no law, however, upon this subject.

“Are there any defects in the laws establishing the respective Departments, and do any further checks, penalties, or changes in the management of the several Departments, sug-

gest themselves as likely to remedy, or at least lessen the evils complained of in regard to such numerous and large unsettled balances, or to facilitate and render more speedy and easy the settlement of accounts in all or either of the Departments?"

The several questions here propounded embrace so extensive a field that I cannot, within the short time allowed by the call of the committee, answer them satisfactorily.

The honorable committee well know that, at the time the present system of accounting was formed, the revenue arising from the customs was very limited; there were no internal taxes.

The military establishment was very small, and there was not then any Navy Department or General Land Office, and the Post-Office accounts were comparatively few, and, of course, the accounts which had to pass the accounting officers of the Treasury were but few, and these small, in comparison with those which now have to pass the *form* of *revision*. I, therefore, conceive, from the immense increase of the business of the several Departments, that a considerable modification, and some extension of the present system of accounting would be required to facilitate the settlement of accounts, and to render the necessary checks in the several Departments more prompt and efficient.

To present a view commensurate to the object which appears to be contemplated by the committee, would require time and deliberation.

The Comptroller, therefore, respectfully suggests to the committee, whether their views could not be better attained by requiring some officer of the Government to prepare a report upon this subject, to be laid before Congress at an early day of their next session.—March 14, 1816. [127]

JOSEPH ANDERSON, Comptroller of the Treasury,
to BENJAMIN HUGER.

NO. 36

PLAN TO INSURE THE ANNUAL SETTLEMENT
OF PUBLIC ACCOUNTS AND A MORE CERTAIN
ACCOUNTABILITY OF THE PUBLIC
EXPENDITURES. REPORT
(MONROE), 1816⁹⁸

To Senate, December 9, 1816

In obedience to the resolution of the Senate of the 20th April last, requiring the Secretaries of the Departments to report jointly to the Senate, in the first week of the next session of Congress, a plan to insure the annual settlement of the public accounts, and a more certain accountability of the public expenditure in their respective Departments, the undersigned have the honor to report:

That, in order to comply with the requisitions of the resolution, and to satisfy the just expectations of the Senate, it is necessary to inquire into the causes of the delay in the annual settlement of accounts, and the want of sufficient certainty in the accountability of the respective Departments, upon which the resolution is predicated.

An attentive review of the principles upon which the several Departments of the Government were originally organized, and of the changes which have successively been made in that organization, appears to be necessary at the threshold of this investigation.

By referring to the laws for organizing the several Departments of the Government, they will be found to be extremely general in their terms, leaving the distribution of the duties and powers of the Secretaries in a considerable degree

⁹⁸ American State Papers, *Miscellaneous*, Vol. 2, pp. 396-99; *Annals of Congress*, Vol. 30: 23-30. See Act of Mar. 3, 1817, 3 Stat. L., 366. See also Nos. 35, 39, 40, 48.

to executive regulation. The law organizing the Treasury Department, however, specifically refers to that Department the settlement of all public accounts. The pecuniary embarrassments by which the Government was pressed at that period, requiring a system of the most rigid economy in the public disbursements, could not fail to give peculiar force to the idea that the Department charged with the replenishment of the treasury should have a direct control over the public expenditure. Under the influence of this idea, all purchases for supplying the army with provisions, clothing, supplies in the quartermaster's department, military stores, Indian goods, and all other supplies or articles for the use of the War Department, were, by executive regulation, directed to be made by the Treasury Department.

The first important change which was made in the organization of the War Department was effected by the act of the 8th of May, 1792 [1 Stat. L., 279], which created the office of Accountant of that Department, and referred to that officer the settlement of all accounts relative to the pay of the army, the subsistence of the officers, bounties to soldiers, expenses of the recruiting service, and the incidental and contingent expenses of the Department. The accounts settled by the Accountant were to be certified quarterly, and sent to the accounting officers of the Treasury for their revision. This act continues with the Treasury Department the power of making for the War Department the purchases before enumerated.

On the 30th of April, 1798 [1 Stat. L., 553], the Navy Department was created. From the organization of the Government to this date, the Secretary of War executed the orders of the President in relation to the navy. On the 16th of July, in the same year [1 Stat. L., 610], the office of Accountant of the Navy was created, and the settlement of all accounts in the Navy Department was referred to that office. On the same day the power of the Treasury Department to make contracts for the War Department was rescinded, and all the accounts of that Department were thenceforward to be settled by the Accountant.

The power of revision, both as to the accounts of the War and Navy Departments, was, and still is, reserved to the accounting officers of the Treasury. This power, however, from the period that the primary settlement of the accounts of the War and Navy Departments was withdrawn from the Treasury, ceased to be useful, and has been preserved merely for the sake of form. In the Treasury, balances or debts admitted on settlement are paid only upon the report of the Auditor, confirmed by the Comptroller, whose decision is final. In the War and Navy Departments, the sums reported by the Accountants to be due to individuals are paid, without waiting for the revision of the accounting officers of the Treasury. This practice, which has been adopted in some measure from necessity, is not believed to be incompatible with the provisions of the law requiring that revision. The Accountants of the War and Navy Departments are required to transmit, quarterly, all the accounts which have been settled to the [396] Treasury Department for final revision. It could not have been the intention of Congress that an officer, or an individual to whom money was found to be due by the report of the Accountant of either of those Departments, should wait for payment not only until the expiration of the quarter, but until his accounts should be re-examined by the Auditor of the Treasury, and also by the Comptroller.

The delays to which this course would necessarily have led must have produced a state of confusion which, in a short period, could not have failed to obstruct all the operations of the Government. On the other hand, it is manifest that, from the moment payments were made upon the settlement of the Accountants, before the revisionary power of the Treasury officers was exercised, revision became useless. The leading feature of the organic laws of the Departments, that the settlement of the public accounts should exclusively rest with the Department which was charged with the replenishment of the treasury, was substantially abandoned. The form, indeed, was preserved, but the vital principle was extinguished.

It is probable that more importance was attached to this

principle by those who presided over the primary organization of the Departments than it intrinsically merits. The power of the accounting officers, whether belonging to the Treasury Department, or to those in which the disbursements are made to enforce economy in any branch of the public service, must necessarily be extremely limited.

In disbursements for the pay, subsistence, and clothing of the army, whilst rations are furnished by contracts, the most rigid economy may be easily enforced. In the quartermaster's department, and where provisions are supplied by a commissariat, the accounting officers can exercise but a very limited control. The principal reliance of the Government for economy in those Departments must be upon the integrity of the persons employed. Over the contingent disbursements of the War and Navy Departments, which in time of war are considerable, and which in all Governments are extremely liable to abuse, the accounting officers have still less control. For economy in that branch of the public service the heads of those departments must be responsible to the nation. From this view of the subject, it appears not to be so important that the public accounts should be settled in the Treasury Department as that they should be promptly and finally settled.

Whatever diversity of opinion may exist upon this subject, it is believed that there can be none upon the propriety of either returning to the principle upon which the Departments were originally organized, of referring the settlement of all public accounts immediately to the Treasury Department, or of finally settling the accounts of the War and Navy Departments without the intervention of the accounting officers of the Treasury. The former has the recommendation of unity and simplicity in theory, and it is believed that no serious inconvenience will result from it in practice. The latter would insure the prompt and final settlement of the accounts of the several Departments, but might possibly lead to the establishment of different principles in the settlement of the public accounts in the respective Departments. Under judicious reg-

ulations, it is believed that the prompt and final settlement of the public accounts may be as effectually secured by the former as by the latter modification.

Whichever modification may be adopted, an increase in the number of the accounting officers appears to be indispensable. From the year 1792, when the office of Accountant of the War Department was created, to the year 1798, when all the accounts of the War Department were referred for settlement to that officer, the military force of the United States was not so extensive as the present military peace establishment. The duties assigned the Accountant at the former period were, as has already been stated, the settlement of all accounts relative to the pay of the army, the subsistence of officers, bounties to soldiers, expenses of the recruiting service, and the contingent expenses of the War Department. The services required by that act are believed to be sufficient to give full employment to one accounting officer. By the act of 1798, the settlement of the accounts relative to the subsistence of the army, the quartermaster's department, the clothing department, the purchase of arms and munitions of war, and to the Indian Department, was referred to the Accountant of the War Department.

The additional duties imposed upon the Accountant by this act have been so great that some of the accounts of the War Department nearly of the same date remain still unsettled. It is, therefore, confidently believed that the duties imposed upon the Accountant by this act require the undivided attention of another accounting officer.

In contemplation of the law, the Comptroller of the Treasury revises all the accounts of the Government for the purpose of correcting the errors, both of fact and of law, which may have been committed by the accounting officers to whom their settlement is in the first instance committed. He is likewise charged with the superintendence of the collection of the revenue arising from duties and tonnage, and directs the collection, by suit, of all debts due to the United States. It has

been already stated that the revision of the accounts settled by the Accountants to the War and Navy Departments by this officer has always been merely nominal. The enumeration just given of the extent and variety of the duties imposed upon him will satisfy every reflecting mind that they must continue to be so. Should this officer be relieved from the superintendence of the collection of imposts and duties, and of suits for the recovery of debts due the United States, by the assignment of those duties to another officer, still it is believed he would not be able to revise all the accounts of the Government, so as to be in fact the check upon the auditing officers which the law contemplates. When the office of Comptroller was created, and the duties of that officer were prescribed, the Auditor of the Treasury was the only accounting officer whose acts he had to revise. At present, he has to revise the settlements made by three accounting officers, and, according to the plan which it is the duty of the undersigned to propose, in order to insure the annual settlement of the public accounts, there will be five auditing or accounting officers whose acts are to be revised. From this view of the subject, the appointment of an additional Comptroller appears to be indispensable.

It has been previously stated that the mass of business thrown upon the Accountant of the War Department by the act of the 16th of July, 1798, has produced an arrearage in the settlement of the accounts of that Department almost coeval with that date. This observation was intended to apply to the accounts appropriately belonging to the Department, arising from the administration of the military establishment. But the accounts of the Indian Department, without a solitary exception, have remained unsettled from that date to the present period. This has resulted from the fact that the Secretary of War is substantially the auditor of all the Indian accounts. It is also his duty to inquire into and decide upon all claims exhibited by the citizens of the United States for property stolen or destroyed by the Indian tribes to whom

annuities are payable, and, where they are proved to his satisfaction, to direct compensation to be made to the injured party out of the annuity payable to the offending tribe. These duties, together with the examination of the contingent expenses of the Department, which must also receive his special sanction, if duly attended to, would leave him no time to devote to the more important and appropriate duties of his station. The consequence has been that the Indian accounts have remained unsettled, and must continue so until a different organization of the Departments shall be effected.

It is obvious to the mind of every reflecting man that the duties imposed upon the Secretary of War in relation to the Indian Department have no rational connexion with the administration of the military establishment. From the view which has been presented, it is conceived that the public interest requires that the Secretary of War should be relieved from further attention to those duties. It then becomes necessary to inquire whether those duties can, consistently with the public interest, be assigned to either of the other Departments. An examination [397] into the duties required of those Departments, it is confidently believed, cannot fail to produce the most decided conviction that no additional duties ought to be imposed upon them under their present organization. On the other hand, there is good reason to believe that the public interest would be promoted by relieving those Departments of several branches of the public service at present committed to their respective charges.

The retrenchments which, with great advantage to the public interest, might be made in the duties now imposed upon the Secretaries of the respective Departments and the General Post Office, would furnish ample employment for the head of another independent Department.

An appropriate assignment of duties to the chief of the new Department would embrace the Territorial Governments, the Indian Department, the General Post Office, roads and canals, and the Patent Office, and such other branches

of the public service as may be deemed expedient. But the defects in the organization of the existing Departments are not the only reasons why the public accounts are not annually settled.

The want of power to compel those to whom the collection or disbursement of the public money has been confided to render their vouchers and settle their accounts when required has largely contributed to swell the list of unsettled accounts. The power of dismissing from office for misfeasance or non-feasance in office, especially with the collecting officers, is sufficiently coercive as long as the conduct of the officer will bear examination, and powerfully contributes to keep him in the line of his duty. But when the settlement of his accounts must expose his guilt, and especially when he has been dismissed from office, this coercion entirely ceases. With disbursing officers, and particularly in the military establishment, this mode of coercion is much more feeble. In that department, too, there is the strongest reason for the adoption of the most vigorous measures to bring to a prompt and final settlement those who have been intrusted with the disbursement of money, particularly in the quartermaster's and paymaster's departments. Until the accounts of the quartermaster general of an army or of a military district are settled, it is impossible to settle the accounts of the deputies and assistants, the barrack-masters, forage-masters, and wagon-masters employed with the same army, or in the same district. The same observation applies to the pay department. Until the deputy paymaster general settles his accounts, or at least until he renders his vouchers, none of the district or assistant district paymasters, or regimental paymasters, can settle their accounts. This observation applies to the several grades in both departments. Thus a single officer, who knows himself to be a public defaulter, may, by standing aloof, and by procrastinating the decision of law after suit is brought, prevent for years the settlement of the accounts of other officers who may be solicitous to adjust them.

It is the peculiar province of the Legislature to apply appropriate remedies for every evil disclosed by the practical operations of the Government. The one now under consideration, taken in connexion with the inability of the accounting officers to settle annually the public accounts, has produced more serious consequences to the national treasury than every other united. The conviction on the part of an officer that his accounts cannot or will not be settled for years presents a certain degree of impunity to embezzlement, and powerfully tempts to the commission of it. The necessity of resorting to an action at law to enforce the settlement of accounts, or to recover money embezzled by an officer, ought to be avoided, if it can be done consistently with the provisions of the constitution. In some of the States this necessity is avoided, the public money retained by a revenue officer being collected by execution issued by the State treasurer. If this or a similar principle could be acted upon by the United States, embezzlement would not be frequent.

In conformity with these preliminary observations, the undersigned respectfully propose that it is expedient—

First. That another independent Department of the Government be organized, to be denominated the "Home Department." That the Secretary of this Department shall execute the orders of the President in relation to

1. The Territorial Governments.
2. The national highways and canals.
3. The General Post Office.
4. The Patent Office.
5. The Indian Department.

Secondly. That the primary and final settlement of all accounts be made in the Treasury Department; and that the organization of that Department be modified so as to authorize the appointment of

1. Four additional Auditors.
2. One additional Comptroller.

3. One Solicitor.

4. That the mint establishment be placed under the direction of the Treasury Department.

Thirdly. That the office of Accountant of the War and Navy Departments and of the Superintendent General of Military Supplies be abolished.

Fourthly. That the survey of the coast be confided to the Navy Department.

According to the modifications here recommended, the

First Auditor will be charged with the settlement of the public accounts accruing in the Treasury Department.

Second Auditor will be charged with the settlement of all accounts relative to the pay and clothing* of the army, the subsistence of the officers, bounties and premiums, the recruiting service, and the contingent expenses of the War Department.

Third Auditor will be charged with the settlement of all accounts relative to the subsistence of the army, the quartermaster's department, the hospital department, and the ordnance department. Both of these Auditors will keep the property account connected with those branches of service in the War Department confided to them respectively.

Fourth Auditor will be charged with the settlement of all accounts relative to the Navy Department; and the

Fifth Auditor will be charged with the settlement of all accounts relative to the State and Home Departments.

The First Comptroller, being relieved from directing and superintending the recovery by suit of all debts due the Government, will revise all accounts settled by the First and Fifth Auditors.

Second Comptroller will revise all settlements made by the Second, Third, and Fourth Auditors.

The Solicitor of the Treasury will be charged with the

* By late regulations, the pay and clothing appropriations are in fact considered as one appropriation.

recovery of debts due the Government, according to the forms prescribed by law.

It is probable that experience will suggest the propriety of making changes in the distribution of duties among the accounting officers of the Treasury. In order that they may be done with facility, and as they shall be discovered to be necessary, it is respectfully recommended that the whole subject be left to executive regulation.

With this organization of the Departments, the check contemplated by the revision of the Comptroller will be as effectual as it can be made. Money will then be paid in all the Departments upon the settlement of an Auditor only after it has been revised and approved by a Comptroller. [398]

If the Departments shall be thus organized and vested with sufficient power to compel all officers employed in the collection or disbursement of the public money to render their vouchers and settle their accounts, the annual settlement of the public accounts will be insured, and a more certain accountability established in the respective Departments.

If the officer intrusted with the recovery of money improperly detained by public officers were authorized to issue an execution for the sum appearing to be due, either upon settlement, or upon the failure to settle when called upon for that purpose, and that the execution so issued should be satisfied by the distress and sale of all the delinquent's property, and that of his securities, one of the most formidable obstacles to the annual settlement of the public accounts would be surmounted.

It is believed that there is no constitutional objection to the adoption of this principle in relation to the officers of the Government who improperly withhold the public money. Under the law imposing the direct tax, the collector, on default of payment, is authorized to make the amount due by the levy and sale of the defaulter's property. In this case, there is on the part of the defaulter nothing but a breach of

the general implied obligation which every citizen owes to the community to contribute to the wants of the state in proportion to the property which he possesses. This breach may frequently be the result of inevitable necessity, and but seldom brings his integrity in question. In the case of the delinquent officer there is, in most cases, a direct breach of special confidence involving the odious charge of peculation or embezzlement. Is there any reason why the remedy of the Government should be more summary in the former than in the latter case? Is there not, on the contrary, a clear distinction between the two cases entirely in favor of the tax defaulter? Can it be considered more important to the community that the revenue should be rigidly collected, than that it should be faithfully and honestly disbursed? Has the difference in the remedy arisen from the consideration that the one has withheld from the Government a hundred cents which he ought to have paid, whilst the other has embezzled a thousand dollars of the public money thus summarily collected? There can be no doubt that the different remedies in the two cases have resulted from the want of sufficient reflection, and not from design. The subject is now presented to the view of the Senate, and no doubt is entertained that that enlightened body will satisfy the demands of reason and of justice. It may be proper to observe that the principle now recommended has been applied by the laws laying direct taxes to the collectors of the internal revenue. The Legislature, in relation to that class of officers, has even authorized the arrest and imprisonment of collectors who fail to collect, or neglect to pay after collection, and the seizure and sale of the property, real and personal, of his securities during their imprisonment. As the principle has already been applied to cases arising out of the collection of the revenue, it is respectfully conceived that reasons more cogent call for its application to the disbursing officers of the Government. The different rules established in relation to those two classes of officers, if persevered in, cannot fail to present the idea that the Gov-

ernment is more astute in devising means to raise and collect revenue than in enforcing a faithful application of it when collected.—December 6, 1816. [399]

JAMES MONROE, Secretary of State.

WILLIAM H. CRAWFORD, Secretary of the Treasury.

GEO. GRAHAM, Acting Secretary of War.

B. W. CROWNINSHIELD, Secretary of the Navy.

NO. 37

TRANSFER OF APPROPRIATIONS. DEBATE,
1816, 1817⁹⁹

House of Representatives, December 30, 1816

Mr. [JOHN C.] CALHOUN [of South Carolina] offered for consideration the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing so much of an act, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," passed the 3d of March, 1809 [2 Stat. L., 535], as authorizes the President of the United States to transfer appropriations.

Mr. C. supported the propriety of his motion by remarking briefly on the evils—great evils, he said—which resulted to the public interests from the practice, particularly in the War Department, of permitting funds to be diverted from one object of appropriation and applied to another. He urged the necessity of applying a remedy, and that was to compel in the Departments a rigid adherence to specific appropriations. [374]

February 14, 1817

The following is the substance of Mr. Calhoun's observations [on the general appropriation bill]:

⁹⁹ *Annals of Congress*, Vol. 30: 374, 956-59. See also No. 38.

Mr. CALHOUN called the attention of the Committee [of the Whole] to the correspondence between the Committee of Ways and Means and the acting Secretary of War. It seemed by that correspondence [956] that, besides other instances of transfers of the money appropriated by Congress, from the objects to which it was intended, to some other not contemplated, the money appropriated to the construction of arsenals had in part been applied to the repairing of arms and erecting accommodations for the Quartermasters. These might be proper objects of expenditure. This was not the point of his censure. He objected that the money had not been applied to the objects for which it was appropriated. It was a sheer abuse of power, not justified by the existing laws, as lax as they unfortunately are on this point. The law authorizes a transfer (under the immediate direction of the President) of the money appropriated from one object to another object also authorized; and in every instance, in which it is not done by his authority, or in which it is applied to an object not authorized, or where there has been a transfer of appropriation from an object, without there being a surplus of the sum appropriated to that object, he conceived it to be an abuse. The further we progress in this business, the more apparent is the necessity of abolishing the whole power of transfers. It has and will continue to introduce confusion and abuses in the disbursements of the public money. He regretted that the Committee of Ways and Means had not acted on the resolution which he introduced on this subject at an early period of the session; and, as late as it was, he hoped that they would report before its termination.

Every one, said he, who has been a member of this House long enough to make the observation, must be struck with the different degrees of attention which an appropriation and a tax bill excites. To the latter there is all attention, while the former excites less than most others; in fact there are few bills that excite less. What produces this difference? It is not because one is less important than the other. If in this respect

there is any difference, he conceived that the former was most important. In laying a tax, there might indeed be danger of oppression, but if the appropriation is made to useless objects, or, what is worse, if the public officers are permitted to abuse their trust and squander the public money, it is lost to the community. Why, then, the difference of interest which they excite? It is to be found in a difference of their nature. The people know and feel the amount of taxes. It is generally unpopular to lay them, and popular to repeal. Stimulated by these motives, there are many who are ready to prove their zeal in this particular service; and to move their repeal whenever they can be spared, and even when they cannot without manifest detriment to the public. Very different is the case of the disbursements of the public money. Whether that is done with a due regard to the public interest, or whether it is fairly and honestly applied, are facts that excite in the people far less interest, because they are not so open to public observation. If the member who devoted his labor to the examination of the public accounts and the correcting of abuses was as certain to reap the [957] reward of popular favor as he who moved the repeal of taxes, there would not exist so many abuses as there now are.

If the member from North Carolina (Mr. Williams) really wishes to render the public essential service, let him turn his attention to the bill now before the House, and not to the repealing of the taxes, before he knows whether they can be spared or not. This is the real path of patriotism, and, as the path of duty usually is, rugged and steep. It is in the disbursements of the public money that those dangerous disorders first strike, which finally end in the destruction of liberty. Abuses of this kind cannot be permitted without endangering the principles of our Constitution. It is in their nature to grow; and what was embezzlement at first becomes right in a few years. It is thus, if tolerated, an interest will grow in favor of abuses, which, from its nature, must ever be opposed to the newer and reputation of this House. They who

fatten on the public will be persuaded that, by destroying your political weight, they not only render themselves secure in their lawless gain, but that they may be greatly enlarged. Such an interest is ever in favor of the power of a single ruler. Hence is the necessity on our part, as the guardians of the community, to be vigilant, to suppress the first symptoms of abuse. We have the sole power to raise and apply money. It is the sinew of our strength. Not a cent of money ought to be applied, but by our direction, and under our control. How stands the fact? We are told that most extensive and superb stone barracks, sufficient to receive two thousand troops, have, the last year, been erected near Sackett's Harbor, though not a cent was appropriated to this object. It is even reported to have been done without the consent of the War Department. It is further stated that a military road is constructing from Detroit to Ohio. The barracks and road may be proper; if the soldiers are to be employed on them, it is much better than idle garrison life. In fact, he knew not how the military can, in peace, be better employed than in constructing of such roads as may be useful in war. It was not to the thing itself that he objected. He censured the application of the public money to such objects, without ever submitting the question to Congress. It is an evil that cannot be tolerated, unless we are ready to become mere cyphers. These were not the only abuses. There were many, he feared, particularly in the Army.

In making these statements, Mr. C. was actuated by no ill will to any one. If it had been his misfortune to feel such, he could not be actuated by it in the discharge of his public duties, without forgetting all his principles. He stated them simply because he thought the best interest of the country required that they should be known and corrected. He could not agree with his friend from Kentucky (Mr. McKee) that all efforts at correcting such abuses are hopeless. He says it has not been done; and concludes therefore that it cannot. Mr. C. thought differ- [958] ently. There has been nothing like a concentrated and steady effort to effect the cure; nor

had the times ever been so propitious. When party spirit is high, it is very difficult to undertake reformations of this kind. Factious views are sure to be attributed, and attributed with success, to the member who attempts it. Happily for us party spirit has, in a great measure, disappeared. We have peace not only abroad, but at home. Now, then, is the moment for this most salutary work. A proper degree of labor and firmness cannot fail of success. Very melancholy indeed would be our situation, if the evil were too inveterate to be cured but by lopping off the whole strength of the Government, as proposed by some. What, then, are the means which he proposed? In the first place, Mr. C. conceived it to be indispensable that our appropriations should be made in many respects more specific. He rejoiced to see the Committee of Ways and Means commence this system in the Ordnance department, and hoped they would extend it to the Quartermaster's, and to other heads where a general appropriation was now made. But specific appropriations were of no avail, under our present system of transfers. If that power of dispensing with law is to continue, he would be adverse to any estimates, but would put the gross amount of revenue under the direction of the President, to be used as he thought proper. It is then indispensable, that the right of transferring, or rather dispensing with appropriation, be repealed and prohibited. In the next place, the year for the appropriation and for expenditure should coincide. As it now stands, the appropriation is made for the year commencing the first of January, and the expenditure, for what is called the fiscal, commencing the 1st of October. The effect is, that we can never, without great labor, compare the appropriation of money to an object, with the expenditure. They both ought, in my opinion, to be made for the fiscal year; and, if we will insist that the accounts of expenditures be fully made up and laid before us early every session, it will of itself do much to reform. But to give the measures full success, we must proceed one step further. The committees appointed at the last session, on expenditures,

must go to the respective officers, and descend into the details. This is indispensable, and it ought to be their duty to report the state of the expenditure fully to this House. He regretted that they had not done so this session. If these steps be pursued, and if the members of this House will turn their displeasure against any officer, from the highest to the lowest, who permits abuses, a great and immediate reform must be the immediate effect. We shall, then, no longer hear of arrearages, and accounts unsettled for years. Abuses will thus be corrected in the infancy, and the purity of our institutions preserved. He could not give into the system that to prevent abuses the taxes must be abolished. He saw no termination to the system, but in an entire prostration of the power of Government. . . . [959]

NO. 38

TRANSFER OF APPROPRIATIONS. REPORT
(CRAWFORD), 1817¹

To House of Representatives, January 6, 1817

Your letter of the 31st ultimo, enclosing a resolution of the House of Representatives of the 30th ultimo, directing the Committee of Ways and Means to inquire into the expediency of repealing so much of the act "further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," passed the 3d of March, 1809 [2 Stat. L., 535], as authorizes the President of the United States to transfer appropriations, has been received.

In giving my opinion upon the subject-matter of the resolution, it may be proper to state the causes which led to the adoption of the law, embracing the provision which is contemplated to be repealed by the resolution. Antecedent to that

¹American State Papers, *Miscellaneous*, Vol. 2, pp. 413-14; *Annals of Congress*, Vol. 30:420-22. See Act of May 1, 1820, 3 Stat. L., 567, 518, sec. 5. See No. 37.

period the appropriations were, by some of the Departments, considered as an aggregate sum to be applied, without distinction in their accounts, to every branch of service embraced by the appropriation. In the Navy Department, for instance, there was but one account opened in the Treasury books, because the requisitions made by the Department were drawn for the Navy Department generally, and the sums thus drawn were applied [413] to the naval service, without regard to the amount which had been specifically appropriated for the different branches of the service within that Department.

In changing this practice, the necessity of giving the power to transfer from one head of appropriation to another, according to the exigencies of the service, was foreseen. This power was given to the President; and, in order to furnish to Congress the information which it was deemed essential to possess, every transfer of appropriation, together with the application of the money so transferred, was required to be communicated to Congress during the first week of their session thereafter. If no transfers were made, Congress knew the maximum applied to each head of appropriation. If transfers were made, they obtained information equally interesting and useful to them in providing for the wants of the succeeding year. The transfers disclosed to them those branches of the service, in each Department, where the appropriations had been redundant, as well as where they had been deficient. They obtained, without inquiry, a knowledge of the application of the sum transferred, as well as of the sum originally designated for that object. This was the desideratum intended to be obtained by the adoption of that measure.

By reducing the heads of appropriation, the necessity of exercising the power of transfer will, no doubt, be considerably diminished. During a period of peace, and after the naval and military establishments have remained for a considerable time without alteration as to organization or force, it is probable that it will be but rarely exercised. It is believed, however, that a full consideration of the subject will lead

to the conviction that the power ought to be retained in peace as well as in war. A change in our relations with a foreign state, during the recess of Congress, which would render it prudent to concentrate the regular force in any section of the country, would increase the expense of the quartermaster's department beyond the regular appropriation. Expenses incurred under such circumstances must generally be discharged as they are incurred. This could not be effected without the power of applying the redundancies of other appropriations to meet the deficits produced by such an emergency.

There does not appear to be any necessity for extending this power to the permanent appropriations of the land or naval service. The appropriations for arming the militia, for the armories, and for arms and military stores, and for the permanent increase of the navy, may with great propriety be exempted from the operation of this power. It is to the current expenses of the land and naval force authorized to be kept in service during the year that this power should be confined. Within those limits it is not believed that the power can be exercised to the injury of the nation. Without this power, the War and Navy Departments would be compelled to make ample estimates for every branch of the service, as a deficiency in any one might be productive of serious consequences. The idea that economy will be enforced by repealing the provision will, I am confident, be found to be wholly illusory. Withdraw the power of transfer, and the Departments will increase their estimates. In some branches of the service there will be redundancies, in none will there be deficiencies. These redundancies, continuing from year to year, will be more likely to excite to profusion in those branches of the service than if they were transferred to the appropriations which were insufficient. The law, as it now stands, furnishes those whose duty it is to appropriate the money and superintend its application with all the information which is necessary to the execution of that high trust. By reducing the heads of appropriation, the labor of keeping the accounts of the Treasury, as

well as of the other Departments, and in the settlement of accounts, will be greatly diminished. This reduction, however, as before stated, will not supply the place of the power of transferring from one branch of the service to another. It may be proper to observe that the power of transfer is applicable only to the War and Navy Departments.—January 1, 1817. [414]

WILLIAM H. CRAWFORD, Secretary of the Treasury, to
WILLIAM LOWNDES, Chairman, Committee on Ways and Means.

NO. 39

ACCOUNTABILITY OF DISBURSING OFFICERS.
REPORT (MONROE), 1817²

To House of Representatives, January 21, 1817

We have the honor to acknowledge the receipt of your letter of the 22d instant, requesting information on the following subjects, viz:

1. Is it intended to apply the power of imprisonment and sale of property, proposed in a late report to the Senate from the Secretaries of the Departments, to cases of property as well as money which may be withheld from the Government by its officers?
2. Is it proposed to allow any judicial examination into the claim of the United States, either when an officer who has received money from the Government claims credits not admitted in his accounts, or where a citizen is charged by a Department as a depository of public money which he denies having received? [417]
3. Would the accountability of public officers be sufficiently secured if the different proposals contained in the report above

² American State Papers, *Miscellaneous*, Vol. 2, pp. 417-18; *Annals of Congress*, Vol. 30: 697-99. See Act of Mar. 3, 1817, 3 Stat. L., 366. See also Nos. 35, 36, 40.

referred to were all to be adopted, with the exception of that for the establishment of a new Department?

In answer to the first inquiry, it is proper to observe that the reasons for resorting to the arrest and imprisonment of the defaulting officer where property is embezzled or withheld are equally strong as in the case of money. It is presumed that imprisonment would be resorted to only where there is a deficiency of property to satisfy the demand, or in the case of a refusal to settle accounts when adjustments of the accounts of others are dependant upon such settlement. In both these cases, but particularly in the latter, the most rigid exercise of the powers vested in the Government would be indispensable.

A judicial examination, where the officer should allege that injustice had been done in the settlement of his accounts, would perpetuate the delays in the settlement of the public accounts which have produced the derangement in the accounting offices that are intended to be remedied by the summary procedure recommended by the report. It is highly improbable that injustice will be practised by the auditing officers; but if it should happen in any case, the appeal should be to Congress, who will always grant relief.

It is not intended to apply the summary procedure proposed in the report to the Senate to any other persons than officers of the Government. If the Government confide the public property to other persons than officers, their rights as individuals ought not to be affected. It is not proposed to extend the principle beyond the necessity which has produced its application to a certain description of officers. Justice and consistency require that it should apply to the disbursing as well as to the collecting officers of the Government.

In answering the third inquiry, serious difficulties present themselves. The Indian Department stands in front. It is possible that, by a more specific regulation in that branch of the public service than has heretofore been attempted its accounts might be reduced to some general principles which would

admit of their settlement by an Auditor without the sanction of the head of the Department. Measures have been taken during the present year with a view to such a regulation. Should this be effected, the most serious obstacle to the settlement of those accounts would be removed.

In recommending the establishment of another independent Department, the Secretaries were influenced in some degree by the consideration that the public interest required that the Executive Department should be simple and uniform in its organization. The various branches of executive authority are now under the direction of the Secretaries of the Departments, except the General Post Office and the Mint. They form exceptions to the general principle upon which the Executive Department has been organized. The best examination which the Secretaries have been able to give the subject has led to the belief that the anomalous organization of these Departments has not been productive of any beneficial consequences. The General Post Office, independent of the anomaly just stated, presents another of a more singular character. The revenue accruing from the postage of letters is disbursed directly by the General Post Office. No part of it comes into the public treasury except that portion of it which exceeds the expenses of the Department. The immense sums which are paid to contractors for the transportation of the mail, and to all the postmasters throughout the nation, are disbursed directly by the Postmaster General. The accounts of the Department are revised by the accounting officers of the Treasury,³ but they are now about six years in arrear.

It is not contended that the establishment of a new Department is indispensably necessary to change the organization of the General Post Office, so as to subject the payment of money in that Department to the checks to which all other payments of public money are subjected. The sums arising from postage

³The General Post Office, as a branch of the revenue, was under the general supervision of the Treasury Department.—W. E. Rich, *History of the U. S. Post Office to the Year 1829* (1924), pp. 112-14.

of letters might be paid directly into the Treasury, and all sums due to contractors might be paid by warrants at the Treasury, as well without the establishment of a new Department as with it. If it were deemed necessary, all postmasters whose emoluments exceeded a given sum might be paid in the same manner; or the postmasters of all distributing offices might be placed upon that footing. This discrimination might lead to the suggestion that it would be proper to subject that class of officers to the ordeal of passing through the Senate. This suggestion, however, is foreign to the subject of your inquiry. The changes suggested in the modes of conducting the fiscal concerns of the General Post Office were necessarily involved in the proposition to make a new Department, to which it should be subordinate.

We think proper to add that, although provision may be made for the settlement of all the public accounts without the institution of a new Department, we have no doubt that the just principles of accountability would be better preserved, and economy promoted, by the adoption of that measure. Equally satisfied are we that other essential advantages would result from it. As, however, your inquiry does not extend to this object, we think it improper to enter further into the subject.—December 31, 1816. [418]

JAMES MONROE, Secretary of State,
WILLIAM H. CRAWFORD, Secretary of the Treasury,
GEORGE GRAHAM, Acting Secretary of War,
B. W. CROWNINSHIELD, Secretary of the Navy.

NO. 40

PROGRESS MADE UNDER THE ACT "TO PROVIDE FOR THE PROMPT SETTLEMENT OF PUBLIC ACCOUNTS." REPORT (CRAWFORD), 1818⁴

To Senate, January 22, 1818

In obedience to a resolution of the Senate of the 11th of December, 1817, requiring the Secretary of the Treasury "to lay before the Senate information of the progress which has been made in the settlement of public accounts, under the act 'to provide for the prompt settlement of public accounts' [Mar. 3, 1817, 3 Stat. L., 366]; and that he also state what further legal provisions may be necessary, in his opinion, to insure the speedy settlement of public accounts," I have the honor to submit the enclosed reports of the First and Second Comptrollers and the five Auditors of the Treasury.

From them it appears that that portion of the public accounts which are subjected to the examination of the Second and Fourth Auditors have been adjusted, and that the books of those officers have been brought up to the 1st day of the last month.

In the office of the First Auditor much remains to be done before the accounts subjected to the examination of that officer can be adjusted.

The imposition of the internal and direct taxes in the year 1813, and in the subsequent years, together with the embarrassment produced by the issue of treasury notes bearing interest, (each of which, in its final redemption or payment into the treasury, not only presented a complicated account

⁴ American State Papers, *Miscellaneous*, Vol. 2, pp. 460-61; *Annals of Congress*, Vol. 32: 2347-63. See Act of Feb. 24, 1819, 3 Stat. L., 487 and Act of May 1, 1820, 3 Stat. L., 567. See also Nos. 35, 36, 39.

involving generally several calculations of interest, but rendered the account of every officer through whose hands it passed extremely complex,) greatly increased the duties of this officer and of the First Comptroller of the Treasury. This increase in the duties of those officers was not attended by a correspondent increase of the force placed at their disposition for the performance of the services required of them.

The great number of banks which became the depositories of the public money after the dissolution of the late Bank of the United States, and particularly after the derangement of the currency in the year 1814, together with the complexity introduced in the accounts of the Secretary of the Treasury, and of the Treasurer of the United States, by the subdivision of the public revenue into cash, special deposits, small treasury notes, and treasury notes bearing interest, had, during the years 1815 and 1816, produced some irregularity in the accounts of these two officers, which it has required much labor and assiduity to correct.

This circumstance, and the other causes which have been stated, have necessarily produced in the office of the First Auditor of the Treasury a considerable arrearage in the settlement of the accounts confided to him. So far as the accounts of the Secretary of the Treasury are connected with this arrearage, the cause of delay has been removed. The abolition of the internal duties will considerably diminish the labors of the First Auditor, and will enable him to settle with promptitude the accounts which are examinable in his office.

The accounts assigned to the Fifth Auditor of the Treasury were greatly in arrear. That officer, however, believes that, with the number of clerks subject to his direction, he will be able to examine and report upon them without unnecessary delay.

In the office of the Third Auditor of the Treasury, where all the old accounts of the War Department are to be examined, a great mass of accounts remain unsettled. It is in that office where the greatest difficulties are to be surmounted,

where remedies of the most energetic character are required. By referring to the report of that officer, it will be found that the most serious obstacle to the prompt settlement of the public accounts is the want of power to compel delinquent officers to render their accounts and vouchers. In the Pay Department it is extremely unsafe to settle the accounts of any paymaster until the accounts and vouchers of every paymaster employed in the same part of the country are rendered.

The same observation applies with nearly the same force to the Quartermaster's Department. The great mass of officers employed in both of these departments during the late war, and whose accounts are still unsettled, are now out of office. Should a small number of these officers obstinately withhold their accounts and vouchers, the settlement of the accounts of the others, as well as their own, will be indefinitely protracted, unless the power of coercing settlements shall be greatly extended. At present, the means of compelling delinquent officers to render their accounts and vouchers for settlement consist, 1st. In ordering an action to be brought against the delinquent, upon the trial of which no voucher is admissible which has not previously been presented to the accounting officers of the Treasury; 2d. The forfeiture of commissions, and the payment of interest at the rate of 6 per cent. from the time the money was received until it is repaid into the treasury, if the final judgment should be in favor of the United States; and, 3d. The payment of costs, whether the judgment is for or against the defendant.

The first is found in practice to be wholly inefficient, as the party never fails, under the third and fourth sections of the act which contains these provisions, to have his retained vouchers presented to the Treasury after the commencement of the action, so as to remove that objection to their legal admissibility. The payment of interest from the time the money was received until it is repaid into the treasury is nothing more than what is required by the ordinary demands of

justice, and can hardly be considered as a penalty. The forfeiture of the commissions to which the party would have been entitled had he acted correctly is generally more than balanced by the benefit derived from the possession of the public money for the length of time which generally elapses before the sum embezzled can by legal process be wrested from the delinquent. A reference to the acts of the 3d of March, 1795 [1 Stat. L., 441], and of the 3d of March, 1797 [1 Stat. L., 512], which contain the principal provisions for the recovery of debts due the United States, will furnish some idea of the delays to which the settlement of the public accounts must necessarily be subjected where the accounts of the delinquents are not connected with those of other officers; but where they are connected with the accounts of a great number of other officers, the delays which must necessarily result on account of the refusal or neglect of a small number of them to render their accounts and vouchers may be considered, with respect to any practical result, as interminable.

It is therefore respectfully suggested that further provision be made for compelling the officers of the Government to whom the disbursement of the public money is confided to render their accounts and vouchers at stated periods. As long as the officer remains in office, the power of removal vested in the Executive Department may be considered sufficient for this purpose; but when that power has been exercised, or when the office has in any other way become vacant the means of coercing a settlement are extremely defective. For a definition of the power which ought to be vested in the officer charged with the collection of debts due to the United States, as well as for the general reasoning on this subject, the Senate is respectfully referred to the report of the Secretaries of the different Departments, made upon this subject to that honorable body on the 6th of December, 1816, and to a [460] letter from the same officers to the chairman of the committee to whom that part of the President's message relating to

changes in the organization of the Departments was referred in the House of Representatives, bearing date the 31st day of December of the same year.

The opinions and views presented in those papers not only remain unchanged, but have acquired additional force from the experience of the past year. The money remaining in the hands of the officers employed during the late war, whose accounts remain unsettled, must be very considerable. In several cases where they have rendered their accounts, and admit considerable balances to be in their hands, they have refused to pay over the balance until their accounts are finally settled; which, from the explanations already given, may be protracted to a period so remote as to subject the Government to the eventual loss of the whole, from the death, insolvency, or emigration of the principal and sureties.

If the power recommended by the reports referred to should not be vested in the Government, some provision for promptly enforcing the payment of sums admitted to be in the hands of officers no longer employed is certainly necessary. The propriety of absolutely rejecting, on the trial of any action brought against a delinquent officer, every voucher which had not been presented to the accounting officers of the Treasury before the commencement of the action, is respectfully suggested.

Independent of the changes proposed in the existing provisions upon this subject, the appointment of an officer who shall be exclusively charged with the power of instituting and superintending all actions brought by the United States for the recovery of money is again respectfully submitted to the consideration of the Senate. This recommendation is founded upon the fullest conviction that the duties now required of the First Comptroller of the Treasury cannot be correctly performed by any officer whatever. The revision of accounts reported to that officer by the First and Fifth Auditors of the Treasury, and by the Commissioner of the General Land Office, if revision is intended to be any substantial check upon

the acts of those officers, must, by every person who will take the trouble to examine into the subject, be considered sufficient to command the whole of his time and attention.

It is not expected that the principal officer in the primary or secondary departments of the Government will be able minutely to examine every case upon which they decide; but unless it is understood that a certain portion of the cases will be so examined, a degree of negligence and laxity on the part of the subordinate officers in those departments, whether principal or secondary, may reasonably be expected. The gradation from unintentional error to wilful negligence, and from the latter to the practice of deception, is gentle and almost imperceptible. The principal officer of each office is responsible to the nation for the correct discharge of the duties required of him, and legal checks have been devised to correct and detect the errors which may be committed in the execution of their public functions. The clerks or subordinate officers are responsible to the chief of the office for the correct discharge of their duties; the only check, however, which he possesses is the examination which he is able to make of their official acts before they receive his official signature. If, then, the duties required of any officer are so great and multifarious as to prevent his giving to the acts of his subordinate officers such an examination as will render the detection of any errors which may be committed by them probable, there is imposed upon him the highest responsibility, without the adequate means of acting up to that responsibility. Such is believed to be the situation of the First Comptroller of the Treasury.

The correspondence which he is compelled to carry on with the collectors of the customs, the district attorneys, and the marshals, will afford ample employment to an active and intelligent officer, aided by a recording clerk. Should it, however, be deemed advisable to continue with the Comptroller the duty of corresponding with the collectors of the customs, and deciding upon legal questions arising under the revenue

laws, the officer proposed to be appointed might find ample employment by being charged with the light-house establishment, which is now under the superintendence of the Commissioner of the Revenue. He might also be directed to perform any other duty which the President of the United States might think proper to require of him.

From the best view of the subject which I have been able to take, the appointment of a Solicitor of the Treasury appears to me to be indispensable, without any reference to the decision of Congress upon the changes which have been proposed to the laws relating to the collection of debts.

If such an office is not created by law, it must exist in fact, as the Comptroller of the Treasury must of necessity delegate to one of his clerks the power of corresponding with the district attorneys and marshals, and hold him responsible for the due execution of that duty, without being able to examine his acts in a manner necessary to the exercise of a salutary check upon them.

The opinion expressed by the Second Auditor of the Treasury, relative to the distribution of the accounts of the War Department between the Second and Third Auditors, is entitled to consideration; but there is some reason to believe that the inconvenience of which he complains is rather the result of ignorance or negligence in the officers who make returns, than of any defect in the distribution made between those officers. The evil will necessarily diminish by time and experience. The irregularity in the returns of the quartermasters, military storekeepers, and commissaries, will be corrected by instructing them how to make their returns. It is not believed that the public service requires any essential change to be made in the distribution of duty between the accounting officers of the Treasury as now established by law. A more simple distribution between the two Comptrollers might confine the duty of the First to the settlement of all accounts arising from the collection of the revenue, and payment of it into the treasury; whilst the Second should take charge exclusively

of all accounts resulting from its disbursement from the treasury. Some difficulty, however, would arise in carrying this principle into effect, especially in distributing the duty between the Auditors.

It may, however, be proper to observe that the report of the heads of Departments, before referred to, recommended a transfer of the Indian Department from the War to the Home Department. As that part of the system was not adopted, the Secretary of War is not relieved from examining and sanctioning all the contingent allowances made to the agents, interpreters, &c. employed in our intercourse with the Indian tribes. The transfer of the Indian accounts to the Fifth Auditor of the Treasury is not attended with any good effect. It introduces an anomaly into the Departments, by making the Treasury disburse the Indian appropriations under the direction of the Secretary of the War Department. As relief to the Secretary of War, and not to the Second and Third Auditors, was the object of that recommendation, the assignment of those accounts to one of the Auditors last mentioned is respectfully recommended.

It may be proper to state that this suggestion does not embrace the accounts of the Superintendent of Indian Trade, which were previously settled in the Treasury Department.—
January 21, 1818. [461]

WILLIAM H. CRAWFORD, Secretary of the Treasury.

NO. 41

PROPOSAL FOR HANDLING OF POST OFFICE RECEIPTS AND DISBURSEMENTS THROUGH THE TREASURY. REPORT (HUBBARD), 1819⁵

To House of Representatives, February 20, 1819

Mr. [THOMAS H.] HUBBARD [of New York], from the committee on so much of the public accounts and expenditures as relates to the Post Office, respectfully reported: [63]

* * * *

Your committee beg leave to suggest that the only revenue accruing from this Department arises from the collection of postages. The moneys are remitted to the Postmaster General, whose duty it is to pay all expenses which arise in conducting the Post Office. The act regulating the Post Office makes this duty imperative. It is believed that this is the only Department under our Government which is by law obliged, or even permitted, to receive and disburse moneys. By a letter from the Secretaries of the several Departments, respecting the accountability of public officers and agents, laid before the House of Representatives by the chairman of the Committee of Ways and Means, January 21, 1817, this feature in the organization of the Post Office Department is considered as anomalous and defective; and in order to subject the payment of money in that department to the checks to which all other payments of public money are subjected, they recommend that the sums arising from the postage of letters be paid directly into the Treasury. Your committee think there is great force in these suggestions, and that many advantages would result from the proposed alteration. They therefore respectfully submit to the consideration of the House the propriety of so

⁵ American State Papers, *Post Office Department*, pp. 63-64; 15 Cong. 2 sess., H. doc. 140. 36 pp. Serial 24.

amending the act regulating the Post Office establishment, as to make it the duty of the Postmaster General to pay over all moneys received, at the General Post Office, for postages, forthwith to the Treasurer, who shall receipt the same; and that all disbursements shall be made upon warrants drawn by the Postmaster General, the account or demand having first been duly certified by the Postmaster General, or senior assistant, and audited and allowed by the proper accounting officers of the Treasury, as other accounts are adjusted and settled. For this purpose your committee beg leave to report a bill. [64]

NO. 42

CONTRACTS AS THE BASIS OF SETTLEMENT OF
POST OFFICE DISBURSEMENT ACCOUNTS.
REPORTS (ANDERSON), 1822

To House of Representatives, March 26, 1822

* * * *

In answer to that part of the resolution which asks "what difficulties, if any, have interfered in the final liquidation of the General Post Office accounts?" I have to observe that, according to the manner in which the accounts of the General Post Office have heretofore been settled at the Treasury, since the first establishment of the Post Office Department, no particular difficulties have interfered in the final settlement of these accounts. The manner in which these accounts were settled, so far as respects the expenditures for carrying the mail, was to credit the General Post Office with the amount of all the moneys stated to have been expended for carrying the mail, and for which receipts for that specific object were produced. These receipts were uniformly considered the proper criterion by which to judge of the amount to which the General Post Office was entitled to credit for transportation

of the mail. It may be proper to observe, that the Post Office laws, with respect to the manner of settling the accounts of the General Post Office at the Treasury, had received a practical construction long anterior to my coming into office; and taking it for granted, after so long a practice had obtained, that the law had received a correct interpretation, these accounts have, accordingly, been constantly settled in the same manner ever since I came into office, until lately.

In the course of the last session of Congress, the chairman of the Committee of Investigation upon Post Office affairs made application to this office for an official statement of certain contracts for carrying the mail, and requested me to give the "names of the contractors, the amount of the respective compensations, commencement and termination of the routes, duration of the contracts, &c.;" which information was communicated, as far as the papers in my office enabled me to give it. Subsequent application was made by the chairman of the committee, in which he requested to be informed what amount had been paid by the General Post Office to these contractors for transporting the mail on the routes upon which they had contracted to carry it. This call, thus made, led necessarily to a comparison between the amount contracted for in carrying the mail on the routes referred to in the call made by the committee, and the sums charged to have been paid for the transportation of the mail upon those routes. The sums thus charged for carrying the mail on the routes for which contracts had been made were found to be much greater than the sums which had been agreed to be paid according to the contracts. This fact, thus ascertained, induced me to doubt the correctness of the manner in which the accounts of the General Post Office had been settled, as hereinbefore stated. Thus impressed, (and as is usual in all cases where doubts are entertained respecting the construction of any law which is to be carried into effect by this Department of the Treasury,) I considered it my duty to consult you upon

the subject; and you will no doubt recollect that, about the close of the last session of Congress, I called upon you and presented a view of the difference between the amount contracted to be paid for carrying the mail on certain routes, and the amount which was stated by the General Post Office to have been actually paid for carrying the mail upon these routes; and that, when I presented to you a statement of the charges thus made, you gave the Post Office laws a cursory view, and, after some conversation had thereon, you expressed great doubt as to the correctness of the mode of settlement which had been so long practised in the Treasury; but, not then having time to go into a full examination of the law respecting the Post Office Department, it was concluded to defer a final decision thereon until more time could be afforded for a full and critical examination thereof, which was had some time thereafter, when you expressed a decided opinion that the manner in which the General Post [94] Office accounts had been settled, as hereinbefore stated, was not correct; and that it would be proper and necessary, in all future settlements of these accounts, to compare the amount contracted to be paid for carrying the mail with the amount actually paid, according to the receipts produced, and to allow the General Post Office credit for no greater amount than the sum contracted for. Agreeing with you in the opinion thus expressed, it was concluded that the Fifth Auditor of the Treasury (who reports on the Post Office accounts to this office) should be instructed accordingly, which was done; and you will perceive, by his letter, that he apprehends no difficulty in the change of the mode of settlement, except what may arise from a want of the duplicate contracts, which the law requires the Postmaster General to deposite in the Comptroller's office, and which, I take leave to observe, it will be absolutely necessary to have, in order to make the settlements in the manner now contemplated. Whatever duplicate contracts may therefore be wanting, to enable the accounting officers to progress with the settlements of the

General Post Office accounts, the Postmaster General will be requested to supply.—March 19, 1822.

JOSEPH ANDERSON, Comptroller of the Treasury,
to WILLIAM H. CRAWFORD, Secretary of the Treasury.

* * * *

No. 2.

* * * *

The laws in relation to the General Post Office having required duplicate contracts entered into by the Postmaster General for the transportation of the mail, together with all the proposals made on the subject, to be *deposited* in the Comptroller's office, the contracts were not considered as a part of the vouchers to be produced, and the accounts have hitherto been audited without reference to them, and credits have been allowed in so far as receipts were actually produced.

It having been determined, however, on a recent and more attentive examination of the laws, that the contracts ought to form the basis of the settlement of all the Post Office accounts relating to that branch of expense, and you having intimated your intention to furnish me with them, from time to time, as you may receive them, (there being no authority in this office to require their production,) these accounts will hereafter be adjusted with a special reference to them, as well as to the receipts for payments made in pursuance of them. No difficulty or delay is anticipated in the settlement of these accounts, but what may arise from this cause.—January 31, 1822.⁶

S. PLEASANTON, Fifth Auditor of the Treasury,
to JOSEPH ANDERSON. [95]

To House of Representatives, April 29, 1822

Mr. [ROMULUS M.] SA[U]NDERS [of North Carolina]
made the following report:

⁶ American State Papers, *Post Office Department*, pp. 94-95; 17 Cong. 1 sess., H. doc. 98. 8 pp. Serial 68.

The Select Committee, to whom was referred the investigation of the affairs of the Post Office Department, . . . beg leave to report:

* * * *

. . . The points of inquiry to which the attention of the committee has been especially directed, and the facts which they have been enabled to collect, may not prove without their use. These points are as follows, viz:

I. Whether duplicates of all contracts and proposals, made and entered into with the Department, have been lodged with the Comptroller of the Treasury?

* * * *

1. With respect to the first point of inquiry, the committee called on the Comptroller of the Treasury to be furnished with the duplicates of certain contracts, and the proposals, for the purpose of examining the same, which they were unable to obtain. They then addressed a letter to the Comptroller of the Treasury for the purpose of knowing on what principle the accounts of the Postmaster General were audited and settled. In reply, they learned that, from the practical construction given to the act for regulating the Post Office establishment, the receipts and not the contracts were taken as the criterion of settlement, and the Post Office accounts audited accordingly. If the duplicates of contracts and the proposals were merely to be deposited for safe-keeping with the Comptroller, and not as vouchers to direct him in passing upon the different payments made by the Postmaster General, it could be a matter of but little consequence whether the requisites of the law, in this particular, were complied with or not. The committee now learn that a different mode of settlement is determined on, and, though it may be attended with some difficulty and delay, it certainly will produce more correctness and responsibility. [97]

* * * *

I have had the honor to receive your letter, dated the 7th instant, in which you inform me that "the Committee of In-

vestigation into the Post Office affairs, are desirous of knowing whether, in receiving the duplicate of contracts and proposals entered into with that Department, I feel it my duty, under the existing law, to compare the amounts contracted for with what is actually paid; and whether, in the change of any contract where more is given, any information is lodged in my office; and, if not, by what authority the Postmaster General is credited by such expenditures.”

In answering the inquiries you have made, it may be proper to observe, that the Post Office laws, so far as respected the manner of settling the accounts of the General Post Office at the Treasury, had received a practical construction long anterior to my coming into office, which was on the 1st of March, 1815; at which time the accounts of the General Post Office had only been settled up to the third quarter of 1808, inclusive. The manner in which the accounts were settled was to credit the General Post Office with the amount of all the moneys stated to have been expended for carrying the mail, for which receipts for that specific object were produced. These receipts were uniformly considered the true criterion by which to judge of the amount actually expended for carrying the mail. No comparison was made between the amount called for in the contracts and the sums expended according to the receipts produced. And taking it for granted, after so long a practice had obtained, that the law had received a correct interpretation, these accounts have been constantly settled upon the same principles, since my coming into office, until lately. A call from a committee of the House of Representatives, at the last session of Congress, though not embracing the nature of the inquiry you have made, nevertheless led me necessarily to a comparison between the amount contracted for in carrying the mail, and the sums actually paid for the same object, as appeared by the receipts produced, the latter being much greater. This circumstance called my attention specially to the examination of the Post Office laws, which, although silent as to any special use directed to be made of the dupli-

cate contract, required by law to be filed in the Comptroller's office. I was, nevertheless, induced to believe, from a full view of the whole laws, that the mode of settlement which had been so long adopted was erroneous, and I accordingly concluded to consult the Secretary of the Treasury upon the subject, (as is the uniform practice of the Treasury in all cases of doubt, or where a change of any former practice is contemplated,) and we accorded in opinion, that the contracts ought to be the criterion by which to judge of the true amount of the sums for which the General Post Office could properly receive credit on account of money paid for transportation of the mail, although receipts to a greater amount than that called for in the contract might be produced; and instructions were accordingly given to the Fifth Auditor of the Treasury (who reports upon these accounts to my office) to compare the amounts contracted for with what is actually paid, which the receipts will prove, and to make the former, and not the latter, as heretofore, the criterion by which to allow the General Post Office credit for transportation of the mail. No report from the Auditor has yet been made, under this mode of examination; but he has informed me, verbally, that very great difficulties occur in progressing with the settlements according to this mode, from the want of the duplicate contracts, which are absolutely necessary in settling the accounts according to the mode now contemplated, and which are not to be found in the Comptroller's office. The foregoing information has only been recently received, but application will be made for the duplicates to be furnished in all cases where they have not been furnished; and every exertion will be made to progress with the mode of settlement which has been decided upon. But whether we shall be able to carry it into full effect, without some change in the present Post Office laws, I am at present unable to say.

In answer to the question you ask, whether in the change of any contract when more is given, any information is lodged in my office, and, if not, by what authority the Postmaster

General is credited by such expenditures, I have to observe, that I do not know of any information having been lodged in my office, in cases where a change of the terms of the original contract has taken place; and the grounds upon which the Postmaster General has hitherto received credit has been the evidence of his payments made for carrying the mail, according to the receipts which have been produced, predicated upon the principle upon which the accounts of the General Post Office had been settled since its first establishment.—
March 11, 1822.⁷ [98]

JOSEPH ANDERSON, Comptroller of the Treasury,
to ROMULUS M. SAUNDERS, Chairman of Select Committee.

NO. 43

EXPENDITURE CONTROL IN THE WAR DEPARTMENT. REPORT (TUCKER), 1822⁸

To House of Representatives, May 1, 1822

MR. [GEORGE] TUCKER, of Virginia, from the Committee on the Accounts and Expenditures of the War Department, reported:

That they have examined the said accounts and expenditures, and they beg leave to detail the result of their inquiries and examinations, under the several heads of duty prescribed to them by one of the standing rules of the House.

1. Whether the said expenditures are justified by law?

The committee have perceived no expenditure that is unwarranted by law, unless the extra compensation, which is occasionally made to officers of the army for services not within their regular official duties, may be considered to be of that character. It would at first seem that, although an officer in

⁷ American State Papers, *Post Office Department*, pp. 97-98; *Annals of Congress*, Vol. 39: 1725-28; 17 Cong. 1 sess., H. rept. 104. 25 pp. Serial 71.

⁸ American State Papers, *Military Affairs*, Vol. 2, pp. 419-20; 17 Cong. 1 sess., H. rept. 70. 9 pp. Serial 71.

the monthly pay of the Government is not bound to render every portion of his time to the public service, yet that he cannot perform such extra services without neglecting his stated regular duties, and that, most commonly, the time employed in the one is precisely so much taken from the other. But, on the other hand, it is represented to the committee, with some reason, that the practice of employing officers as clerks in the War Department may, in several ways, be advantageous to the public; that, while they are better able, from their more accurate professional and local knowledge, to judge of the propriety and the economy of distant disbursements, they themselves are improved in a species of knowledge which every officer is occasionally required to discharge, and which is indispensable to the offices of quartermaster, paymaster, and commissary; and, at the same time that their services are better done than they would be by an ordinary clerk, the cost to the Government, in their extra compensation, ought to be considerably less.

The committee were also at first inclined to think that the money paid to the Attorney General, under the sanction of the Secretary of War, for an argument in a case submitted to arbitrators, was not warranted by law; but, on a reference to the act of Congress which prescribed the duties of that officer, they find that they clearly do not comprehend the services rendered by him on this occasion, but are limited to the cases of the United States in the Supreme Court, and to giving legal counsel to the President and heads of Departments. The reasons assigned for this disbursement are, that the matter in controversy was of great magnitude, involving several hundred thousand dollars; that able counsel were employed by the opposite party; that no other counsel could be obtained, in whom the agents of the Government had equal confidence; and that the compensation allowed was not greater than is usually paid for similar services. If the practice be deemed objectionable, the committee think that the remedy which will be most consistent with the public interest

will be to extend the duties of the Attorney General by law.

2. Whether the expenditures are supported by vouchers establishing their justness, both as to character and amount?

In those cases in which the rate of the expenditure is fixed by law, such as pay, rations, and the like, the committee have been content with a slight inspection of the accounts. Where there was latitude for more or less economy, either as to quantity or price, they have been more particular in their investigation; but where the disbursements were altogether discretionary, as in the case of contingencies, the committee have examined every voucher with the minutest accuracy. The result of their examination is, that the vouchers, in every instance, agree with the accounts; that, so far as the committee can judge, the items are, with some few exceptions, at the ordinary market rate as to price, and reasonable as to quantity. Among the exceptions, we would mention the commutation allowance to officers employed in extra service, such as surveying Mobile bay, in lieu of transportation, quarters, and fuel, and for making disbursements. This allowance was at the rate of \$1,472 for officers of the rank of captain, according, as it is said, to long established regulations, which the committee think was too large an addition to their regular pay. The character, too, of many small items in the contingent expenses of the War Department, though sanctioned by usage in that and the other Departments, appear to the committee to be highly objectionable, such as the purchase of books by the subordinate officers of the Department, which have no connexion with their clerical or *bureau* duties. The increased expense incurred for carpets, maps, engravings, and newspapers, seems to be liable to a similar objection, though not of the same decided character.

3. Whether the disbursements have been made in conformity with the appropriation laws?

The committee know of no instance of an expenditure out of funds not appropriated therefor, except the \$60,000 expended on Fort Calhoun be of this description. As the money

appropriated for fortifications in 1820 was not specific as to the objects, it was at the discretion of the Executive to expend it on such of the fortifications as it should select. But if the appropriation act of 1821, which appropriated specific sums to the fortifications on the Chesapeake, at the time when the money, of which the above \$60,000 was a part, was believed by the Legislature to be either expended, or about to be expended, in the Gulf of Mexico, be considered to have repealed so much of the act of 1820 as left the destination of the funds discretionary, then the expenditure of the \$60,000 on the fortifications in the Chesapeake was not warranted by law, and ought to have been returned among the unexpended balances of the preceding year. The committee deem it unnecessary to add any thing further on this subject, as the facts of the transfer, and the considerations which induced it, are exhibited to the House in the letter of the Secretary of War of the 19th instant.

4. What further provisions are necessary for the proper application of the public money, and its economical disbursement?

The committee, in the course of their examination, have not been inattentive to this part of their duty. They are persuaded that, under the most vigilant and judicious administration, there will occasionally be some mismanagement, some waste, some peculation; and the most that can be effected is, to lessen the temptations and the facilities to these malversations, to provide for their early detection, and for indemnity to the public when detected. So far as concerns mere accountability, the committee consider the present system as unexceptionable and complete. But so far as regards economy, there has been considerable improvement within a few years, and there is probably room for still more. A brief statement of the course pursued in any branch of military expenditure, that of the Quartermaster's Department, for example, may serve to illustrate the security which the public have against injury and abuse. The accounts for supplies are first transmitted to

the quartermaster general for investigation, who returns them to the quartermaster, if he thinks them palpably wrong, or, in a doubtful case, transmits them to the Third Auditor, with his remarks. They are examined by that officer with reference to the laws and regulations of the War Department, or the contracts that may have been made. If there are any items not embraced either by the regulations or contracts, they are specially referred to the head of the Department for his decision. They are then [419] reported to the Second Comptroller, and, if passed by him, they are returned to the Third Auditor, who enters them on his books, and communicates the same to the party. The evidences of these transactions, through all their details, are carefully preserved, and so methodically arranged as to be readily referred to. If, then, there is any charge that is illegal or extravagant; if any defect in the vouchers, or any delinquency, they can be discovered without difficulty by one at all conversant with accounts.

With a view to economy, the committee have no hesitation in saying that contracts by the Government should be confined to provisions, rations, wood, and such articles as have a stated market price to govern both the contractor and the agent of the Government. But fortifications, and other permanent works, ought always to be built under the direction and superintendence of a capable and responsible public officer. Experience has shown that the contracts are seldom or never executed, unless they are advantageous to the undertaker. Where they are not fulfilled, the contractor often proves insolvent; and when his securities are sufficient, the Government has, in lieu of the work it contracted for, and the money it had advanced, a law-suit that is always tedious and troublesome, and sometimes abortive. Nor can there ever be that security for the goodness of the workmanship or materials, in the case of private contracts, as when the work is conducted by a respectable officer.

The committee would further suggest, that, where large sums are placed in the hands of agents and superintendents of

the Government, they should be required to deposit the same in some convenient and responsible bank, (to be designated by the head of the Department,) in the name of such person, as agent; that the money should be drawn by him in that character; and that he should send weekly or monthly statements of his bank account to the War Department. Though such regulations would not always prevent the agent from using the public money as his own, it would have an evident tendency to lessen the chance of it, and to give early intimation of it when it did happen.

5. Whether any retrenchments can be made in the expenditure of the War Department without detriment to the public service?

The committee addressed a letter to the Secretary of War, on the 4th of March last, to inquire whether the number of clerks in the War Department proper, as well as in the Engineer, Ordnance, and Pay Departments, could not be reduced; to which he replied that the number would not admit of further present reduction. His letter, with its enclosures from the Engineer, Ordnance, Pay, and Quartermaster's Departments, are hereto annexed, and marked A, B, C, D, and E. The present organization of the War Department, by which its business is distributed into distinct *bureaus*, or sub-departments, requires a great number of clerks; but it has been found conducive not only to despatch, regularity, and the accountability of public officers, but also to economy of disbursement. The committee think that it would be a mistaken economy which would, to save the salaries of a few clerks, run the risk of having this important branch of the national administration imperfectly executed. And, although their compensation is somewhat higher than is paid in the neighboring States for similar services, yet it is presumed the public will in general be compensated for their liberality by the greater skill and respectability of its officers. None of the preceding remarks are meant to apply either to the Indian trade or Indian agencies, which have not much occupied the

attention of the committee, as those subjects have been particularly submitted to several different committees of the House.

The committee think that it would check the irregular and improper disbursements to which they have before adverted, if the appropriation for the contingencies of the War Department should be sub-divided into specific sums for printing, stationary, fuel, and miscellanies, (these several items not so materially varying in different years as to produce inconvenience,) as the advantages of specific appropriations are now universally admitted; and they also think that it would further the objects of such a change, if the disbursements were made for all the offices of the War Department by one of its clerks specially appointed for that purpose.

6. Whether any abuses exist in the failure to enforce the payment of moneys due to the United States by public defaulters or others?

Cases of delinquency have of late years been very frequent, and much greater delay than seems necessary has taken place in recovering the money from the defaulters, and in conducting the suits against them to a termination. These suits are now placed under the direction of the Fifth Auditor of the Treasury; but it has been suggested that it would greatly tend to hasten their decision, and thereby to prevent much loss to the United States, if they were placed under the direction and superintendence of the Attorney General, whose duty it should be to correspond with the several district attorneys, direct the institution of suits against delinquents, attend to them throughout their progress, and aid by his counsel in removing such delays and impediments as may occur in their prosecution. These duties, which could be well performed only by a law officer of talents and weight of character, it is thought would be very advantageous to the national Treasury.

The committee will now take occasion to remark, that the duties prescribed to them, to be completely executed, require

much time and labor; and the more, because most of their examinations are made at the offices of the War Department, to avoid the trouble and risk of removing so large a number of accounts and vouchers. They think it highly desirable that the duties should be performed in the early part of the session, that the Legislature may thereby be able to correct abuses, if they exist; and if they do not, to remove unfounded causes of distrust, and restore the public confidence; for, next to the evil of having a wasteful and corrupt Government, is the belief that we have one. The committee think that this early investigation cannot be performed with that minuteness and accuracy which will make it useful, without increasing the number of the committee. Influenced by the preceding considerations, they offer the following resolutions:

Resolved, That the standing rules of this House shall be so amended as that the Committee on the Accounts and Public Expenditures relative to the War Department shall hereafter consist of seven members.

Resolved, That the Committee on the Judiciary shall inquire into the expediency of enlarging the duties of the Attorney General. [420]

NO. 44

CONTROL OF THE DISBURSEMENT OF PUBLIC MONEY. DEBATE, 1822^o

House of Representatives, December 17, 1822

Mr. [THOMAS] NEWTON, of Virginia, said, . . . The present system had been in operation for two and thirty years, and had been amended, from time to time, until it had been made such as to compel those who had the disbursement of public money to account for it promptly. . . . [391] Mr. N. was satisfied, he said, . . . that the accounting officers are ex-

^o *Annals of Congress*, Vol. 40: 391-93. See Act of Jan. 31, 1823, 3 Stat. L., 723.

tremely vigilant in the discharge of their duty; that all those into whose hands the public money goes, are called strictly to account for its expenditure. . . .

Mr. [BURWELL] BASSETT [of Virginia] said that to the whole of the objections adduced by his colleague to this bill, it would be a sufficient answer, perhaps, that the [392] present practice in the Government approached as nearly as possible to the system proposed in this bill . . . what was now practice in the Government could not be worse if it were made law. . . . [393]

NO. 45

PROVISION FOR THE PROPER APPLICATION OF
THE MONEYS APPROPRIATED FOR THE CON-
TINGENT EXPENSES OF THE NAVY.
REPORT (EDWARDS), 1825¹⁰

To House of Representatives, January 28, 1825

Mr. [SAMUEL] EDWARDS, of Pennsylvania, from the committee on so much of the public accounts and expenditures as relate to the Department of the Navy, who were instructed, . . . “to inquire, and report, whether the [lump] sum of \$220,000, appropriated at the last session of Congress [Act of March 3, 1823, 3 Stat. L., 763, 764], for the contingent expenses of the naval service, has been expended according to the existing acts of Congress; . . .” reported:

. . . The best security against the misapplication of the public money will be found in the integrity and vigilance of the officer who has the examination and settlement of the accounts.

The funds appropriated for the contingent expenses of the Navy Department have, at all times, been liable to abuses. This arises not only from the large amount of the sums usu-

¹⁰ American State Papers, *Naval Affairs*, Vol. 1, pp. 1050-51; 18 Cong. 1 sess., H. rept. 45. 7 pp. Serial 105.

ally appropriated for that purpose, but also from the difficulty of specifying the objects to which such appropriations are to be applied. To specify every object to which it is to be applied, seems to be impossible. A proper confidence must be reposed in the officer who has the disbursement of the money; this is implied from the character of the fund, which provides, in some respects, for cases that are unknown, and not for specified objects. Accidents may occur, and unforeseen cases arise in the service, for which allowances must be made; and it would be unwise, in every case, to restrain the officer to the letter of the law. A discretionary power must necessarily reside in the head of the Department, and much must depend upon the vigilance of the officer whose immediate duty it is to superintend the disbursement of the money, and the settlement of the accounts. As little latitude, however, should be allowed to the discretion of the officer as is consistent with the good of the service, and every precaution used to render the objects of expenditure as specific and determinate as possible.

In regard to the appropriation referred to in the resolution, the committee have discovered a number of instances of the misapplication of this fund. They do not think it necessary to go into an enumeration of all the cases in which it has been misapplied, but deem it sufficient to state a few instances, that the House may be able to decide whether some provision ought not to be made to provide more perfectly for the proper application of the moneys appropriated for the contingent expenses of the naval service. Their attention has been directed to such accounts as were of the most doubtful character, and that embraced every description of claims upon the Department, with a view to ascertain whether this fund had not been applied to objects not designed to be provided for by the appropriation laws.

Labor, in the different navy yards, constitutes a charge of considerable amount, which has been paid out of this fund. Payment for the ordinary description of laborers employed

in the navy yards is provided for in other appropriations. . . . Upon this object, they [the committee] think the contingent fund has been misapplied.

A considerable amount has been paid for candles, . . . more properly, applicable to other appropriations.

The description of travelling expenses, and the extra allowances, which have been paid out of the fund, are not authorized by any existing law, but depend for their justification upon the usage of the Department. . . . [1050] There are many other cases where the disbursements are not made in conformity with the provisions of any existing law, but are made in pursuance of the established regulations of the Department. . . . For these cases, it would be difficult to prescribe any uniform rule; they had better, therefore, be left to depend upon the usage of the Department.

. . . A very considerable charge upon the contingent fund has arisen from the frequent occurrence of courts-martial and courts of inquiry. . . . The committee are of opinion that the compensation allowed to Judge Advocates has, in many instances, been extravagant in amount. . . . The committee, therefore, think it advisable, that, in future cases, the compensation should be established by law, . . .

. . . To guard against future misapplications of this fund seems to be desirable; and the committee know of no better way to effect this object, than to limit the objects of expenditure as far as it is practicable to do. . . . [1051]

SETTLEMENT OF ACCOUNTS IN THE NAVY DEPARTMENT. REPORTS (SOUTHARD), 1825-28

To Congress, December 6, 1825

One of the most serious inconveniences under which the Department labors in the administration of the concerns of the navy, is the *time* at which the appropriation bills are passed by Congress. They are passed, in the short session, late in February, and, in the long session, generally in May, so that, during a period of from one-fourth to a third of the year, the Department is left with funds previously appropriated, and must, of necessity, permit expenditures not yet legally authorized. Another evil results: It is the will of Congress often to change the wording and character of the appropriation, and, after the bill is passed, it is a month or six weeks before the instructions under the new appropriation can be given to and acted upon by the agents. It consequently follows, that, for nearly one-half of the year, the Department acts in perfect ignorance of the law under which it is bound to act. Expenditures are made, under one form, when they ought to have been made under another. The law is, necessarily, not complied with, because it is passed after the act is performed. Infinite confusion is created in settling the accounts, and it is impossible for any talent or any industry ever to have them rendered and settled, in that plain and simple manner in which they ought always to be exhibited, and in which they must be exhibited if any efficient control is to be had by Congress or the Department, over that branch of the service. The accounting officers do all that capacity and labor can accomplish, but they cannot settle an account according to the forms of a law not yet in existence; nor can they, every year, alter the items, open new books, meet the errors resulting from this cause, in accounts transmitted from a distance, and

yet settle the accounts of the year within the year. A remedy might be found in two circumstances:

1st. An earlier passage of the appropriation bill, or by making the year end on the 1st April, and always passing the bills before that day. If the latter mode be taken, the first appropriation should be for fifteen or eighteen months.

2d. By reducing the number of heads, under which the appropriation for the service is made, and continuing those heads permanently.

It would be more practicable, under this arrangement, than it now is, to make the investigation and preserve a rigid accountability.

The appropriation, so far as the contingent [expense] is concerned, has been, within the two last years, changed, and the sum appropriated, ordered to be expended only on the contingencies of the year in which the bills were passed [Act of April 29, 1824, 4 Stat. L., 20].

Two difficulties have arisen, which it is my duty to mention:

1st. Much of the year had expired before the law was passed, and the agents and pursers informed of it; they, of course, had, until that time, paid the money and transmitted the accounts, under the old forms. An effort has been made to correct this unavoidable error, and to settle the accounts by the principle laid down in the law, but it has proved very ineffectual. It is next to impossible to retrace the items, and place them under their proper heads; and, where money has been paid, on debts really due by the government, for the preceding years, it could not be recovered.

In the second place, many of our officers are on foreign stations, and at such a distance from the seat of government that their claims in preceding years could not be transmitted for settlement, until after the passage of the existing law, and therefore, when presented, payment was denied to them. The Department had no right to use the appropriation for the

satisfaction of any claims which originated before the beginning of the year.

Yet the claims were just; the government owed the money; the debt was honestly and fairly contracted under the law, as existing and known to the Department and officer.¹¹

SAMUEL L. SOUTHARD, Secretary of the Navy.

To Congress, December 4, 1827

The form of the estimates is such as the decisions of Congress require. There are one or two points in reference to them, however, which it is proper again to notice, inasmuch as they continue to operate with severity, and occasion not only inconvenience but loss of public money.

1st. The estimates and appropriations are made for the year commencing and ending on the first January. The appropriation laws are never passed until after that period. The Department is, therefore, left, sometimes for six weeks or two months, without funds for the use of the navy. Were our ships, officers, and men within the country, this circumstance, although very injurious, would be less felt; but as they are absent, at great distances, it creates serious inconvenience, and sometimes loss of both credit and money. They must have funds for their support, and must therefore procure them, if they can, by drawing bills upon the Department, and these are sometimes protested for want of the means of payment. The consequences are too palpable to require comment. The remedy is simple: to make the appropriation, in the first instance, for a year and a quarter, and let those for subsequent years commence on the 1st April. Should this plan be approved and adopted by Congress, an addition of one-fourth must be made to the estimates for the quarter ending on the 1st April, 1829. All subsequent appropriations would be for a year only.

2d. Specific sums are appropriated for specific objects,

¹¹ American State Papers, *Naval Affairs*, Vol. 2, p. 101; *Register of Debates*, Vol. 2. Pt. 2, Appendix, pp. 14-15.

which is undoubtedly the best and safest mode; but the form in which it is done creates difficulty. The estimates are made by the Navy Commissioners, with all the skill and accuracy which experience and intelligence can give, and the amount which will probably be wanted for each object of pay, subsistence, &c., is stated. But it is impossible to estimate these things with the precision which can readily be secured, where the expenditure is to be made in our own country, and under the more immediate control of the Department. Hence it is found that, although the appropriation is sufficient for the general object, there is sometimes a surplus under one head and a deficiency under another. Aware that this difficulty would occur, Congress, by the laws of 3d March, 1809 [2 Stat. L., 535], and 1st May, 1820 [3 Stat. L., 567], authorized the President to make transfers, under a few enumerated items. These items have been since changed in the appropriation laws, and the power of transfer thereby rendered useless. This inconvenience is increased by the fact that a large portion of the money is drawn for and expended for pursers and navy agents abroad, who are often unavoidably ignorant of the terms of the law under which the expenditures is to be made; and therefore draw and expend the money under one item, when they should do it under another. As an example: they draw, under pay of [52] the navy, whatever is to be paid, to the officers and men, although a large portion of it is for their provisions and subsistence, and is estimated for under those heads. The head of pay is consequently exhausted before the end of the year; that of provisions is not: so of other items—and there is no remedy. The President cannot make a transfer, founded on the knowledge that this unavoidable error has been committed, nor can the accounting officer, from the absence of the agent, correct it in season in the settlement of his accounts.

It is respectfully submitted that a remedy may be found, without hazarding the proper expenditures of public money, by one of two modes: 1st. Authorizing the President to make,

in writing, transfers from and to certain enumerated items, so as to effect the object which Congress had in passing the laws of 3d March, 1809, and 1st May, 1820: or, 2d. By requiring the estimates to be made, as they now are, for each specific item, so that their propriety can be readily tested by Congress, but embracing the amount of several of them under one head, in the appropriation bills. The annual examination, by the committee of Congress, into the expenditures of the navy, would still be made with equal ease, and afford equal security.

There is another evil which duty requires should be brought to your notice. By a rigid enforcement of the law, the disbursing officers within the United States are compelled to make periodical settlements; and, so far as they expend the public money, the accounting departments can furnish statements, showing whether it has been properly expended, and whether the appropriations have been sufficient for the objects. But this is not the case with the large number of disbursing officers who are out of the United States, and who are often absent two or three years, at the distance of thousands of miles. In their absence their accounts cannot be settled, nor can it be known whether they have expended the money properly, or the appropriations of the year are exhausted. From the same, and other causes, many claims upon the Department, by individuals, are not, and cannot be, presented within the year. It necessarily results that when the accounts of a particular year are settled, there are sometimes deficiencies and sometimes a surplus in those items which are appropriated for certain objects, "and for no other object or purpose whatever." Confusion and want of accuracy, and sometimes want of means for the payment of claims, are the consequences, creating both public and private inconvenience.

The Secretary of the Navy has heretofore proposed to the Committee of Ways and Means, and now respectfully suggests, two plans to obviate the inconvenience. One is, an appropriation for arrearages for the service generally, as was

done last year for the navy, and has been done for many years in the War Department. To this end an item of \$15,000 has been added in the estimates. The other is, to incorporate into the appropriation bill a provision, that the balances of the several items, which remain at the end of the year, constitute an aggregate fund for the payment of such arrearages in the naval service as may be due and unsatisfied at that time.

This provision, it is believed, would be sufficient to enable the Department to meet the calls, public and private, upon the service; save great vexation to individuals; secure more precision and certainty in the settlement of accounts, and, at the end of the limitation of the two years required by law, the balance would be passed, as it now is, to the surplus fund.¹²
[53]

SAMUEL L. SOUTHARD, Secretary of the Navy.

To Congress, December 2, 1828

. . . In the settlement of the accounts, it often occurs that disbursing officers, and others, have claims resulting from the depreciation of Treasury notes during the last war. These claims generally arise from the notes having been placed in their hands as funds to be disbursed, and having been charged to them at their nominal value. When called to disburse them, it could, in many cases, be done only at a reduced amount. They were thus charged by the government with one sum, when, in reality, for all purposes of paying claims, making purchases, &c., they had received another. When their accounts have been presented for settlement, the Department has not felt itself authorized to make the allowances which the plainest evidence proved to be just. They thus stand as debtors on the books, and have been, I believe, in some instances published as defaulters. The records are in this mode encumbered, accounts remain unsettled, and inconvenience is created. Congress have passed acts, declaring that salaries or

¹² American State Papers, *Naval Affairs*, Vol. 3, pp. 52-53; *Register of Debates*, Vol. 4. Pt. 2: 2809-10.

compensations should not be withheld when the balances against individuals were caused solely by the depreciation of Treasury notes; which has enabled those so situated to receive their salaries or compensations, and thus far afforded relief to them; but it does not relieve the accounting office from the difficulty created by this circumstance. Could authority be given, in some form, to adjust these claims, much benefit would result.

The organization of the disbursing department may be considered good, except, perhaps, in some matters relating to the pursers, in which a change would be useful. These, depending principally on the rules and regulations of the navy, ought to be remedied when they are revised.¹³

SAMUEL L. SOUTHARD, Secretary of the Navy.

NO. 47

APPOINTMENT OF ACCOUNTING OFFICERS OF
THE TREASURY. DEBATE, 1828¹⁴

House of Representatives, March 22, 1828

Mr. John S. BARBOUR, of Virginia, moved the consideration of the following resolution, offered by him on the 12th instant.

“Resolved, That provision ought to be made for excluding the agency of the President in appointing the principal disbursing and accounting officers of the Treasury Department, and that the power of appointing them should be vested in Congress.”

The motion for a reconsideration having prevailed, Mr. Barbour modified his resolution, so as to read as follows:

1. *Resolved*, That provision ought to be made for excluding the agency of the President in the appointment of the

¹³ American State Papers, *Naval Affairs*, Vol. 3, p. 213; *Register of Debates*, Vol. 5, Appendix, pp. 14-15.

¹⁴ *Register of Debates*, Vol. 4, Pt. 2: 1954-58, 1963-67, 1971-78.

principal disbursing and accounting officers of the Treasury Department, and that, to this end, the Constitution of the U. States should be amended.

2. *Resolved*, That so much of any existing law as empowers the President to remove at pleasure, and without the concurrence of the Senate, the principal disbursing and accounting officers of the Treasury, ought to be repealed.

Mr. J. S. BARBOUR said:—My purpose, Mr. Speaker, in bringing this subject to the view of the House, is to invite its attention to the propriety of breaking up the existing dependency of the principal officers of the Treasury on the Chief Executive Magistrate. The purity of these functionaries will be best preserved by putting them as far apart as practicable. Placing them in contact, is, in itself, a measure full of danger to the wholesome principle of official responsibility. But this absolute dependence of the one on the other is totally subversive of those reciprocal checks and restraints which constitute the surest pledges for fidelity to duty. No error was of more prevailing influence, at the period when the constitution was adopted, than the imagined weakness of the Executive Department. Time has not only dispelled all apprehension of its feebleness in action, but has also confirmed to us its native vigour and its inherent tendency to draw to itself the constitutional powers of co-ordinate departments. In the outset of our new plans of political institution, there was a pervading sentiment of jealousy in constituting executive power. This was the natural effect of causes in which our revolution and dismemberment from Great Britain originated. And these operated with irresistible dominion in those forms of State government which were established soon after that event. In a very few years, however, this distrust gave way to opposite inclinations, and we passed from one extreme to the other. And hence, in our existing constitution, the fruits of the change are manifest and alarming. The appointing power is among the richest endowments of executive prerogative. It brings within the active and controlling sphere of its

influence the best and the worst passions of human nature. In its original grant this prerogative was sufficiently large and authoritative; yet in the practical operations of the system it has been greatly augmented. In the commencement, the Senate was relied upon as a safeguard against abuse. But the Legislature having granted to the executive head the sole power of displacing all officers, such grant removes this safeguard, by conferring on the President, singly, an authority of unlimited influence. If the constitutional power to appoint be a rich and most attractive prerogative, the legal power of displacing at pleasure must also be considered a most efficient and subduing agency. The first will act upon the passions of pride, avarice and ambition; but in the operation of the last, there will be superadded to these powerful incitements, mortification, and fear of shame and disgrace, and the dreaded penalties, perhaps, of unmerited odium. The hand that grasps these powers, holds uncontrolled dominion over these dependents of Executive will, by the moral sway of hope and fear, reward and punishment. Is such depository safe? Is it necessary to the great objects of constitutional establishment? The obligations of executive duty imposed upon the President, call for large grants of power, appropriate to the just ends of their fulfilment. The appointing power is most extensive. It was necessary to lodge it somewhere; and, in its general exercise, I would not disturb it. Not because it is an authority unassociated with great means of doing great mischief, but because it is indissolubly connected with the high responsibilities of the executive trust; and the power to do wrong is an essential and integral part of the ability to do right. But, Mr. Speaker, when we contemplate this power to appoint and displace at will, in association with [1955] the peculiar situation and duties of the principal accounting and disbursing officers of the Treasury, new questions press themselves into the inquiry; and (more especially in estimating its relation to the various allotments of constitutional power) other considerations claim our serious attention. The public

treasure is placed in the keeping and under the exclusive control of Congress. It is entrusted, in an eminent degree, to the providence and thrift of this House: "No money shall be drawn from the Treasury, but in consequence of appropriations made by law." Moreover, the power of Congress itself is limited, in making appropriations for the army, for the term of two years, and it is further provided by our constitutional code, "that all bills for raising revenue shall originate in the House of Representatives." More explicit enactments, conferring and limiting authority, could not have been invented. The power of raising revenue and directing the expenditure of money, is a high representative and legislative trust. Among our correlative duties, is the stewardship of its disbursement. To ensure fidelity, and secure accountability, the agents exercising this derivative trust of expending the public funds, should owe all responsibility to that branch of the government constitutionally clothed with the right of appropriation, and the absolute power of taxation. If abuse or corruption now exist, those who hold the purse-strings are without the means of detection or punishment. The persons engaged in the practical agency of disbursement, should not be dependent on the abusing power. Fidelity in office is most certain, when the passion of self-interest is made to coincide with integrity and rectitude. In what does virtue itself consist, but a compromise of opposite motives and inducements? I speak of no particular administration, of no particular man, or class of men—but of human nature, comprehensively. Does any man live, untainted by original sin? How can we rationally expect to detect fraud in public disbursement, or malfeasance in any part of the Treasury establishment, so long as the disbursing and accounting officers, (for such from the nature of things are the only efficient witnesses of public delinquency) are dependent for their official existence upon the very power that is interested in concealing its own corrupt conduct? Does the general and intangible responsibility of the Chief Magistrate afford ade-

quate security against this mischief? Supposing such dangers should impend—I perceive under our existing system no effectual remedy. On the contrary, I know of no political error more prevalent in its influence, or more detrimental to the public welfare, than this vague notion of responsibility. It constitutes neither the distinguishing nor the conservative principle of our system. Responsibility had been seen, felt, and illustrated, in all the forms of government which preceded ours. Even in the sternest despotisms, it was the sword of Damocles suspended over the head of Tyranny. In our parent country, in the worst age of the [reign] of her worst princes, it brought the head of one of the Stuarts to the block, and drove another from the throne. Sir, I will repeat, what I said upon another occasion, that limitation of power, defined in express written grant, is not only the great and saving principle of our Constitution, but it is the prominent development in the political discovery of the age. If we have any sheet-anchor for the national ship, it is this. Responsibility, commonly inoperative and easily evaded, looks to the punishment of offences only. Limitation of power rests on the surer basis of preventive justice; controls the public functionary, arrests the mad career of profligate ambition, and checks the centripetal tendency of the system.

The subdivision and restrictions of granted power, first in being parcelled out among our State and confederate governments, and next distributed into the three co-ordinate departments of each, with express limitations upon all, constitute the improved and prominent invention of this [1956] age. To these, responsibility in the agency which administers our institutions, may be added. Yet its action is but secondary. Or, if I may employ a word just used by my worthy colleague, [Mr. Randolph,]¹⁵ it is ancillary to a greater, primary restraint. It is the handmaid, only, of a more efficient conservative of popular liberty. In practice, (upon a large part of the expenditures of this government,) the restraining and super-

¹⁵ Brackets in original text.

ving power of Congress is lost. This is not a transient evil of the hour, but one that has been constantly expanding, until its shade is now cast over most of the objects for which public treasure is disbursed. Enormous as the patronage of the Executive undoubtedly is, its prerogative is yet more serious and alarming. The practical operation of things, at present, is to substitute, to a vast extent, the President's prerogative, as a supplement to the legislative will. It puts aside the excellent provision of the Constitution, which exacts appropriations by law for all money drawn from the Treasury, and substitutes Executive discretion as the only guide and warrant of expenditure. Sir, the first appropriation bill that ever passed Congress, was for \$639,000; that for the last year, exclusive of the public debt, was somewhat less than thirteen millions. In the first three years of the present Constitution, the consolidated revenues of the Treasury were not above four millions and a half of dollars. Three years of the receipts of the present times would equal seventy-five millions. Few governments have held possession of large amounts in treasure, without finding adequate means and purposes for disbursing it. And the suggestion is as applicable to ours, as to any other government. But our greatest danger appears to result from the heavy appropriations for contingencies, and other undefined objects of public expenditure, wherein the unrestricted discretion of the Executive exerts an absolute dominion. These have been creeping upon us, year after year, till at length the mind is startled at the enormity of the sum. Mr. Jefferson foresaw, and warned Congress, that this might become the matrix of unnumbered ills, and entreated that specific appropriations might always be made. In the first year of his administration, reform was difficult. There was a government to re-organize, and an army to disband; foreign relations to adjust upon new developments of public opinion; reform and economy to supersede existing prodigality and abuse. Such and so many objects required a large investment of discretionary authority. Yet, even in this embarrassed state

of public affairs, and environed by requisitions that seemed to plead for enlarged Executive discretion, the sum that year appropriated for contingencies, did not exceed sixty thousand dollars, and the sum total that could be reached by the greatest stretch of this authority, was about one hundred and twenty thousand dollars. In the following year, when sagacity, enlightened by experience, enabled him to bring into practice the desired virtues of economy and reform, this class of appropriations was reduced to about twenty thousand dollars: and in the year succeeding, pressing his principles still further into useful service, the amount of the contingent funds a little exceeded fifteen thousand dollars: I have with some care, Mr. Speaker, run through the appropriation bills for the service of the last year, and collating these with such information as I was able to extract from the Treasury Department, and having thereupon made an estimate of the whole amount of money subject to the untrammelled will of the President, I greatly err if this amount be not two millions of dollars. The alarming magnitude of such a trust appears imminently hazardous to the morality and safety of our institutions. It is, in effect, abrogating that wholesome check of the Constitution which prohibits the drawing of any money from the Treasury, except by virtue of appropriation made by law. It invests the Executive with a dangerous authority over that trust, which the constitution for wise purposes [1957] confided to Congress. It makes a mockery of the strongest barrier against Executive influence, and the encroachment of a single magistrate; and in so far removing the vigilant guardianship of the representative body, dispenses with a large portion of its appropriate responsibility. Sir, in a country so extensive and extending as ours, with great and growing interests, continually becoming more diversified, an immense trust may perhaps be unavoidable. Legal specifications more precise may be impracticable. But if this be so, surely it offers an irrepressible motive with us for some suitable measure of reform and change. If so great a

trust be indispensable, in proportion to its magnitude and necessity should be the care and vigilance with which the Legislature ought to guard it from every abuse. Let us put around our Treasury sentinels for its security, actuated by such inducements to fidelity as may promise a proper result. Let us connect the interests of the man we trust with his powers and his duties. Is the case so at present? Are not your accounting and disbursing agents so dependent upon the good will of the Chief Magistrate, that they are brought necessarily to stand in conflict with fidelity to the people? It is vain theory to hope that written forms of duty will prevail against the impulses of self preservation. Money is the great lever of ambition: and when did ambition forbear, in operating upon frailty of human nature, to use the means best adapted to its ends? Over such delicate trusts can we plant too many guards?

Mr. [ICHABOD] BARTLETT [of New Hampshire] observed, that, when this resolution had, on a former day, been brought into the House, its adoption had been urged on the ground that the President of the United States had too great power over the disbursement of the public money; and the mover had, among other things, stated, that the contingent expenses had swelled from \$120,000, the amount at which it stood in the first quarter of Mr. Jefferson's administration, to \$1,110,000. Mr. B. said, that his object was not to oppose a resolution designed to fortify the accountability of the Executive branch of the Government, but, to contradict what he considered an erroneous statement. If the gentleman would give himself the trouble of looking back to the Treasury Reports for the year 1802, he would find that the total expenditure for that year was 13 millions. Out of this, 10 millions went to discharge the public debt. The balance of 3 millions was at the discretion of the President of the United States; for, until 1817, the President had the power of transferring appropriations, though specifically made, from one object to another. It was true, that this evil was partially

remedied in 1809 [Act of Mar. 3, 1809, 2 Stat. L., 535], but not completely until 1817 [Act of Mar. 3, 1817, 3 Stat. L., 366]. In 1802 the appropriation was general in its form.

* * * *

March 24, 1828

[Mr. Bartlett]. It appeared to have been the purpose of the resolution, as originally introduced, . . . to take from the President of the U. States his discretionary power over the public money; and the reason which had been then urged in favour of it was, that the amount of the fund to which his discretion extended, had been increasing from 1802 to the present time, and had now reached a very alarming height, and it was insisted that the House ought to have the control of this fund, and not the Executive. But, said Mr. B., the House has now the entire control of this money, and the only question is, whether they shall exercise it directly, or shall confide the control of it to its agents. The Executive officers have not a shilling of it till we give it to them, and they have only so much as we may think fit to allow them. In remarking on the resolution, I adverted to the appropriation bills passed by this House, as containing one of the most interesting parts of our political history; and as indicating the gradual progress of the powers of the Government, and the reforms which from time to time had been introduced in their exercise. The argument of the gentleman from Virginia, as I understood him, was founded on this statement, that in 1802, the contingent fund, placed at the discretion of the President, had been only \$120,000, but had now increased to \$1,110,000. I think that this statement was inaccurate in its results; that it makes the amount in the time of Mr. Jefferson much too small; for in estimating the contingent fund at his disposal we are to take the whole amount of the appropriations, with the sole exception of the fund applied to the public debt. The practice till that time had been, and then was, to make the appropriations general; to give one round sum for the Navy,

another for the Army, another for Foreign Intercourse, &c. &c. nor was the practice discontinued in the succeeding year, for we find, in 1803, a single appropriation of two millions of dollars, for extraordinary expenses of Foreign Intercourse; and from that time till [1963] 1809 there was no act which required specific appropriations, separate accounts, and separate warrants, and which forbade the transfer of an appropriation from one object to another. The act of 1809 made these provisions, but contained an exception, applying to that portion of the year when Congress was not in session. It was on the last day of Mr. Madison's administration, on the 3d March, 1817, that the act was passed, which extended the prohibition of such transfers to the recess of Congress. On the basis of these facts, I found my assertion, that the discretionary power of the Executive, extended, during Mr. Jefferson's administration, to the whole amount of appropriations, excepting the Sinking Fund. Now, the amount of appropriations in 1802 was about thirteen millions, and the sum applied to the Public Debt was nine millions and a half, leaving a balance of three millions and about seven hundred thousand dollars as the gross sum over which Mr. Jefferson, as President, had discretionary power.

* * * *

In 1803, the appropriation for the Navy was \$100,000, and, for Foreign Intercourse, \$2,000,000. Now, the gentleman from Virginia, while he put the contingent expenses under Mr. Jefferson at no more than \$120,000, told us that, at present, they amounted to \$1,110,000. How he arrives at this amount I am unable to say. After the most careful examination of the Appropriation Bills, I have been unable to make the amount more than \$81,139. I may have passed over some items which ought to have been taken into the account. [Here Mr. B. went into an enumeration of items, amounting, in the whole, to \$237,439, exclusive of the contingencies of the House of Representatives.]¹⁶ The estimates

¹⁶ Brackets in original text.

of the present year amount to a still less sum. The same items for 1827 being only \$195,257. He then compared this amount with that in the first year of Mr. Monroe's Presidency; in which the contingencies amounted to \$1,365,305, without the sum appropriated for the Barbary Intercourse, and came to this result; that the contingent fund in 1827, was \$321,274 less than in 1802; that it was \$43,187 less this year than the last; and that it was \$1,170,050 less than in 1818.

If this was an alarming *increase* in the contingent expenses of the Government, he must confess that he did not know what increase meant. So far from an increase, there had been a continual diminution. Congress had been constantly reducing, from time to time, the amount of money left to Executive discretion. Mr. B. said, that in all these calculations, he had purposely omitted the contingent expenses of the House of Representatives. He would now state the comparative amounts on that item, from which it would appear that this House is not a very safe depository for a discretionary power over contingent expenses; yet the result of the gentleman's resolution seemed intended to lead to such a depository for the whole discretionary power at present vested in the Executive. The history of the contingent fund of this House would show, that, while other Departments of the Government have constantly had their contingent expenses diminished, those of this House had doubled—nay, almost trebled—since 1818. In that year, the contingent fund amounted to \$37,000—for 1828, the appropriation was \$106,203. Such is the estimate, said Mr. B., furnished by our own officers: nor is it my intention to cast the least censure upon them, as I have no doubt it has been made up with the greatest care, and in a proper and prudent manner. Yet, the gentleman from Virginia would persuade the House that we alone constitute the immaculate, safe, and trust-worthy branch of the Government. Judging from the comparison I have just made, I must confess that, if there is to be any change, I had rather take the discretionary power from this House and give it to

the Executive, than to take it from the Executive to give it to this House.

Still, I shall not oppose the commitment of the gentleman's resolution. Let it go to a committee, and let its propriety be considered. I have merely collected these facts, in order to prevent any false alarms. I love to look into such matters. If there is any unsound place in the Government, I hope gentlemen will be able to hit upon it: and I am myself as willing as any one to contribute all I can to the advancement of sound and discreet economy in every part of our system.

Mr. [HENRY R.] STORRS [of New York] said, he had not risen to go into a discussion of the propriety of the resolution. It seemed to have been the view of the gentleman from Virginia, when he first offered it, to confer the power of the appointment and removal of the disbursing officers of the Treasury on this House. He had since modified the resolution. But, in its present form, it did not seem to provide any redress for the evil of which it complained. It may, said Mr. S. be a problem yet to be solved, whether the discretionary power of appointment may be more safely made in a popular branch of the Government than in the Executive branch. Now, I think that history has plainly shewn the same tendency on the part of the popular branch, in all Governments, gradually to draw to themselves the whole power of the Government. We have two memorable instances which may serve for our warning. In the times of Cromwell, all power was arrogated by the Parliament, and at length, by a single branch of that Parliament, the House of Commons, and at last, by a mere fraction of that House. They monopolised the whole appointing power; they placed and removed all the officers of the Government: and in what did it end? In their own dissolution, and the establishment of a Dictator. The same thing happened in France. The States General evinced the same disposition—they proceeded to vote themselves a perpetual body; they then gradually assumed all the powers of Government, and, leading the nation through a

perpetually changing succession of Directories, Councils, and Consuls, placed it at last at the sovereign disposal of an Emperor. Now, sir, power is the same thing every where, in all nations, and at all times; and the grasping of it by the popular branch of the Government is as unsafe here as it is elsewhere. If the intention of the gentleman is to keep this House pure and immaculate, let us keep this appointing power over the treasury out of the House. It is as unreasonable to have the treasury officers appointed here, as to have the executive elected here. If it is productive of so much evil to choose a President by this House, how much more monstrous will it be to appoint the officers of Government here? Why, sir, in a practical point of view, it will prove to be much the same as if you would pour the whole treasury down upon this floor, and let us have a general scramble for it. If the appropriations are too high, who made them so? Surely it was Congress who voted the appropriation bills, and not the Executive. Have we always done this with our eyes shut? Can it be true that every Committee of Ways and Means that has ever sat in this House has failed in the faithful discharge of its duty till our day? And have we too been in the same fault to this day? Shall we first place money and patronage at the discretion of the Executive, and then complain that it is in his hands? We have examined the appropriation bills, and fully discussed them before they were passed, and if there is any blame as to their amount, the blame is ours.

* * * *

Mr. BARBOUR now said, that he would meet the statements of the gentleman from New-York, before he replied to those of the gentleman from New-Hampshire. The gentleman appeared to be an adept in the art of raising shadows for the purpose of afterwards combating them. The resolution was couched in the broadest and most general terms, and contained no proposal to invest the House of Representatives with that power of appointment which the gentleman appeared so much to dread. He had purposely worded it in such

a manner as to involve nothing of this kind, and he did hope that the gentleman from New-York himself would have been willing to have assisted its passage. The gentleman, said Mr. B. talks about the hazard of confiding any part of the appointing power to this House, on account of the tendency of all popular bodies to draw all the powers of the Government to themselves. Sir, this remark is as old at least as the foundation of this Government, and had often been advanced before that time; but the history of this country, instead of establishing its truth, puts it down most effectually. If, to draw political action to the popular branch be the attribute of a Republican Government—and if, to concentrate it in the Executive be the attribute of that which is monarchical, then it is certain that the tendencies of this Government are monarchical, and not republican; for its practical operation is to draw to the Executive all the deliberative will, and to leave to the Representative branch a mere Executive agency. When I first offered my resolution, I intended to have accompanied it only with a few general remarks—but the arguments which have been employed by the gentleman from New-Hampshire, and the gentleman from New-York, are of such a kind as obliges me to meet them. The gentleman from New-Hampshire was pleased to tell me, that, if I had taken the pains to look into the documents, I should have detected a number of errors in my statement, which he attempted to point out; and he was further pleased to speak of the resolution I had offered as intended to produce a deceptive alarm. Sir, I shall not commit the indecorum of replying to remarks of this description, because, were I to do so, I might, very probably, be guilty of a violation of order. Instead of replying to the observations of the gentleman, I will take the liberty of counselling him to correct me rather by his example than by a letter of instructions. The gentleman was wrong in the outset, and wrong throughout: What, sir, with the Constitution staring him in his face, which declares that no money shall be drawn from the treasury but according to law, to tell this House that the

President ever had the power to transfer an appropriation of money made for one object, to expend it upon another! Why, sir, it is against common sense. The President had not, and could not have, any such power, till the act of 1809; and that act, which the gentleman considers as a restriction, is, on the contrary, the only grant of the power. Advert, for a moment, to the circumstances which preceded that act. Prior to Mr. Jefferson's administration, all appropriations of the public money had been made in loose and general terms. That eminent patriot saw with apprehension, the omens of mischief which surrounded this part of the action of the Government, and, in his first message, he invited Congress to limit the discretionary power of the Executive by making the appropriations specific. Such was his practice, and such was the model which was set under that truly republican administration. On the 3d of March, 1809, it was, that he put his hand to the law which allowed the transfer of specific appropriations during the recess of Congress. That law grants the power, and if it was granted by law, then it did not exist before. The act of 1809, in conferring the power, limits its exercise. It confines it to the Navy and War Departments alone. Its terms may, perhaps, be more general; but this was the intention of the act. The limitation touches singly the expenditure of public money through the Navy and War Departments. Whether any abuses took place under this act, I cannot say. Sir, it is among the other debts of gratitude which this country owes to the distinguished officer¹⁷ who now presides in the other House of Congress, that he had the sagacity and the firmness to move such a restriction upon this floor, and the ability to carry it successfully through the House, against a powerful combination who were opposed to it. The act of May [1], 1820 [3 Stat. L., 567], contains a yet more express limitation, but that also has some exceptions. [1967]

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¹⁷ John C. Calhoun. See No. 37.

March 25, 1828

Mr. BARBOUR said, the gentleman from New York demands a moment's attention, before I proceed to reply to the gentleman from New Hampshire. This gentleman . . . seems to possess a creative faculty for raising shadows, and to employ it, that he may combat them.

The resolutions now submitted, indicate an existing evil, but they do not point out the remedy. In that task, alike difficult and important, I hope for all the aid which the wisdom of the House can give me. And this fiction of the gentleman's fancy is pressed upon us with a manner of apparent earnestness. He affects to think that the action of our system tends to augment the power of this House. Such suggestions are at least as old as our present form of government. For it was contemporaneously asserted that the tendency of Republics is to augment the power of the popular branch of the government, at the expense of the co-ordinate departments; but of Monarchies to enlarge the executive allotments of power. If such be the tendency and test of political institutions, I fear that the general principle of monarchy, rather than of democracy, is implanted in our own. If this test is to be found in the results, who can fail to remark the ample and growing influence of the executive, while that of its co-ordinate branches is progressively diminishing. Can any rational observer deny that the creation and action of the executive are the pivots upon which our general system is turning? Not only the divisions of party in this House, but our foreign and domestic policy revolve upon them. Is there any thing in the creation or in the action of the representative departments of either the State or Federal Governments, that is not touched in some point by popular prejudice, or partiality for the executive magistrate of the Union? And why, sir, is this so? The answer is obvious; and we find it in the augmented powers, patronage, and prerogatives of the President. The gentleman from New Hampshire, . . . has counselled me to correct my errors in stating, as I have done, the public expenditure, by recurrence to

Treasury reports. I wish, sir, that I had found correct counsel in the gentleman's example, rather than his precept. In attempting to correct my imputed mistakes, the gentleman himself has certainly been betrayed into palpable error. He was wrong in his commencement, and errors are diffused throughout the whole financial view that he has presented. We are informed by him, that the power of transferring, without limit, specific appropriations, was coeval with the government. That prior to 1809, it never had been restrained, and, consequently, that the discretion of the President ranged over the whole expenditure of the Treasury. The gentleman has confounded the grant of this power with what he has told us was its first limitation. Can it be possible, that with common sense for his guide, and the Constitution of the country staring him in the face, that he can really have arrived at this conclusion. The gentleman cannot have looked into this subject, or he surely would have seen that salutary check upon the executive which the Constitution imposes, in the provision that "no money shall be drawn from the Treasury but in consequence of appropriations made by law." His mind labors in its own delusion, by misapprehending the first legislative grant for the first legislative restriction; and this is an irrefragable answer to so much of the gentleman's estimates as embraces three millions of dollars.

Prior to Mr. Jefferson's administration, the language of our appropriation acts was loose and general. He saw the omens of mischief that crowded around this practice, and in his first message advised its change. Specific appropriations to definite objects followed, and his model of economy and simplicity in administration, is happily illustrated, in this respect, by its strict coherence to the plain principles of the Constitution. In process of time, these views gave way to a misguiding exigency, and the spirit of the Constitution was subdued in the act of March 3d, 1809. The right to transfer appropriations defeats that guard over the public money which the Constitution designed for its security, and gives into

the hand of the President the key that unlocks, at his will, the national treasures. This was, no doubt, a temporary convenience, but it was fraught with serious error in its inception, and still more serious danger in the precedent. The present Vice-President of the United States moved upon this floor in 1816, the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing so much of an act entitled an act further to amend the several acts for the establishment and regulation of the Treasury, War and Navy Departments, passed 3d March, 1809, as authorizes the President of the United States to transfer appropriations."

Although powerfully resisted in debate, he succeeded in this effort to bring back the executive action to its constitutional limits. Had he no other claims to public gratitude but this single act of replacing the Constitution upon its true and original basis, it would be of itself sufficient to give him a high and just rank among the benefactors of his country. The act of March 3d, 1817, was the fruit of his exertions. That of May, 1820, next followed. By this last act, the power of transfer, which is equivalent to the grant of absolute power over disbursement, was vested in the President, for the following specified objects:—"For the subsistence of the army; for forage; for the medical and hospital department;" also in the Navy Department: "for provisions, for medicines and hospital stores, for repairs of vessels, for clothing." And this act concludes by prohibiting all other transfer of appropriation. As the gentleman has called in question the accuracy of my first estimate of the sums subject to the will of the President, I have revised it upon his own admitted basis of calculation. If I am in error, that error is incurable, for I have spared no diligence in the scrutiny by which I tested the correctness of the original estimate. Sir, I must repeat that the contingent expenses for the first year of Mr. Jefferson's administration, though open to some cavil, should be fairly set down at \$58,213 57 cents; but embracing both enumerated and un-

enumerated contingencies, will not exceed \$120,000—for the second year the amount was \$20,350—and for the third year was \$15,001 2 cents. Contrasted with these, the appropriations for the last year, that are under the dominion of the executive, may be set down at two millions and fifty-six thousand one hundred and fifty-three dollars and forty-eight cents. We may, with propriety, add to this sum, the appropriations for internal as well as external commerce—comprising the sums allotted for light-houses, buoys, piers, &c. &c. which touch the latter subject; and roads, canals and surveys, as connected with the former. For in these disbursements, the power conferred is so general, and the application of money in the legislative act, so loose and undefined, as necessarily to confide the expenditure to the executive judgment, as a supplement to the expressed will of the legislature.

For these purposes there was last year expended eight hundred and fourteen thousand two hundred and four dollars and fifty-two cents; and which, added to the above amount of two millions fifty-six thousand one hundred and fifty-three dollars and forty-eight cents, make a total of two millions, eight hundred and seventy thousand three hundred and fifty-eight dollars. I am thoroughly persuaded that it will in the aggregate, exceed, rather than fall short of this computation. I have brought with me to my seat the Treasury reports, and extracts carefully taken from the acts of Congress making appropriations. . . . It will be to me a source of gratification, if the gentleman from New-Hampshire, or any other member, will take these papers (or copies of them,) and detect, by the severest scrutiny, any error of estimate or calculation. Mr. Speaker, is it not a theme for curious and anxious speculation, that whenever any allusion is here made to the expenses of Government, the friends of the Chief Magistrate rise up with their correlative estimates of the present and past Administrations? And yet, sir, this tremulous sensitiveness is by no means inexplicable. It is a fact, susceptible of the plainest de- [1973] monstration, that the disbursements of public

money, under like circumstances, and for the same objects of expenditure, by the present Administration, have exceeded all former example. And it is not upon untenable ground that I make up this opinion. Arithmetical calculations, resting upon responsible reports from the Treasury Department, carry my mind to this confident conclusion. Whatever causes may arise for diversity of opinion upon other topics of inquiry, none can here exist; for the estimate of dollars and cents, by the plain use of figures, cannot conduct us into error, without the certainty of immediate and palpable detection. In the view that I took of this subject, my attention was fixed to the comparative estimate of appropriation and expenditure for the three years of this Administration, compared with that of the three years immediately preceding it; and it presents the following results:

* * * *

Showing an increase of disbursement in the present Administration, of \$8,685,307 44

I have omitted any notice of the charges upon the Treasury for the public debt and the military pensions, because the payments to these objects, cannot by any dialectic ingenuity, be made the theme of eulogy to any Administration. The extinguishing action of the sinking fund upon the public debt, cannot be set down to the credit of the Executive; it results from pre-existing law. The excess of accumulation in the surplus fund, by operation of the same law, disgorges itself into the sinking fund, and becomes in like manner sacred to the public engagement. The appropriations for military pensions I have also excluded, because this is a disbursement likewise resting upon definite and uncontrollable causes, and is in no instance to be affected by administrative prodigality or economy. This channel of expenditure has been gradually contracting, by the inflexible operation of the great law of nature, upon the aged survivors of the Revolutionary army. I choose here to mention, that a slight difference may be made to ap-

pear in these calculations, if resort be had to the late report on the public debt. But this will present a stronger case, by five or six thousand dollars, against the present Administration. I have made my deductions from the table accompanying the report of the Committee of Ways and Means, and sent to that committee from the Treasury Department. I have taken that basis for calculation which presents the smallest discrepant amount of expenditure in the two periods embraced in the comparison. And here, too, Mr. Speaker, I entreat the gentleman from New Hampshire, . . . to take these estimates, with the materials from which they have been made up, and give them his closest examination. They challenge and defy his scrutiny. The vaunted care and economy of this Administration, is opposed with the stubborn and melancholy fact, that eight [1974] millions six hundred and eighty-five thousand three hundred and seven dollars and forty-four cents have already been thriftlessly expended, instead of having been applied to the extinction of the public debt, since the present Chief Magistrate came into office. Sir, the evil does not stop here. It is said that we are enjoined by the Constitutional duties which the distribution of power among the co-ordinate branches of Government impose on us, to grant supplies. And the fact is unquestionable, that the executive estimates for the service of the current year, are at least equal, and in the main probably greater, than for that which has closed. Pushing ahead for further results, in the supposititious economy of this care-taking Administration, and judging of what is to be done by that which has been done, I am warranted in saying that this excess of expenditure, beyond its comparative proportion, will be increased to eleven millions five hundred and eighty thousand four hundred and ten dollars and twenty-five cents. Is this to be borne with in a temper of patient forbearance? Can it be successfully controverted by any varying computation? Can it be palliated by any further disclosures of a justifying and imperative necessity? I am firmly convinced that it cannot.

The Treasury report from which I have taken these expenditures, details for each and every year, the same items of disbursement, identically and successively extended. In the present condition of things, with a commerce suffering under exaction, and agriculture languishing into decay, have not our constituents (already burdened with excessive, though indirect taxes) a right to hold to us the chiding language of Divine inspiration, and say,—“We have labored, and other men have entered into the fruits of our labors?”

The gentleman from New Hampshire thought fit to claim credit to “the powers that be,” because no appropriation had been asked, at this time, for the contingent expenses of foreign intercourse; that is, for the fund usually called “secret service money.” This is true; but it is accompanied by an odd development that is equally true. For this fund there was no appropriation asked or made during the years 1822 and 1823. For the year 1827, the unexpended balances of former appropriations had swelled to fifty three thousand one hundred dollars and seventy-one cents. And yet a further appropriation of thirty thousand dollars was solicited and granted. And now, when they have but forty-six thousand, eight hundred and forty-two dollars, placing under executive control between six and seven thousand dollars less than was wanted for the service of the last year, it is deemed sufficient, and no further appropriation is now asked. How, sir, is this? As the gentleman has touched this expenditure, I may be pardoned for doing so too. No trust can be more delicate than this. In comparing its disbursement with other proximate times, the following facts occur: From the 1st of January, 1816, to the 4th of March, 1817, when Mr. Madison retired from office, there was paid upon vouchers indicating secret service, but six hundred and fifty dollars. During the whole eight years of Mr. Monroe’s administration, there was paid in like manner, five thousand six hundred and thirty dollars: while, during two years and nine months of Mr. Adams’ administration, there has been expended ten thousand six hun-

dred and twenty-four dollars and sixty-eight cents. Moreover, the sum of eight thousand nine hundred and fifty eight dollars, (part of the above,) was vouched for upon five different certificates, bearing dates the 8th and 21st November, 1827. This fund is legally designated for the contingent expenses of foreign intercourse; and yet I perceive that the sum of two thousand five hundred and forty eight dollars and eighty-three cents was paid from this appropriation to certain printers in the United States, for advertising notice to Emigrants or Colonists of St. Domingo: a manifest departure from the express ob- [1975] ject of the appropriation. In contrast with this heavy, and as I think, unlawful use of the public money, I will mention the fact, that in the appropriation act of February, 1802, is the item of eighty-four dollars for defraying the expenses of advertising the sale of public lands in the Sciota Gazette, of Ohio. So cautious was Mr. Jefferson, that he would not touch even this small sum for an important service, without a specific grant by appropriation. The multiplication of offices, with high salaries, in employing treaty bearing messengers, I consider a serious abuse. I find that the aggregate sum, including passage, expenses, pay, &c. of nineteen hundred and forty dollars, was paid to one messenger in 1825, for one hundred and twenty-six days, equalling \$15 39 cents per day. A larger salary, for the time, than is given to the Chief Justice of the United States, and as much as is given to the Head of a Department. In the year 1826, there was paid in like manner, 1465 dollars and 9¾ cents, to another messenger, for one hundred and thirty-two days,—equal to \$11 10 cents per day; and in 1827, to a third, 1205 dollars and 50 cents, for one hundred and seven days, equal to 11 dollars and 26 cents per day. Several others, within the time, were also employed. But I have taken these three cases to show, in successive years, the heavy wages paid for a service that calls for the exercise of no other talent than is common to every mail carrier of the country.

The suggestion that these drains from the Treasury have

been correspondent with legal appropriations, is no alleviation of this heavy expenditure. Power is not to be abused, because it may have been too confidently trusted. In these delicate trusts, especially, over which there is an expanded and irresponsible delegation of authority, we might expect an honorable sensitiveness that instinctively recoils from all temptation to abuse. Every vestige of confidence in the affairs of men should be discarded, if we are at liberty to confound the distinctions of right and wrong, by extending the exercise of authority to the farthest limits of conceded power. If this be the case, we ought to banish from among us that moral stability which holds society together, and which constitutes the foundation of our political institutions. With all the precautions and limitations infused into the constitution, it is manifest that the vice of our system is the expanding power of appropriating money, and its natural offspring, the large discretion lodged with the executive. As this usurped power is continually evading and surmounting its defined constitutional limits, so too is its subordinate result escaping from legal restraint. It is these incidents from incidents, imagined shadows of constructive shades, that have become more operative, and indeed more substantive, too, than open and admitted powers. We can resist and combat what is known and palpable. It is secret and invisible agency, that is most to be dreaded. This will always be found most potent in action, because it is neither to be seen nor touched. Silent accretions of authority, growing, as it were, by stealth, are to be viewed with greatest alarm. In these, the *virus* of corruption is generated, and from this source diffused through the system.

A judicious writer, (with the lamp of history before him,) says: "It is very uncommon to see the laws and constitution of a State openly and boldly opposed: it is against silent and gradual attacks that a nation ought to be particularly on its guard. Sudden revolutions strike the imaginations of men: they are detailed in history: their secret springs are developed. But we overlook the changes that insensibly happen by a long train

of steps that are but slightly marked. It would be rendering nations an important service to show from history how many States have thus entirely changed their nature and lost their original constitution. This would awaken the attention of mankind—impressed thence forward with this excellent maxim, (no less essential in politics than in [1976] morals,) *principiis obsta*, they would no longer shut their eyes against innovations, which, though inconsiderable in themselves, may serve as steps to mount to higher and pernicious enterprises.”

The unlimited appropriations of money—the consequent and inevitable endowment of executive prerogative; with its beguiling agency in dispensing the public treasures—the inconsistent power in the President of removing at pleasure the disbursing officers, whose appointments require the concurring sanction of the Senate—the extrusion of this advising and checking body, in expelling from office—and the inseparable venality and dependence of the Treasury guards upon a single man, are serious encroachments, that fill me with alarm. Sir, the representatives of the people were very wisely intended to exert an uncontrolled sovereignty over the money of the people. The course of things does indeed retain with us the flattering and deceptive shadow of this power, while its efficient substance is gliding into other hands.

The warning voice of my colleague, and as he is not present, I will say my distinguished colleague, [Mr. Randolph]¹⁸ brought to my recollection yesterday, that excellent clause in our Virginia bill of rights, which declares, “That no free government, or the blessing of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by a frequent recurrence to fundamental principles.”

Speculation upon the practical conformity of the government to the axioms of political justice, is more important than may at first sight be imagined. It strikes at the root of mischievous profusion, and chills its noisome and pernicious in-

¹⁸ Brackets in original text.

fluence. It tends to familiarize us to those strict and severe tests of trust and duty, without which our energy, as well as our usefulness, will be contracted to a very narrow compass.

The money power of Congress, (conspiring through the President's prerogative with the strong passions and the yielding weaknesses of human nature) is placed in dangerous resistance to the best and soundest principles of public safety. It is the Trojan horse within the walls of the constitution. Its powerful and irresistible operation is first to enlarge the sphere of action for the whole government; but its resulting and inevitable tendency is to concentrate accumulated powers in the executive head. Sir, there are three active creating and created agents in our confederation: the People, the States, and this creature of both, the Federal Government. By moving upon antagonist principles, they will mutually preserve, by reciprocally checking the inordinate action of each other. Great occasions will sometimes arise, in which they may become so bound together in action, as, in producing temporary advantage, to engraft upon the system the germ of future destruction.

Our recurrence to original principles cannot be too frequent. With all the necessities for the last war, and amidst all the glories which hardy valor achieved for us, upon the ocean and in the field—one of its lingering evils casts its shadow within the view. The spirit of patriotism, operating upon the antagonist principles to which I have alluded, associated them in action, expanded the powers of this government, infused into it additional vigor, and endowed it anew by supple rules of construction. An additional class of implied powers is one of its fruits. The greatest difficulty will always be found in disrobing government of its investments, after the exigency of the hour has passed away. When did power ever make a voluntary relinquishment? Its march is in the orbit of encroachment—and onward. Its footsteps are not to be traced in retrogression, unless down the precipice of revolution.

The dangers connected with the unrestricted power of applying the public money, was at one time eloquently denounced by a prominent member of the present administration. In the first effort of the talent for debate of Mr. Clay, that I ever witnessed upon this floor, in contending against its existence, he said: "What is to prevent the application of it to the purchase of the sovereignty of a State itself, if a State were mean enough to sell its sovereignty, to the purchase of kingdoms, empires, the globe itself?" It is the transcendent instrument with which Caesar and Bonaparte both declared that universal dominion might be obtained. Yet we look with calmness and indifference upon the progressive enlargement and consolidation of this power in the executive. With the flowers of prerogative that already adorn this department, this great lever is only wanting to give it an absolute control.

It has become fashionable among a certain class of politicians, to deride our fears of encroachment, and to denominate the plain common sense rules of interpretation—Virginia principles. Let me tell gentlemen that these principles in the legitimate scope, will yet prevail. Their foundation is in the broad basis of human rights. While they persuade to social order, and a love of union, they inculcate resistance to lawless oppression. They have always been found on the side of liberty, combating power—foremost in the field of contest for independence, that "lord of the lion heart and eagle eye." A momentary triumph may be won over them by deceptive allurements, for the sordid and selfish passions of "low ambition," and excited interests: other hopes by intensity of incitement may prevail for the fleeting season of deception; but the victory is temporary, and carries in its bosom the seeds of certain disappointment. Amid the collisions of new parties and new interests that are daily developed, I have a confidence that Virginia has the sagacity to discern the path of her duty and the firmness to tread it fearlessly. She has no boon to ask, no favor to supplicate. Seeking neither emolument nor office, hers may yet be the attitude of Arbitress in the coming con-

tests. If she cannot arrest, she may check, and by judiciously throwing her weight into the scale of controversy, make it preponderate upon the side of liberty and the constitution. [1978]

NO. 48

SIMPLIFICATION OF ACCOUNTING ORGANIZATION AND PROCEDURE IN THE TREASURY. REPORT (HAMILTON), 1828¹⁹

To House of Representatives, May 15, 1828

Mr. [JAMES] HAMILTON [of South Carolina], from the Select Committee to whom the subject [of retrenchment] was referred, made the following report: [1049]

* * * *

“What reduction of expense in the Treasury Department, and whether an effective system of accountability and for the collection of the public dues is there established.”

To introduce economy and despatch in this Department it will be necessary to simplify the forms of business and to reorganize its subordinate branches.

The various offices of the Treasury were arranged on their present plan by an act of the 3d of March, 1817 [3 Stat. L., 366], abolishing the accounting officers and establishing an additional Comptroller and four Auditors, with clerks. This arrangement was temporary; so ought to have been its continuance. The war was just then over, and its disbursements threw upwards of forty millions of suspended accounts into the Treasury for adjustment, which amount has since been reduced to two millions, yet the same extensive and somewhat complicated machinery is still in existence. As your committee believe that as much depends on

¹⁹ American State Papers, *Finance*, Vol. 5, pp. 1049, 1057, 1076, 1124; 20 Cong. 1 sess., H. rept. 259. 200 pp. Serial 179. See also No. 36.

the forms of doing business as on the number of agents employed in any of the Departments, they would state the tedious process of auditing and adjusting an account at the Treasury under the present system. When a claim is presented on the Treasury it is handed to the Auditor, who, aided by his clerks, examines and reports it to the Comptroller; when decided and passed by him, one of the clerks enters it in a book in his office, and it is then sent to the Register to be registered by one of his clerks. The Register transmits a certified copy of the report to the Secretary of the Treasury; one of his clerks prepares a warrant on the Treasurer for the amount, which is entered in the office of the Secretary by the warrant clerk; it is then handed to the Comptroller, who countersigns it; it is then sent by a messenger to the Register's office, where it is registered by another clerk; when registered and thus certified by the Register, it is then presented by the claimant to the Treasurer, when another clerk takes his receipt on the back of the warrant, and on the same warrant authorizes the bank to make payment, and the claimant receives his money. This process is nearly duplicated when it commences in either the War or Navy Department.

Why, for any purpose of public security, an account should make such complicated, various and reiterated transits, your committee are at a loss to perceive; the direct effect, however, is to increase the labor, and consequently the number of public officers. These extraordinary forms may have been considered as necessary forty years ago, but in the present age bookkeeping has participated in contemporary improvements, and greater simplicity and economy have been introduced in the management of both public and private business. If these forms were simplified, your committee believe that one-fourth, if not one-third, of the offices in the Treasury might be reduced. But even with the existing tedious forms of transacting business, they think there are more clerks than would be required if the labor of the offices was more equally distributed. The First Comptroller's office is evidently surcharged with business,

while it is equally certain that some of the other offices connected with the Treasury are almost *sinecures*. A portion of the business of the First Comptroller might well be assigned to the Treasurer and Register's offices, where the clerks cannot be fully employed.

Besides simplifying the forms of business, and distributing the duties of the offices more equally, your committee would recommend a new organization of some of the Departments; to effect which, they would suggest that the Second Comptroller's office be abolished, and that of one of the Auditors, as they think one Auditor for each Executive Department amply sufficient; and so soon as the First Comptroller is relieved, under a new distribution, from some of the duties he now discharges, he will be able to superintend those now performed by the Second Comptroller.

They are of opinion that, in our system, the value of an officer, who ought to be so highly accomplished for public business as the Attorney General, is not sufficiently estimated, and that he ought to be considered as the law officer of the Government. They propose enlarging his duties and increasing his responsibilities, by putting under his charge all the suits in which the Government may be interested, throughout the United States, by attaching to his office, and by placing under his immediate control, district attorneys and marshals. That, in addition to these duties he should preside at a board, to consist of himself, the Comptroller, and four other Auditors, for the examination and auditing of all contested claims and accounts against the United States; to be, if necessary, in daily session. The advantages of this plan would not only consist in a uniform interpretation of the acts of Congress respecting claims, but such an interpretation would be enlightened by the opinions of an officer of first rate legal attainments, and a standard of similar rule as to the allowance of claims would obtain, by those means, through all the Departments, which, at present, is various, depending too much on the discretion of the different Auditors.

The discharge of these duties, together with those which were contemplated in the effort which was made in 1817 to create an office to have been denominated "the Solicitor of the Treasury," will produce the necessity of the Attorney General being prohibited from practicing, excepting in the Supreme Court; to indemnify him for which, and as an offset to a saving which will accrue to the Government by his taking charge of the suits of the United States, and acting on a board for the adjustment of claims, your committee think his salary ought to be on a footing with that of the heads of the Departments. We are satisfied that by his legal skill in directing the mode by which the suits of the United States are to be conducted, and his vigilance and intelligence in adjusting claims against the United States, he would save one hundred fold the amount of his increased compensation. [1057]

* * * *

APPENDIX NO. 3.

. . . there are at present ten offices annexed to this Department, viz: the Comptroller's, the Treasurer's, the Auditor's, the Register's, that of the Commissioner of the General Land Office, the Second Comptroller's, the Second Auditor's, the Third Auditor's, the Fourth Auditor's, and the Fifth Auditor's.

There have heretofore existed as appendages to the Department the offices of Assistant Secretary of the Treasury, Commissioner of Revenue, Accountant of the War Department, Purveyor of Public Supplies, Accountant of the Navy Department, and Additional Accountant of the War Department, all of which have been abolished.

Of the ten subsisting offices first above enumerated, six have been coeval, or nearly so, in effect, though not under the same names, with the earliest establishments of the Government. Those of the ten that were created last, viz: the Second Comptroller's, Second, Third, Fourth, and Fifth Auditor's, were created by the act of March 3, 1817, under a

special report embodying the reasons for the same, made to the Senate in President's Madison's time, (December 16, 1816,) by the heads of the Executive Departments. By the same act the offices of Accountant and Additional Accountant of the War Department and Accountant of the Navy Department were abolished. The further recommendations of that report, to establish an entirely new Executive Department, to be denominated the Home Department, and a solicitorship to the Treasury, were not adopted by Congress.

Of the officers, therefore, who are now auxiliary to the business of this Department, there are, in my opinion, none that can be advantageously dispensed with, or whose salaries can be reduced consistently with justice and propriety. They have all been created by Congress on full deliberation. . . .—March 5, 1828. [1076]

RICHARD RUSH, Secretary of the Treasury,
to JAMES HAMILTON.

REPORT OF THE MINORITY OF THE COMMITTEE

* * * *

The organization of the accounting branches of that Department, and the forms of proceeding, and whether, in these particulars, greater efficiency and economy might be attained, are questions of grave import, upon which the minority of the committee are not prepared to express an opinion. The forms of proceeding, or what may be termed the system of the Treasury, is venerable from its origin, being coeval with the establishment of the Government, and has hitherto been preserved through all the changes which have occurred in the administration of the Department, from a conviction of its practical excellence. It has the full sanction of experience. The checks which it contains, constituting a principal object in the proper arrangement of a Treasury, have been supposed to be well adapted to their purpose, of securing the faithful application of the public moneys, and preventing them from being

improperly drawn out. In this respect it is believed that no defect has hitherto been discovered.

The simplification of this system, or the taking away of some of the established forms, intended as checks, it is supposed, would render it more easy to get money out of the Treasury. But is there no danger that excess in that direction may render it too easy, and thus defeat the great object of guarding the Treasury from improper drafts? This is a question of vast importance, and involves considerations of a much more serious character than those which belong to the question of contingent expenses of the Departments. It is not alleged, and the minority of the committee do not believe, that those who are entitled to receive money from the Treasury experience delay or inconvenience. Facilities to those who are not entitled is precisely what ought to be avoided. They would expose the Treasury to be plundered, and the money placed there for the public service to be applied to improper uses.

That this system is the *best* that could be devised is more than the minority of the committee would take upon them to assert. But if, in the experience of forty years, it has been found to be free from defect, and fully to answer its purpose, and so continues to the present moment, they have no hesitation in saying that they do not know how there can be a *better*; and in this they are supported by the authority of all the distinguished citizens who have been at its head, including the very eminent man who devised the system.

To give up what is certain for what is uncertain; to propose reform where no defect exists; to administer medicine to the well; is contrary to every dictate of prudence. A wise man has said "it is good also not to try experiments in States, except the necessity be urgent, or the utility evident; and well to beware that it be the reformation that draweth on the change, and not the desire of change that pretendeth the reformation."

At all events, it must be admitted that before an existing

system is changed the system to be substituted ought to be clearly stated, in order that we may have the benefit of estimating, at least, its probable operation, before we allow it to supersede one which has borne the test of experience. And even then we should ponder and hesitate before we allow an untried theory to supplant what has been proved to be good. There is much weight in the maxim, "let well enough alone."

It has been suggested, also, that the *organization* of the accounting department of the Treasury might be reduced, and some of the officers dispensed with.

This organization was established by the act of the 3d of March, 1817 [3 Stat. L., 366]. Referring to that act for the details, the minority of the committee will only observe that it abolished three officers and established five.

The act of the 3d of March, 1817, was passed upon great deliberation, and with the benefit of the best lights that could be obtained. By a resolution of the Senate of the 20th of April, 1815, the Secretaries were required jointly to report "a plan to insure the annual settlement of the public accounts and a more certain accountability of the public expenditure in their respective Departments." On the 6th of December, 1816, a report was made, signed by James Monroe, William H. Crawford, George Graham, (Acting Secretary of War,) and B. W. Crowninshield. This report, the result of much investigation, by men of high standing and great experience, thoroughly acquainted with the working of the system, recommended, among other things, the organization now existing, and stated their reason at large, for which we refer to the report among the documents of Congress. The act of March, 1817, adopted the plan recommended, established the offices, and assigned to them their respective duties, subject to certain alterations, permitted to be made by the Executive. The minority of the committee perceive nothing in the history of this plan to induce a belief that it was temporary, or intended only for a particular occasion. On the contrary, it was evidently meant to be a permanent arrangement, provided (the

only sense in which any such plan can be intended to be permanent) it should be found to answer its purpose.

It may be affirmed, therefore, in the first place, that it has great authority in its favor, from the character and knowledge of those who devised and of those who adopted it, as well as from the deliberation with which it was introduced.

In the next place, it may be observed, that its objects were of the highest importance "to insure the annual settlement of the public accounts and a more certain accountability of the public expenditures," in which the former plan is supposed to have been deficient.

And, in the last place, it may be observed, that it has not disappointed the expectations that it would "insure the annual settlement of the public accounts and a more certain accountability of the public expenditure."

Its having been attended with some small increase of expense (if the fact be so) would be no argument against it, nor would a possible small saving be an argument of any weight in favor of a change. It is not a question of expense, but of efficiency. The whole expense might be saved by abolishing the accounting department. But what would be the consequence? That no accounts would be settled. Those who proposed and those who adopted the plan foresaw that it would, perhaps, occasion some small increase of expense; but what was that in comparison with the prompt settlement of accounts and certain accountability? The whole expenditure from the Treasury, to the amount of millions, is authorized and checked by this Department. *There* every individual must exhibit his accounts and vouchers. He cannot receive payment or acquittance until his account is settled. *There*, too, the Treasury finds its protection against unjust claims. The citizen ought not to be delayed in receiving what is due to him; the Treasury ought not to be burdened with payments he is not entitled to. Upon this principle the organization rests; and if it be effectual, great caution ought to be used in permitting a change. The loss to the citizen or to the public conse-

quent upon an error would greatly outweigh any small saving of expense, even if that be practicable.

If it be within the range of their duty, the minority of the committee would state that they fully concur in the suggestion of the report of 1816, that there ought to be a law officer connected with the Treasury to superintend the suits brought by the United States. It is believed that there are at times some millions of dollars in controversy. Up to the time of suit brought the concern is fiscal; thence- [1124] forward it is legal, and requires the superintendence of a mind accustomed to, and employed in, legal pursuits. Whether this duty might be devolved upon the Attorney General, with an increase of salary and a restriction of practice, is a question upon which they would not undertake to speak too positively. It depends upon considerations which they have not had time nor opportunity sufficiently to examine. But it appears to them that the other duties of the Attorney General, in themselves of great magnitude, require in that officer an extent and variety of knowledge and of professional skill which must be kept up by study and by familiar and daily converse with the business of the profession, so as to place him at least upon a footing of equality with the eminent lawyers of the United States. They doubt whether restricting him to a bureau would be compatible with such attainments.

For fuller explanation the minority of the committee refer to two letters from the Secretary among the papers of the committee, which will be found to be interesting and satisfactory.

In conclusion, they would remark that the expenses of all the Departments, especially in the articles of extra clerk hire and stationery, are much increased by calls, during the sessions of Congress, made by the House or by committees, which calls have of late become very numerous. They must be answered without delay; and they involve the necessity of either suspending some portion of the current business (which cannot well be done) or of employing additional clerks for the occa-

sion. Whether, in this respect, any corrective is necessary or advisable, which would reduce the number of calls, belongs to another head of inquiry. Unless the Legislature can apply a remedy, the officers must continue to comply with every call; for the most ardent enthusiast will not contend that they have, or ought to have, any discretion. [1125]

* * * *

JOHN SERGEANT [of Pennsylvania];
EDWARD EVERETT [of Massachusetts].

NO. 49

UNSATISFACTORY CONDITION OF ACCOUNTS
IN THE NAVY DEPARTMENT. REPORTS
(BRANCH), 1829-30²⁰

To Congress, December 8, 1829

The present confused and unsettled condition of the fiscal concerns of the Navy Department, makes it proper that the subject be brought to the notice of Congress; since it is believed that their interposition alone can lead to an equitable and final adjustment. In the month of March last, when it was discovered that these derangements in the finances existed, reference was made to the Board of Navy Commissioners, for such explanations as they might be enabled to give. Their communication in reply accompanies this report, marked G. From a desire to present such minute and detailed information on this subject as may be necessary for its proper illustration, the Fourth Auditor of the Treasury was requested by letter, (copy of which is annexed, marked H,) to report on the present condition of the accounts of his office, showing the probable origin of these embarrassments, and to suggest such measures as he might think necessary to correct the evil. His answer is annexed, marked I. [351]

²⁰ American State Papers, *Naval Affairs*, Vol. 3, pp. 351, 366-67, 370-72, 375-81, 396-97, 399-401, 754, 759.

G.

* * * *

The Commissioners beg leave to observe that while this state of things continues the fiscal system of the Department will remain confused and imperfect. Early after the organization of the board it was foreseen that, unless some precise and correct system should be adopted and persevered in, the navy appropriations would get into a confused and unintelligible state; and the board, on numerous occasions, expressed that opinion to the Secretary of the Navy; finally they decided to address to him an official letter upon the subject (copy of which, marked B, No. 2, they submit herewith), but the propositions then made were not concurred in; and it was not till the board were apprised of the actual state of the appropriations, in May, 1828, that they ventured to renew the subject, at which time the arrangement A, No. 2, was entered into. This arrangement, if carried fully into effect, would, with but slight improvement, keep the Department in possession of every information as to its fiscal concerns.

The great defect in the fiscal branch of the Department, remitting moneys without a *perfect* knowledge, of the objects upon which they are to be expended, and the cost of those objects, has existed in a greater or less degree ever since the establishment of the Navy Department, yet it has ever appeared to the board to be susceptible of remedy.

If we know the amount of the appropriations, the objects of expenditure, their probable cost, the particular items chargeable to each appropriation before remittances are made, and see that no moneys are issued but for authorized objects and under the appropriate heads, and positively instruct the disbursing agents not to apply moneys under one head of appropriation to objects chargeable to another, and require of them prompt settlements at the treasury, every desirable check would exist.

These objects were in view at the time the Commissioners addressed their circular of May 28, 1828, to the navy agents,

but they have not been enabled to enforce the principles laid down in that circular, because of orders given, unknown to them, to apply moneys to other than their legitimate objects. Under such orders the agent at Philadelphia applied a sum in his hands belonging to "gradual increase," amounting to more than \$30,000, to five other distinct appropriations, viz., sloops-of-war, navy yards, five schooners, contingent prior to 1824, and contingent for 1826. This is mentioned merely^a as an example of the difficulties the board has experienced in enforcing the principles of their circular of 28th May, and to show existing defects in practice. It is far from the intention of the board to throw the slightest shade of censure upon any one in any way concerned in administering the affairs of the Department; but evils, to be remedied, must be known, and the board has felt itself bound to make them known to you, sir, solely with a view to their remedy.

The board is sensible that, until Congress adopted the practice of appropriating for the first quarter [366] of a succeeding year, it was frequently unavoidable to authorize the application of moneys, *for the time*, to other than their legitimate objects. The moneys, however, thus applied, ought to have been refunded to the appropriations to which they belonged, as soon as the general appropriations were passed. But now, and so long as Congress shall adhere to the practice of appropriating in anticipation for the first quarter of the succeeding year, the necessity of taking moneys from one appropriation and applying them to another no longer exists, and need never be resorted to except in cases of emergency.—
March 31, 1829. [367]

JOHN RODGERS, Navy Commissioner,
to JOHN BRANCH, Secretary of the Navy.

* * * *

A, NO. 2.

CIRCULAR

It has been arranged, with the approbation of the Secretary of the Navy, that all requisitions for money, coming under

either of the following heads, shall, instead of being made upon him, as heretofore, be made directly upon the Board of Navy Commissioners, and, if approved by them, they will be transmitted to the Secretary of the Navy, who will order the remittances to be made accordingly, viz:

“Pay of superintendents, naval constructors, and all the civil establishments at the several navy yards and stations.”

“Provisions.”

“Repairs of vessels.”

“Ordnance, and ordnance stores.”

“Repairs and improvements of navy yards.”

“Completing ten sloops-of-war.”

“Gradual improvement of the navy.”

“Gradual increase of the navy.”

“Medicines, surgical instruments, and hospital stores.”

“Contingent expense, defined”—so far as to embrace the following items, chargeable under that head, viz:

Freight, and transportation of materials and stores of every description; wharfage, dockage, storage, and rent; for printing, and for stationery of every description, and for books, maps, charts, nautical and mathematical instruments, chronometers, models and drawings; for purchase and repair of steam and fire engines; and for machinery; for purchase and maintenance of oxen and horses, and for carts, wheels, and workmen's tools of every description; for pilotage; for cabin furniture of vessels in commission; for taxes on navy yards and public property; for assistance rendered to public vessels in distress; for incidental labor at navy yards, not applicable to any other appropriation; for coal and other fuel for forges, foundries, and steam engines; for candles, oil, and fuel, for vessels in commission and in ordinary; for repairs of magazines and powder houses; for repairing moulds for ships to be built. All the remaining items chargeable under this head, are under the exclusive direction of the Secretary of the Navy, upon whom, for them, or any of them, requisitions must, as heretofore, be made.

Every requisition upon this board must be accompanied

by a statement, showing how the moneys previously received under the same heads of appropriation have been applied, and the balance on hand.

Every requisition must be made in triplicate, and the whole sent to this office; if approved by the board, one will be delivered to the Secretary of the Navy, who will then act upon it, one to the Fourth Auditor of the Treasury, and the other will be retained in this office.

No expenditure whatever, under either of the previously recited heads of appropriation, must be incurred without the previous written authority of the board, except such as come under special contracts, made or authorized to be made by the board; and the board will never authorize an expenditure without the previous exhibit of a satisfactory estimate by the proper authority, showing the amount of the expense of completing the object proposed.

No moneys belonging to one appropriation must be used for another, without the special previous authority of the Secretary of the Navy.

So far as depends upon the board, they are determined to bring the funds committed to their management into a state perfectly intelligible; nor will they be deterred by any temporary inconvenience that may, in any way, arise from preferring what they conceive to be the injunctions of the law upon the subject of navy appropriations.

To your monthly returns of money you will add a column for moneys which you may receive for articles sold, stating in such column the kind of articles sold, their net amount, the bank into which you may have paid the amount, and to what appropriation you have credited it.—May 28, 1828. [370]

JOHN RODGERS, Navy Commissioner, to Navy agents.

B, NO. 2.

The Commissioners of the Navy beg leave to state that they find themselves frequently at a loss on the subject of contracts and expenditures, for want of precise information

as to the state of the appropriations by which the extent of the contracts and expenditures must necessarily be governed; and, in expressing their opinion upon requisitions for money made by the different disbursing officers, a duty you have been pleased to enjoin upon them for some months past, they have felt much embarrassed for want of information as to the sums of money advanced under the different heads of appropriation to the respective agents for specific objects.

The Commissioners are fully apprised of your intention to confine the expenditures so that their amount shall not exceed the sums appropriated by law, and they are desirous of contributing every exertion in their power to the accomplishment of your views upon the subject. In this spirit, and with this view, they beg leave, respectfully, to submit to your consideration the following observations:

To carry your views into effect it appears to the Commissioners—

1st. That the objects of expenditures and their amount should be ascertained with as much precision as may be practicable, prior to any expenditure being authorized, so that by comparing the sums respectively appropriated with the cost of the objects considered of the first importance to be accomplished, the authorized expenditures may be kept within the limits of the law.

* * * *

2d. That the disbursing officers, in their requisitions for money, should state distinctly, not only the appropriation to which the amount required is chargeable, but the specific object to which it may be intended to apply it, the contract under which, and the particular contractor to whom the payment is to be made. [371]

3d. That no requisition for money should be attended to that may be deficient in any of these essential particulars.

4th. That all disbursing officers should be instructed never to make a money requisition until the amount actually due, or very nearly the amount actually becoming due, shall have

been satisfactorily ascertained, and then to confine the amount of the requisition to the amount due or becoming due, including their legal commission; and if the amount of the requisition should afterwards be found to exceed or fall short of the sum actually required, such excess or deficiency to be specially noticed in the requisition next to be made under the same head, and a corresponding deduction from or addition to such requisition be made.

5th. That all agents charged with the disbursements of moneys be instructed not to apply any moneys in their hands to any object or objects whatever, other than such as may be known to be legally chargeable to the appropriation out of which such moneys were remitted to them.

6th. That a special book be kept, showing, at all times, not only the general state of the funds, but the amount of the respective warrants drawn upon the respective appropriations, and the objects arising under those appropriations for which moneys are from time to time required and remitted, and to which they are to be applied, so that, by comparing the amounts of the warrants with the estimated amounts of the various contracts and authorized expenditures, and the progress made in the execution of the contracts, a satisfactory judgment may be formed as to the propriety of making the remittances that may from time to time be required by the respective agents, and the precise state of the funds be known.

* * * *

If you will be pleased to direct the Commissioners to be furnished with a transcript, weekly, of all the warrants thus drawn, the Commissioners of the Navy will be at all times possessed of the requisite information to enable them to discharge that branch of the duties confided to them which relates to contracts and expenditures. They will keep such a book as has been recommended, which may be compared monthly, or oftener, with the one kept in your office, and thus the one be a check upon the other.

Our contracts embrace the great mass of the expenditures under the heads of repairs, provisions, navy yards, gradual increase, and ordnance, and they are specific as to prices, so that, if the quantities of the articles required be ascertained, the amount of any proposed expenditure may be stated with all possible accuracy prior to its being authorized. This can be done in all cases, excepting, probably, on pressing emergencies that may occur within the United States; and as regards our vessels on foreign service, estimates of their probable expenditure may always be made with sufficient accuracy, and such sums could be retained out of the general expenditure for their use as they would probably require.

It appears, sir, to the Commissioners of the Navy, that such rules and restrictions, if punctually observed, would produce essential benefits to the service; moneys remitted under such checks would, it is presumed, be applied to their legitimate objects. The necessity now daily occurring in the Auditor's Department, of transferring sums of money from one head of appropriation to another, in consequence of moneys either having been required or remitted under wrong heads, or having been applied by disbursing officers to objects to which they were not legally applicable, would cease to exist so soon as all the accounts now outstanding should be settled, and the Department would be enabled, at all times, to form a satisfactory estimate as to the actual state of its fiscal concerns, and regulate the expenditures so as to prevent their exceeding the sums appropriated by law.—August 27, 1821.
[372]

JOHN RODGERS, Navy Commissioner,
to SMITH THOMPSON, Secretary of the Navy.

* * * *

H.

The present confused and unsettled state of the fiscal accounts and concerns of the Navy Department makes it proper that its cause be made the subject of inquiry; and that meas-

ures be adopted for the correction of the existing evil, and the prevention of its future occurrence.

You are requested to make a statement of your views of the causes which have led to this state of things, and to express your opinion particularly on the following points:

1. Have these embarrassments in the public accounts arisen from the complexity or intricacy of the act of Congress of 1809, which declares "that the sums appropriated by law, for each branch of expenditure in the several Departments, shall be solely applied to the objects to which they are respectively appropriated, and to no other?"

2. Are the provisions of that law so difficult of execution as necessarily to lead to this perplexed condition of the general accounts of the Department; or are they to be ascribed to the ignorance, or any particular misconduct on the part of the officers who have had the management of its concerns?

3. Does the law of 1809, in relation to specific appropriations, afford any peculiar salutary check upon the officers employed in its execution, so as to ensure the proper application of the appropriations to the objects for which they have been granted? or, may it not, by its intricacy and complexity, favor the concealment of irregular and illicit practices, by the difficulty of detecting them?

4. Could not a system be devised which would afford all the restraints imposed by this law, which would be simple in its principles, intelligible in practice, and which would be free from the disorder and confusion attendant upon the one now in operation?

5. Can this unsettled state of the accounts of the Navy Department be adjusted by any means within the power of its officers; or will it be necessary to appeal to Congress, for the purpose of effecting this object?—November 10, 1829.

JOHN BRANCH, Secretary of the Navy,
to AMOS KENDALL, Fourth Auditor of the Treasury.

* * * *

I.

It is a safe, and, I think, a correct principle, that the Executive cannot, rightfully, increase or diminish the emoluments of public officers, whose compensation has been fixed by law. . . . [375]

* * * *

Let me not be understood to mean, that the compensation allowed by law is, in all cases, adequate. I design, only, to show that the Navy Department has disregarded the law, and taken the liberty to increase the emoluments of these agents, according to its own discretion. If the compensation of agents was found inadequate, it was the duty of the Secretary to represent the case to Congress, and obtain a change in the law, rather than attempt to remedy the defect by indirection.

* * * *

The original authority for most of these allowances exists only in letters from the Secretary of the Navy to the Fourth Auditor. For some of them not even that authority, or any other, except precedent, can be found. An account has been allowed by the Secretary; another one like it is allowed on the same principles; the precedent becomes a law, and even its origin is forgotten. This kind of legislation has been as fluctuating as it has been loose. Sometimes more is allowed, and sometimes less; the navy is full of complaints of partiality; and almost every man thinks that he has a right to some allowance, because a similar claim has been allowed to others. The Auditor is harassed with arguments drawn from expediency; the hardship of the case; its similarity to some allowance heretofore made; and because some have procured improper allowances, he is censured because he does not put all upon an equality, by making improper allowances to others. Everything is dark and uncertain; and, instead of being able at once to turn to some law or lawful regulation, by which to test every claim which is presented, he is compelled to spend

hours and days in hunting for old letters, and looking into precedents.

Some boldly claim allowances without law or authority, because their cases, or others like them, [377] were embraced in the estimates on which the appropriations were founded. In their view, an estimate authorizes an expenditure. So far has this impression gone, that men, employed by contract, at prices less than the estimates placed upon similar services, have advanced serious claims to the whole amount estimated. It is in vain to urge that the estimates are, or ought to be, based on some existing law; that they form no part of the appropriation law; that Congress, almost uniformly, appropriates less than is estimated, without leaving any record explaining what part they disapprove; no arguments avail with those who consider custom as law, or find their own convenience or their interest in setting their own rules above those of the legislative power. Congress have confidence that the Executive officers will be governed by law in their estimates; they never scrutinize them with an impression that they are to be taken as law after their adjournment; and instances are not wanting where they have been deceived into appropriations for objects other than those which the estimates seemed to present. Next to allowing the Executive to make appropriations by his own authority, is the danger of considering an appropriation, based on an estimate without shadow of law to authorize the estimate or make the appropriation necessary, as sufficient authority for expending the money. Yet, such has been the practice of the government; and from this practice have sprung many abuses.

It may be well supposed, that almost an entire want of legal and fixed system in the allowances made (for the Department has not obeyed its own estimates) must materially affect the accounts of this office, and the appropriations made by Congress. By some new rule, or upon some unknown reason, many thousand dollars have been suddenly and unexpectedly allowed. By a repetition of these allowances, means to pay

which have always been found, the state of the appropriations, and consequently, the accounts of the Department, have been miserably deranged.

This leads me to speak of the manner in which the public moneys are drawn from the treasury, and the accounts kept.

By acts of Congress it is declared that all moneys appropriated shall be applied to the purposes for which they are appropriated, and no other, except that transfers in certain cases may be made, by the President, from one appropriation to another. In the Navy Department, the power of transfer extends only to pay of the navy, provisions, medicines and hospital stores, repairs of vessels, and clothing. From either of these to any other, transfers may be made within the year for which the appropriations are made; and an account of such transfers is required to be laid before Congress within the first week of their next succeeding session. On the first of February of each year the Secretary of the Navy is required to lay before Congress a statement, under each specific head of appropriation, of the amounts appropriated for the service of the preceding year, of the amounts expended, and of the balance remaining on hand at the close of the year.

When a navy agent or other disbursing officer wants money, he writes to the Secretary, stating the heads of appropriations under which it is wanted. The Secretary issues a requisition upon the Secretary of the Treasury for a warrant for the amount, stating each item under its proper head of appropriation. The Comptroller countersigns it, and charges each item to the proper appropriation. The Auditor registers it, and charges the items to the disbursing officer, also under the proper heads. The officer renders his accounts for disbursements under each head, and receives a credit under each.

There are now unclosed accounts on the Fourth Auditor's books, under upwards of forty heads of appropriation. Many disbursing officers have accounts under ten or fifteen different heads, which are precisely like ten or fifteen separate accounts. Did every person receiving money from the Navy Depart-

ment ask for it under the proper heads, expend it under the proper heads, and render his accounts under the proper heads, and had no transfers ever been made, or when made, had they been reported to Congress, and the deficiency immediately supplied, there would have been little or no irregularity in the accounts of the Department. But the irregular and unlawful practice of the Department, encouraging and producing similar irregularity among all its fiscal officers, has defeated the object of specific appropriations, and involved its accounts in almost inextricable confusion.

When agents have called for money under heads of appropriation which were exhausted, former Secretaries have not hesitated to send them money under other heads. This is a virtual transfer from one appropriation to another, and a violation of law. When the officers account for this money it stands charged to them on the Auditor's books under one head, and they obtain credit under another. The money has in fact been applied to purposes other than those for which it was appropriated. But, when another appropriation is obtained under the deficient head, the amount borrowed is refunded. This is another virtual transfer, and a double violation of law, because it is a transfer from one year to another.

When the Auditor and Comptroller have settled an account belonging to a head of appropriation which is exhausted, the practice has been to pay it by an advance out of another appropriation. This is also a palpable invasion of the law; the money is applied to purposes for which it was not appropriated; the account can never be closed on the books of this office unless Congress make another appropriation under the deficient head; and, even then, it must come out of another year's appropriation.

Millions of money have been expended by the Navy Department for purposes other than those for which it was appropriated. The accounts now unadjusted, arising solely from these irregularities, probably embrace more than a million of dollars. Many of them are as much creditor under one head

as debtor under another; but the Auditor has no power to transfer the amounts and close them. It is probable that \$30,000 would pay all that is really due upon these accounts, and an appropriation of that sum, with power to make the necessary transfers, would furnish the means to close them. No talents or skill can adjust them without the interposition of Congress.

In every case where a transfer is made from one appropriation to another, or where money has been forwarded under one head to be expended under another, or where an advance is made under one head to pay a debt due under another, the Comptroller's books do not represent truly the purposes for which the money is expended. For instance: an agent asks for \$10,000 under "pay of the navy;" it is sent to him under "provisions;" it is intended to be applied, and actually is applied to "pay;" yet on the Second Comptroller's books it is charged to "provisions," and, under that head, is reported to Congress. Hence, there has not been for many years a correct report made to Congress of the purposes to which the money appropriated has been applied. [378]

* * * *

Indeed the system of borrowing from one appropriation to make up deficiencies in another is nothing more nor less than anticipating the appropriations of the next year. . . .

* * * *

In fine, from the Comptroller's reports neither Congress nor anybody else can obtain any accurate information in relation to the amounts expended under each head of appropriation, or of the actual condition of the appropriations. As a system of book-keeping, exhibiting the amounts debited and credited to each appropriation, the mode of keeping these accounts in the Comptroller's office is, doubtless, correct; but it does not enable the head of the Navy Department to give to Congress that information which the law requires. From inspection of the Comptroller's books, and conversations with

those who keep them, I am satisfied that to obtain from them correct information of the state of the appropriations is now wholly impracticable. So many and so complicated have been the transfers, the refundings, the advances under wrong heads, &c., &c., that the skein can never be unraveled, and the only remedy for the past is to cut the knot.

It is just to the present Comptroller to state that he is devising means to change the mode of keeping his books and make them present the truth of every transaction.

Though appropriations are made for specific years, no effort has been made, except in relation to contingencies, to confine payments, out of the appropriations for any one year, to the accounts accruing within that year. With the exception above stated, accounts accruing ten years ago are paid out of the appropriations for the current year. The comptroller's books do not profess to give the *expenses* of each year, but only the *payments*. Large sums have been taken out of the appropriations, within a few years past, to satisfy old claims. This is, doubtless, one cause of the deficiency in some of them, which has in fact existed, and has been known in the public offices for several years. It may be doubted whether there was money enough, under any one of the *principal* heads of appropriation, in 1828, to pay up all accounts, accruing before the 1st of January, 1829; and it is probable that there was an aggregate deficiency, exceeding half a million of dollars.

It is difficult to ascertain fully, and detail accurately, all the practices which have embarrassed the accounts of the Navy Department; and perhaps it is more difficult to point out a remedy. But the result of my reflections shall be freely given.

As a first step to an effectual reform in the business of the Department, I would suggest the propriety of an appeal to Congress, to remodel the whole system of pay and emoluments of the naval officers, leaving as little as possible to the discretion of the Executive. Every indirect and covert allowance should be discontinued and forbidden; and the pay of all the officers made so certain as to leave no room for con-

struction, and so liberal as to remove present inducements to seek an increase by indirect means. . . . [379]

* * * *

You will perceive by the facts herein stated, that the whole object of specific appropriations has been defeated by the irregular and unlawful practices of the Navy Department. The annual reports to Congress give no correct information of the expenditures under each head, and for any purpose of that kind are no better than blank paper. They are worse: for they mislead and deceive. I find that most of those experienced in the public accounts attribute their present condition in the Navy Department to the system of specific appropriations. I am not prepared to admit that it is so much the fault of the system, as of its administration. The system is difficult, but certainly not impracticable. All will admit that it ought to be enforced or abolished. I know of but one mode of enforcing it. Let Congress give us an appropriation to meet all arrearages, under every head of appropriation, prior to the first day of January, 1830. Let every account in the Navy Department be settled up to that day, and all balances due, paid out of that appropriation. Let careful estimates be made for expenses accruing in 1830, and no part of the money appropriated for that year be paid on any account accruing prior to that year. Compel every disbursing officer to make careful estimates of the amounts needed by him under each head; forbid his paying out money for other purposes than those for which it is sent to him; and refuse him credits for all overpayments. Let no transfers be made, except in the emergency and in the manner prescribed by law; and let such as may be made be reported to Congress, as the law requires, that the deficiency may be supplied.

With strictness and severity in executing the law, I think the present system *practicable*. But it is complicated and difficult, and in some respects unsafe. Let any member of Congress or other person, however talented and intelligent, enter this

office and attempt to ascertain for what purpose the public money has been paid during the last four years. Where will he look for the information? Will he turn to the books? They will give him none. The entries are all in general terms, under each head, and give no clue to the real character of the vouchers. Will he ask the clerks? Their recollections are indistinct and unsatisfactory. He can procure what he wants only by a personal inspection of the ten thousands of vouchers in thousands of accounts, which it would take months to examine. I have been in this office about six months, and all I know of past transactions has been obtained by accident, in the necessary routine of business, or in tedious investigations. What there may be concealed in the numerous boxes and piles of papers which fill the passage, the shelves, and the pigeon holes of the office, I know not, nor can [380] I ever know, without opening and carefully inspecting the contents of every bundle. Without a long research we cannot tell what the building or fitting out of any ship has cost, or anything else of those hundred items of information which are always interesting, and often useful. The various items are scattered through the books of the office under various heads of appropriation, from which it is always difficult and sometimes impossible to cull and collate them. These heads of appropriation, as they appear in the books of this office, are like splendid abstractions, more beautiful in theory than useful in practice.

It appears to me all the benefits now derived from specific appropriations might be realized without their inconveniences, by requiring the Department to present *specific estimates*, by appropriating a sum in gross for the support of the navy, and by requiring the Secretary to account annually for the sums expended under each head of his estimates. To enforce the present system, liberal estimates must be made under each head to meet unexpected emergencies, because one head cannot depend for relief on another; but upon the plan suggested, a general allowance for emergencies would be suffi-

cient, and the aggregate amount of appropriations need not be so great. To enforce the present system, it will also be necessary to keep a balance under each head in the hands of every disbursing officer, thereby magnifying the aggregate at his disposition and multiplying the chances for fraud and defalcation. Under the plan suggested, the money in their hands would constitute a general fund, applicable to all naval purposes, and the whole sum continually entrusted to them need not be so large.

Whether the system be changed or not, the interposition of Congress is *absolutely necessary*. Without it, that which is now confused, must become worse confounded. If they will but give us the means of paying up arrearages, and not compel us to draw upon the appropriations of 1830, to pay debts accruing in all preceding years, we can do much ourselves toward extricating the accounts of the Department from their present embarrassment. Without that, we can do nothing, unless, indeed, we cease to pay all such accounts, and refer them to Congress, which would be great injustice to the creditors of the public.—November 30, 1829. [381]

AMOS KENDALL, Fourth Auditor of the Treasury,
to JOHN BRANCH, Secretary of the Navy.

* * * *

P.

* * * *

The Navy Commissioners have had the honor of receiving your letter of the 13th inst., requiring of them to lay before you their opinion of the present organization of the Navy Department—whether it may not be improved, and, if so, how? with such observations as may appear to them to belong to the occasion.

The duties of the Navy Department are various and complicated: so much so, indeed, that no one individual, however gifted, would be competent even to their *general* superintendence.

We may be assisted in forming judicious conclusions, by classing these duties under general heads, and considering them in their separate, distinct nature; and by referring to the practices which have obtained in the administration of them, since the first organization of the Department.

The general heads by which these duties are distinguished, and under which they may be classed, are:

1. Administrative or Executive.
2. Ministerial.
3. Financial.

Those of an administrative character consist, essentially, in dispensing the various offices created by law; issuing orders and instructions to officers for service; employing the national marine; convening courts-martial; and generally in seeing that the laws in relation to the navy are duly and faithfully executed. In discharging these high functions, consultations with the President of the United States become necessary; the officer vested with these responsible trusts is the medium through which the President makes known his will to the navy.

Those of a *ministerial* character: such as the construction, building, and equipment of vessels of war; their armament; their classification; the procurement of naval stores and materials; the preservation of ships in ordinary; the construction of docks, arsenals, ship houses, storehouses, timber sheds, shears, shops, &c.; the victualing and clothing of the navy; and which involve the necessity of having experienced professional men to perform them.

Those of a *fiscal* character, which embrace the expenditures of the service, in all its numerous branches, and under all its various heads of appropriation. This branch of the Department requires, in the performance of its ordinary duties, a thorough knowledge of accounts, and of all the laws and regulations of the service in any way affecting its expenditures; and it would be greatly improved by a practical knowledge as to all the various stores, munitions, and materials essential in the different departments of the service.

The duties which relate to the execution of the laws in reference to sick and disabled seamen discharged from the service, the apportionment of pensions, the necessary regulations for the government and support of hospitals, the naval asylum, &c., have been assigned by law to special boards, consisting of the Secretary of the Navy, the Secretary of the Treasury, and the Secretary of War.

The office of Secretary of the Navy was established in the year 1798. He was charged with the multifarious duties here classed under the administrative and ministerial heads; and an Accountant of the Navy was charged with the fiscal duties, subject to the revision of the Treasury.

Under this arrangement, although the navy, at that time, had not attained one-fourth of its present magnitude, it was found that these duties were burthensome in the extreme; and although it was very generally admitted that the Secretary of the Navy was remarkable for his capacity and industry, and that the office of Accountant was well filled, yet, it is known that the duties were very imperfectly performed—unavoidably so—and that the public interest greatly suffered. This arose from a multitude of mixed duties, pressing upon each other, each requiring to be done at one and the same time.

While the Department continued thus organized, great losses of treasure and of time were not unfrequently occasioned by a single order; among other instances, one might be cited in which it became absolutely necessary to expend upwards of \$60,000 to correct an error in the structure and internal arrangements of a ship; an error arising, solely, from the absence of *professional* knowledge.

Cases of this kind, with other considerations, contributed no doubt, to the existing modification, which assigns all the *ministerial* duties to a Board of Navy Commissioners, leaving a general superintending direction to the Secretary of the Navy.

By a subsequent law, Congress abolished the office of Accountant of the Navy, and created that of Fourth Auditor, as

a substitute, attaching it to the Treasury, and subjecting its statements to the strict revision of a Comptroller.

Prior to the act of Congress, of 3d March, 1809 [2 Stat. L., 535], (an act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments,) it was the practice in the office of Accountant of the Navy so to keep the accounts of the navy as to show the cost of *objects*—the building of a ship, for instance; but that law declares that money warrants shall be charged to the specific *appropriation* under which the money is to be disbursed. This produced a change in the form of keeping the accounts; *objects* are lost sight of, and *specific appropriations* seem to claim exclusive attention.

The act of 1809 declares that all money warrants “shall specify the particular appropriation or appropriations to which the same shall be charged,” and that the moneys paid in virtue of such warrants shall “be charged to such appropriation or appropriations;” that “the sums appropriated by law, for each branch of expenditure, shall be *solely* applied to the objects for which they are respectively appro- [396] priated, *and to no other.*” But it authorized the President, on the application of the Secretary, to direct “that a portion of the moneys appropriated for a particular branch of expenditure be applied to another branch of expenditure in the same department.”

Thus, under the law of 1809, the President might transfer from any one appropriation to another; but this authority of the President was, by act of 1st May, 1820 [3 Stat. L., 567], confined to three appropriations, viz: “provisions;” “medicines and hospital stores;” “repairs of vessels;” so that, from none of the other appropriations can a transfer be made. [397]

* * * *

It will be seen that this arrangement proposes that money requisitions shall pass the special examination of the branch under which they are to be expended; the reason is obvious—

that branch will possess precise knowledge upon the subject, and will be enabled to decide promptly and correctly whether the requisition should be approved or not: for instance, should money be required under the head of "repairs," the requisition would be sent to the officer having charge of "the building, repairing, and equipping department," who would cause it to be examined minutely, and, if found correct, he would approve it, and submit it in that state to the Secretary of the Navy, who would cause a warrant for the amount to be issued, and placed in the hands of the disbursing agent, to be applied by him in conformity with his instructions; thus, in its incipiency, using every precaution to ensure its faithful application and expenditure.

But, with these precautions, which would, unquestionably, greatly improve the existing practice, we should still be uncertain as to the *application* of money, according to *instructions*; none but the officer giving the instructions can decide, to a certainty, whether the moneys are expended according to those *instructions*; and this he ascertains by comparing the one with the other on his records. It is, moreover, to be presumed that his professional knowledge, which enables him to judge correctly as to the kind, quality, quantity, and prices of the articles required in the department of the service specially committed to him, would be of particular value in the examination of all accounts originating in expenditures directed by himself. This admitted, it results that every account of expenditure should be examined and approved by the officer having the superintendency of the branch which approved the money requisitions, and from which the instructions for its expenditure were issued. Accounts, thus examined and certified, might be sent to the Fourth Auditor of the Treasury, and there undergo such further examination as to their calculations as would ensure their correctness. Such an arrangement would impose auditorial duties upon each branch of the Department, and, in that case, additional clerks would be required, *viz.*, *two* for the first-mentioned branch, and *one* for each of the others.

Under such an arrangement, disbursing agents, residing in the United States, might be required to forward their accounts *weekly*; that is, to send, at the termination of every week, their vouchers for disbursements during that week. Upon being received, they would be immediately examined, and, if found [399] correct, the amount would be passed to their credit, and they would be so informed; if incorrect, the error would be corrected, while all the circumstances are fresh in the memory of all parties. This course would be attended with advantages both to the government and to the individuals concerned, to whom the prompt settlements of accounts should always be desirable; and it is not perceived that it would occasion much, if any, additional trouble to either party. It would require the constant and vigilant attention of both; and these are duties which every public agent should be desirous of rendering.

Disbursing agents, out of the United States, should be required to take quadruple vouchers for their expenditures, so as to enable them to send two in each case, and retain *two* in case of accidents. They should then be required to forward one set of their accounts by the first opportunity, and another set by the next earliest; we should thus, much earlier than at present, possess a knowledge of the foreign accounts of the Department.

With regard to the principle upon which navy appropriations are made by Congress, and the forms and rules observed in their administration, by the Department, it is hoped that a reference to the communication which the Commissioners had the honor of submitting on the 31st March last, will repay for the trouble of making it. There are numerous facts exhibited in that communication, which will assist us in forming satisfactory conclusions. . . .

* * * *

The principle which confines the application of navy appropriations to the particular objects for which they are made,

or which, in other phrase, declares that "the sums appropriated by law for each branch of expenditure shall be solely applied to the objects for which they are respectively appropriated, and no other," has thus, in numerous instances, been violated in practice. The inquiries of the Commissioners lead them to believe that this has been done sometimes intentionally, as the least of two evils; at other times, unintentionally, arising from misapprehension on the part of disbursing agents and others, as to the proper head of appropriation to which disbursements should be charged.

The cases particularly cited, are principally, it is believed, of the former class. The agents were *instructed*, it is understood, to apply moneys in their hands, under certain heads, to the payment of accounts arising and due under other heads. Such accounts were, it is said, of such a nature, that payment of them could not be postponed without violating the public faith; to preserve which, it became necessary to violate the law.

Of the latter class, cases are cited in our communication of the 31st March last, to which we beg leave to refer you.

The Commissioners, not having been charged with the duty of adjusting and settling navy accounts, can give no precise information respecting them; but the deep interest they have taken upon all subjects affecting the service in which they have the honor of holding commissions, has induced them from time to time to make inquiries; from which they are fully satisfied that the intention of the law of 1809, in its provisions as to the application of the specific appropriations, has never been carried into full effect, in any one year since its enactment. The theory of specific appropriations would seem to embrace exact and precise accountability; and this consideration, no doubt, had some weight in producing its adoption. But the test which has been applied, in the expenditure of millions of dollars, during the last twenty years, has certainly not confirmed the anticipations of its advocates. [400]

* * * *

If a single dollar be taken, *intentionally* or *otherwise*, from one appropriation, and applied to another, it is a violation of law. . . .

* * * *

These complex, fictitious operations, in the settlement of navy accounts, were unknown till the year 1809, and until then accounts could always be settled by the plain and simple rule of charging individuals with the amount of moneys placed in their hands for disbursement, and crediting them with the amount of their disbursements when properly vouched. The law of 1809, requiring that accounts shall be kept so as to be charged to the *appropriations*, renders these operations necessary in their adjustment, while it has greatly multiplied the forms, and increased the labor, without any advantage that the Commissioners can perceive.

That all disbursing agents should be required to account satisfactorily and promptly for all the moneys placed in their hands; that the forms of keeping, rendering, and settling their accounts should be so plain and intelligible as to be clearly understood, not by able accountants only, but by every member of the community (for every member has an interest in them,) are propositions which no one, it is presumed, will attempt to controvert. It has, we hope, been satisfactorily shown that the act of 1809 has not produced these effects; and a modification of that law, and of the act of the 1st May, 1820, heretofore recited, appears to be necessary in the accomplishment of results so desirable.

The Commissioners would recommend that the accounts be kept so as to show the cost of building ships, of repairing them, their annual cost in the service, and the cost of every authorized object or improvement; that the estimates be made so specific as to be distinctly understood, so that every appropriation shall be made with a thorough understanding as to the amount required for each object; that the power of transferring from one appropriation to another, as the exi-

gencies of the service may render necessary, be committed to the President; that, at the commencement of every session of Congress, reports be made, showing the expenditures of the year, and the various objects to which the moneys appropriated shall have been applied.—November 23, 1829. [401]

JOHN RODGERS, Naval Commissioner,
to JOHN BRANCH, Secretary of the Navy.

* * * *

To Congress, December 7, 1830

The Commissioners of the Navy Board, interpreting the act making an appropriation for the repairs of vessels in ordinary, and the wear and tear of vessels in commission, as admitting a greater latitude in its application to naval purposes than, it is believed, was contemplated by the framers of the law, or was admissible by a fair construction of its terms, have caused to be built, out of that fund, a new sloop-of-war, in the place of the "John Adams," which had been found defective in the model, and otherwise unfit for repair.

This subject was referred to your [the President's] consideration, and, in conformity to your decision, an order has been issued, requiring that in future the application of this fund shall be confined to the repairs of vessels in ordinary, and the wear and tear of vessels in commission; and that no vessels shall be built or rebuilt, unless authorized by a specific appropriation. [754]

* * * *

Other subjects believed to have a claim to consideration are, the state of the unsettled accounts of the disbursing officers, . . . The former was brought to your notice during the last session of Congress; . . .—December 6, 1830.²¹ [759]

JOHN BRANCH, Secretary of the Navy.

²¹ American State Papers, *Naval Affairs*, Vol. 3, pp. 754, 759; *Register of Debates*, Vol. 7, Appendix, pp. xviii, xxii.

NO. 50

UNSATISFACTORY CONDITION OF ACCOUNTS
IN THE POST OFFICE DEPARTMENT. RE-
PORTS (BARRY), 1829, 1831²²

To Congress, December 8, 1829

* * * *

On entering the Department, my attention was, at an early day, drawn to the manner in which its funds were received and disbursed. Circumstances transpired at the very threshold of this inquiry which indicated a looseness and irresponsibility entirely incompatible with that system which ought to characterize every branch of the public service. Moneys had been advanced to different persons contrary to law; and persons in the immediate employment of the Department, who receive stipulated salaries, defined and appropriated by law, had received moneys in advance from the funds of the Department, beyond the allowances so provided, and which had not been appropriated. [216] . . . These facts evinced a radical defect in the system of financial operations of the Department.

It appeared that all the funds of the Department were received and disbursed by one of the assistants, while the Postmaster General was held responsible in law for their proper application. The assistant had it in his power at all times to withdraw, or furnish for the use of others, the funds of the Department, to a large amount, without the knowledge of its head, or of any other person attached to it. There was no check upon any such transactions, nor any thing connected with the system calculated to bring them to light. The assistant made deposits of part of the funds in different banks, subject to his individual checks; and retained a part in his own hands, but to what amount is not shown by any document or record in the Department. . . .

²² American State Papers, *Post Office Department*, pp. 216-17, 303; *Register of Debates*, Vol. 6, Pt. 2, Appendix, p. 42.

The necessity of an entire change in the mode of conducting this business was most obvious.

Directions have been given that the money appropriated by law for the payment of salaries shall never be united with the funds of the Department, but that it shall be drawn by an agent appointed for that purpose, and applied directly to the object for which it is appropriated; so that the persons receiving it shall have no accounts opened on the books of the Department. This will effectually prevent advances and overpayments on that head in future.

It was important to devise a system by which no moneys should be received or disbursed, or in any manner come within the control of any one individual; but that all moneys should be paid into the Department by certificates of deposit in banks, and that nothing could be drawn from such deposits, not even by the head of the Department, without the signature of two distinct officers of the Department, each acting independently of the other, and both certifying to the correctness of the act. Also, that the transfer of moneys from postmasters to contractors should be subject to the same guard, and require, in like manner, the investigation and signature of two distinct officers of the Department. It was likewise necessary that this system should embrace a rule which would require postmasters to account promptly for the proceeds of their offices, and prevent an accumulation of postage in their hands. This has been done; and it is believed that the moneys of this Department are now as effectually protected as those of any other Department in the Government.

The observance of the system which has been adopted will require additional labor, but it is deemed essential to the security and prosperity of this Department.—November 24, 1829. [217]

W. T. BARRY, Postmaster General.

To Senate, March 3, 1831

Mr. [JOHN M.] CLAYTON [of Delaware] made the following report:

* * * *

Eighth, "The system of receipts and disbursements of money" which prevailed when I entered the Department, was, that the senior assistant received and disbursed all its funds. The moneys paid, in notes or specie, into the Department at Washington, were paid to him; and the payments in bank throughout the Union were subject to his entire control.

The Postmaster General was responsible by law for these moneys, but the senior assistant controlled their application at his own will. The latter, too, kept his own account of the moneys drawn by his checks from the banks, or paid out of the chest in his office, without the intervention of a clerk; and of the moneys found in his chest no account could ever be discovered in the Department. Thus, it will be perceived, money to a large amount could be abstracted from the funds of the Department, without the knowledge of the head, and without the fear of detection. There was no check upon any such transactions.

The system now adopted is, that all moneys shall be paid to the Department by certificates of deposit in banks; and that no money can be drawn from these deposits, not even by the head of the Department, but by the signatures of two officers of the Department, each acting independently of the other; and every such payment shall be recorded in the separate books of these officers; and that no drafts, even on postmasters, shall be made, without the investigation and signatures of two officers. The moneys appropriated for the salaries of the officers and clerks are not mingled, as heretofore, with the funds of the Department, and so made liable to be overdrawn; but those moneys are especially assigned to the care and disbursement of a distinct officer; and the salaries, being settled monthly and quarterly, are never entered in the

books of the Department, his account being kept in a separate book. More strict regulations are enforced, requiring the payment, at regular periods, of the funds of the larger offices, and of all whose postmasters are instructed to deposite. It is believed that the moneys of this Department are now applied faithfully, and preserved securely.—February 26, 1831.²³
[303]

W. T. BARRY, Postmaster General.

NO. 51

SPECIFIC APPROPRIATIONS. REPORT
(WICKLIFFE), 1830²⁴

To House of Representatives, February 3, 1830

Mr. [ROBERT C.] WICKLIFFE [of Louisiana] from the Committee on Retrenchment, submitted the following report:

The Committee on Retrenchment, in the discharge of a portion of the duties assigned to it, has directed its attention to the propriety of extending the practice of specific appropriations, as the best means of preventing an improper use of the public money, by the disbursing agents of the Government. The great security for economy in public expenditures, is to leave as little to administrative discretion as possible.

What appropriately belongs to the contingent expenses of any department or branch of the public service, is, and must be, to a very considerable extent, matter of sound discretion with every disbursing officer; and the more that discretion shall be restricted by a classification of the objects to which the contingent fund shall be applied, the more certainly do we preserve inviolate that provision in the Constitution of the United States, which declares that "no money shall be drawn from the Treasury, but in consequence of appropriation by law."

²³ Also published as 21 Cong. 2 sess., S. doc. 73. 95 pp. Serial 204.

²⁴ 21 Cong. 1 sess., H. rept. 150. 2 pp. Serial 199. See also Nos. 18, 19, 24, 25.

Large sums are annually appropriated to cover the contingent expenses in the several branches of the public service. The precise amount of these expenditures cannot be foreseen with accuracy; in some instances, their character or denomination may be expressed, and thereby prevent the application of the public money to improper objects, by the abuse of the discretion of the public officers.

We cannot disguise the fact, that these funds have often been applied to objects not within the contemplation of Congress at the time the act making the appropriation was passed.

When money is withdrawn from the Treasury, according to the forms of the Constitution, for one purpose, and applied by the disbursing power to another and a different one than that for which it was avowedly drawn, the spirit of that instrument is evaded, if not directly violated.

The correctness of this position may be fairly illustrated, by reference to the annual appropriations for the contingencies in the Indian Department, and the items or objects upon which a portion of these sums have been expended.

A practice had obtained, in the disbursement of these funds, to make them cover objects of expenditure never submitted to, or contemplated by, Congress. They have been devoted to the payment of the wages, and the salary of agents and officers unknown to the laws of Congress; the origin of whose offices, and the measure of whose compensation, emanated from Executive discretion. This evil has, in part, been corrected by specification in the appropriations of the last session of Congress. Prior to 1829, the sum appropriated to defray the contingent expenses in the Indian Department, varied from \$95,000 to \$100,000 per annum. At the last Session, this fund for contingencies was reduced to \$20,000.

The committee believe that much good may be effected in the same way in other branches of the public service, and in none more than in the contingent fund of the two Houses of Congress. This limitation, as to the objects to which this fund

shall hereafter be applied, is not so much required to prevent an improper use and misapplication of it by the disbursing agents, as to guard it against the danger arising from the separate action of either House, in directing, by resolutions or orders, its expenditure for objects totally unconnected with the business of legislation, certainly not falling appropriately within the contingent expenses of either House. It has sometimes happened that one branch of the Legislature has directed engagements to be made by its officer, to be met by drafts upon the contingent fund, greatly exceeding the whole amount appropriated by Congress for both Houses.

The committee will not refer to instances of this kind; they have arisen, and must be within the recollection of the House. It is not the province of this committee to condemn or approve the purposes or objects for which these heavy, and, as they believe, illegitimate charges upon the contingent fund, have been made. If no case has occurred, of sufficient importance to require the joint action of the two Houses of Congress, instances might be given, involving the expenditure of an amount, worthy the combined agency of the appropriating power.

The remedy which the committee propose for this evil, is an amendment to the bill making appropriations for the support of Government, for the year 1830; designating and classing the objects to which the contingent fund, for the two Houses of Congress, shall be applied; to be offered, whenever that bill shall come up for consideration; and they submit the following resolution:

Resolved, That the bill making appropriations for the support of the Government, for the year 1830, be amended by adding the following to the end of the eighth line, in the first section:

AMENDMENT

To be applied to the following purposes, and no other, viz:
To defray the expenses of the printing for the two Houses of

Congress, performed by the Public Printer of each House, agreeably to his contracts.

Stationery, book-binding, fuel, newspapers, post office, carpenters' work, furniture, repairs to the Senate Chamber and Hall of Congress, and rooms.

Messengers and horses, blank books and ruling paper, and books.

Expenses of the police of the Capitol.

of witnesses, including officers' fees for summing, &c.

of engraving maps and surveys, ordered by either House.

Mourning and funeral expenses.

Hack hire, when employed in the public service.

Extra clerk hire. [2]

NO. 52

ON THE IRREGULARITIES OF THE ACCOUNTS
UNDER APPROPRIATIONS FOR THE SUPPORT
OF THE NAVY AND MARINE CORPS, AND
SUGGESTIONS OF LEGAL REMEDIES FOR
THE SAME. REPORT (KENDALL), 1831²⁵

To House of Representatives, January 7, 1831

* * * *

... I have the honor of replying to your communication of the 23d ult., requesting "a report showing the situation of the various accounts which have been adjusted in the Fourth Auditor's office, under the appropriations of Congress, for the support of the navy and marine corps, with such remarks as I may deem to be necessary in explanation of their present condition, and, at the same time, present to the Department my views as to the best mode of correcting the evils and irregularities which have existed, and preventing the same in the future disbursements."

²⁵ American State Papers, *Naval Affairs*, Vol. 3, pp. 824-33; 21 Cong. 2 sess., H. doc. 33. 96 pp. Serial 207.

The readiest mode of complying with your request in an intelligible manner, appears to be to set forth the law, the practice, and the mischief, and then the proposed remedy and preventive.

By the act of the 3d March, 1809 [2 Stat. L., 535], it is made the duty of the Secretary of the Navy to advance money appropriated for the service of his Department out of the specific appropriation, to the use of which it is intended to be applied; and it requires the disbursing officers "to render distinct accounts of the application of such moneys, according to the appropriation or appropriations under which the same shall have been drawn." The act of 1st May, 1820 [3 Stat. L., 567], limits the power of the President to make transfers to four appropriations, viz: for "provisions," for "medicines and hospital stores," for "repairs of vessels," and for "clothing," and expressly declares that "no transfers from or to other branches of expenditure shall be hereafter made." The transfers made by virtue of this authority are required to be reported to Congress.

These laws were not, until recently, strictly observed in the practice of the Department. The Secretary has made numerous advances out of various appropriations for the use of others; and disbursing officers have not accounted for "the application of such moneys according to the appropriations under which the same were drawn." In this manner, extensive transfers have been made from some appropriations to others, without the interposition of the President, and without regard to the limitation prescribed by the act of 1820.

Advances under one head of appropriation for the use of another, have arisen from a deficiency in some appropriations, and a redundancy in others. When the deficiency first originated, it is difficult to ascertain. Some of the appropriations were exhausted in the year 1827, as early as May. Several were in the same condition before the close of the year. When the navy agents or pursers asked for money under one of these exhausted heads, the Secretary sent it under other

heads which were not exhausted, with the object, and sometimes with *instructions*, that it should be applied to the use of "appropriations" other than those "under which the same was drawn." As the appropriations for the support of the navy did not pass until the 19th day of March, 1828 [4 Stat. L., 254], the same practice was extended into that year, until nearly all the appropriations were exhausted.

This deficiency of appropriations was not communicated to Congress. The Secretary of the Navy estimated for the usual amounts for the service of 1828, and, to obviate in future a portion of the inconveniences which he was suffering, asked also appropriations for the first quarter of 1829, which were granted by an act approved 24th May, 1828 [4 Stat. L., 311]. The consequence was, that some of the appropriations were again exhausted before the close of 1828, and the practice of advancing out of other appropriations was again resumed. During the last two months of the year, however, many calls for money were laid over, and after the first of January, paid out of the appropriations for the service of 1829.

A more direct and palpable transfer was often effected by an advance to a disbursing officer under one head of appropriation, with instructions to deposit it in bank, to the credit of the Treasurer of the United States, under another. In these cases the only object of drawing the money from the Treasury was that it might be paid back again under another head of appropriation. . . .

When an account was settled, and a sum found due to an individual from an appropriation which was exhausted, he was sometimes paid by an advance out of another appropriation. . . . [824]

* * * *

These transfers constitute the means used by this office to remedy the errors of the Navy Department in making wrong advances, and of disbursing officers in expending under wrong

heads the moneys remitted to them. I presume it originated, or at least acquired consistency, from a letter of Secretary Crowninshield to the Fourth Auditor, dated March 14th, 1817, which read as follows, viz:

“You are hereby authorized to transfer to or from the respective heads of appropriation, as the case may be, any excess or deficiency that may arise in the settlement of accounts for the naval expenditure.”

Although these transfers are, perhaps, absolutely necessary to some extent, because it is impracticable for distant agents and pursers at sea to confine their expenditures under each head of appropriation to the exact amount of money received under that head, without serious detriment to the public service, yet they have been made necessary chiefly by heedless calls on the part of disbursing officers, and improper advances by the Secretary of the Navy. It enables the Secretary to anticipate appropriations. . . . [829]

* * * *

All these fictitious repayments are added to the amount of appropriations in the Second Comptroller's report, to make up the amount applicable to the service of the year. So far as they are composed of sums drawn from one appropriation, and deposited to the credit of another, they are *twice* added in—*once* in the column of appropriations for the service of the year, and *again* in the column of repayments. So far as they are composed of sums transferred in the settlement of accounts, they are included in the column of repayments, are added in as a part of the amount applicable to the service of the year, and, together with the foregoing, are included in the column of expenditures. The amounts reported as repayments, the amount applicable to the service of the year, and the amount of expenditures, are, therefore, fictitious, being represented as greater than they really are, by the exact amount of these transfers. The report gives truly the amount in the Treasury to the credit of each head of appropriation,

but does not communicate the important fact that many of the appropriations are actually overdrawn, and in debt to others in large amounts. This is not the fault of the Second Comptroller, nor of the system: but of the Navy Department, and its disbursing officers. It has not been considered the duty of the Second Comptroller to know that a requisition upon "pay and subsistence" is intended for the use of "provisions." It has been deemed his only duty to charge it to the appropriation upon which it is drawn. But so great [830] have been the irregularities of the Navy Department, and its disbursing officers in making drafts, that the Second Comptroller's books have long since ceased to show accurately upon what objects, or under what heads of appropriation, the public moneys appropriated for the use of that Department have been expended; nor is it possible from those books to ascertain, at least before a final settlement of accounts and transfer of balances. The reports made out from them have been deceptive. They generally show a small balance on hand under every appropriation, but this balance is often preserved by drawing largely under other heads for the use of that which is so nearly exhausted. . . . [831]

* * * *

The Treasury Department has no power to adjust these balances, except by a transfer in the settlement of accounts. No transfer is possible when the appropriation from which it might otherwise be made is exhausted. In many other cases of accounts long since settled, it could not be effected without serious inconvenience to the Navy Department. It would take large sums of money from appropriations under which it is wanted, and place it to the credit of those under which it is not, and might produce new deficiencies and fresh irregularities. . . .

Recently, transfers have been effected in settlements made in this office, whenever it could be done without producing greater evils than those intended to be corrected. It will be

perceived that they were much greater in 1829 than in 1828, and comparatively greater in 1830 than in either. But as irregular advances by the Navy Department have ceased, and misapplications in expenditure much diminishes, the amount of these transfers will soon begin to decline, and in two or three years become very small. But when all is done which can be effected by this process, I confidently believe the unadjusted balances of appropriations will still be more than four millions of dollars.

It only remains for me to suggest such measures as appear to me adequate to remedy the evils which we now suffer, and prevent their recurrence.

The most direct remedy is an act of Congress authorizing the Second Comptroller to direct transfers of balances from one head of appropriation to another, in all accounts of the Navy Department accruing prior to the 1st day of January, 1831, provided that no money shall be drawn from the Treasury to effect that object, and requiring that all balances which cannot be thus closed, except in running accounts, shall be reported to Congress at their next session, that further provision may be made by law for their adjustment.

To prevent a recurrence of these mischiefs, it is only necessary to persevere in the course of measures you have adopted, viz:

1. Let the estimates be carefully adjusted every year, so that there shall be no deficiency under any head of appropriation;
2. Let the Secretary of the Navy refrain altogether from advancing money out of one appropriation for the use of another; and
3. Let the navy agents, pursers, and commanders of squadrons and vessels on separate service, estimate carefully the sums which may be wanted, from time to time, under each head of appropriation, and predicate their requisitions and drafts upon such estimates;

4. Let the accounting officers of the Treasury refuse to credit disbursing officers and others for any expenditure under a head of appropriation which is exhausted.

Once adjusted by the interposition of Congress, a rigid observance of these points would enable the Navy and Treasury Departments to keep the books of this office for ever clear of the irregularities with which they are now filled. Much relief would be given to this office, and labor saved, if legal provision were made for closing accounts and extinguishing balances in cases where the debtors are dead and insolvent, and no possibility exists of ever making collections. Under existing laws, such balances must remain forever on the books of this office unclosed.—December 14, 1830. [833]

AMOS KENDALL, Fourth Auditor of the Treasury,
to JOHN BRANCH, Secretary of the Navy.

NO. 53

NEED FOR SIMPLIFICATION OF THE SYSTEM
OF PUBLIC ACCOUNTS. MESSAGE
(JACKSON), 1831²⁶

December 6, 1831

Our system of public accounts is extremely complicated, and it is believed may be much improved. Much of the present machinery and a considerable portion of the expenditure of public money may be dispensed with, while greater facilities can be afforded to the liquidation of claims upon the Government and an examination into their justice and legality quite as efficient as the present secured. With a view to a general reform in the system, I recommend the subject to the attention of Congress.

²⁶ Third Annual Message of Andrew Jackson. See also Nos. 57-61, 63.

NO. 54

CONTROL OF CONTINGENT FUND DISBURSEMENTS IN THE NAVY DEPARTMENT. REPORTS (WOODBURY), 1831-33²⁷

To Congress, December 6, 1831

* * * *

The general estimates for the ensuing year are presented in the document before referred to, and marked C, No. 1 to 15. In these an attempt has been made, in conformity to what is believed to be the true spirit of our institutions and the repeated wishes of Congress, to enable the legislative authorities to render the appropriations more specific, and to place the enumerated contingent fund in a condition to meet more nearly and promptly those demands upon it, so indispensable to the efficient operations of the navy. Although the whole expenses of the last year may not equal the whole appropriations and balances on hand for the naval service, yet the enumerated contingent, as in former years, has proved insufficient. The remedy, hereafter suggested to supply all past deficiencies, is considered preferable to any former practice of resorting to other specific appropriations.

In the mode of keeping accounts with persons responsible to this Department, so great latitude was, at one time, indulged in the transfer of appropriations from one object to another, that the disbursing officers stand charged with large and almost incredible sums under some heads, and credited with almost equal sums under other heads; but which balances cannot be legally settled without the authority of Congress. As this difficulty has generally originated more from carelessness than dishonesty, and, though censurable in principle, has probably caused no essential injury to the public, it seems judicious to allow, under the usual guards against

²⁷ American State Papers, *Naval Affairs*, Vol. 4, pp. 9-10, 47, 133, 161, 357-58. See Act of June 30, 1834, 4 Stat. L., 742 (Repealed Aug. 31, 1842, 5 Stat. L., 579) and Act of Feb. 23, 1844, 5 Stat. L., 651.

imposition and loss, the privilege of an adjustment to the persons interested. No other course is perceived which will enable the accounting officers connected with this Department ever to close these transactions on their books, and to introduce, with full effect, an accurate and improved system. These unsettled balances now exceed seven millions of dollars. Again, by carrying the balances not expended from the contingent appropriations to the surplus fund, instead of reserving them, as in the case of pay, provisions, &c., to meet future claims, (and in the necessities of the service abroad, these claims cannot always be early received and adjusted,) the demands on those contingent appropriations in some former years have not only exceeded their amount, but cannot now be discharged from any surplus of other years. Nor should the deficiency be taken, as done at some prior period, from different heads of appropriation, without an express legal provision: nor can it be taken from any existing appropriation for arrearages, as none has been made the last few years. To settle these just demands, it will therefore be necessary to appropriate to the object the balances of all former years carried to the surplus fund, or to make a new appropriation of about \$80,000. This latter course is the more definite, and seems due to all the claimants, and especially to the meritorious officers of the navy. To obviate this difficulty in future, it will only be necessary that the appropriations for contingencies should assume the form of those for pay and subsistence, without any increase of their whole amount; that these appropriations in other respects should correspond with the estimates for the present year, by throwing some of the enumerated items upon other and specific heads, and thus lessening the gross nominal sum for contingencies over \$100,000; and that due vigilance be exercised in the Department to confine the demands on these appropriations within the limits of the sums provided. There will probably be, on the 1st of January [9] next, an unexpended balance from all the appropriations of last year to the navy of nearly twenty

times this \$80,000; but it may all be required when the whole accounts for the year are closed; and if not, as before remarked, it would seem, on any correct principles of legal construction and of administering specific appropriations, not to be applicable to these old arrearages, or to different heads from those particularized, without the special authority of Congress.²⁸ [10]

LEVI WOODBURY, Secretary of the Navy.

To House of Representatives, December 20, 1831

I avail myself of the proposition made yesterday by the Committee on Naval Affairs to commence an explanation in detail of some of the recommendations contained in the last annual report from this Department.

As the item concerning arrearages is of more pressing importance to the service at this moment than any other, I have prepared, and herewith submit, the outlines of a bill to effect the desired object of meeting early the past and present demands in arrear on the enumerated contingent appropriations.

In addition to what has been said in the annual report on the causes of the deficiencies in that appropriation for some years, I understand their operation cannot be distinctly traced without infinite labor, because the demands on that appropriation have never uniformly been confined for payment to that appropriation alone, but have been discharged by the disbursing officers out of any other appropriation, a balance of which happened to be on hand.

In this way there has seldom been an apparent deficiency to meet individual claims, if the whole gross amount of appropriations for all parts of the naval service were sufficient to meet the whole demands. Thus, also, in some years, a surplus may have appeared of the contingent appropriation, when in fact fifty or sixty thousand dollars more than its amount may have been taken at the different stations and in

²⁸ Also in *Register of Debates*, Vol. 8, Pt. 3, pp. 22-23.

different squadrons from other appropriations, and applied to the discharge of claims on the contingent appropriation, and which would not be discovered till the accounts of the disbursing officers were finally settled. In this way it is that the disbursing officers have paid, from unauthorized appropriations, over seven millions of dollars. When the whole appropriations under certain heads have not equaled the whole demands, the deficiency has at times been supplied, it is understood, by subsequent acts of Congress making provision for the arrearages.

As greater strictness has been introduced in keeping the accounts with the disbursing officers of the Department, the inadequacy of the usual amount appropriated to pay contingencies has become more apparent on the books, and has led to such difficulties with individual claimants as to keep up an occasional resort to the former practice of meeting the urgent demands beyond its amount, by taking the balances on hand from other appropriations. This was done from the year 1825 to 1828 to the amount of over fifty thousand dollars yearly. But the efforts to induce the pursers, navy agents, and other disbursing officers to keep their accounts more correctly, and not to pay from one appropriation claims upon another, have so far been successful, for about three years, as to leave unpaid the demands beyond the last appropriation, and throw the real insufficiency of the amount upon the claimants rather than the disbursing officers. Small claims in favor of individuals were outstanding previous to that, though most of them have been discharged in some of the methods before named. Since that time few have been discharged from any other appropriation, though the balances on hand of other appropriations were more than large enough to do it. The deficiency in this particular item for 1829 and 1830 is therefore from twenty to thirty thousand dollars each year, according to the best data obtainable. This is but little over half the real deficiency for three or four years preceding, as shown by the settlements of the disbursing officers. In 1831 it will

probably be somewhat larger than in 1830; for diminished as some items of expense have been, such as allowances for extra service, and travel for certain purposes and on certain routes, yet the transportation of seamen home from foreign stations, after the expiration of their terms of service, and fitting out an unusually large number of vessels within the year, (more than double the number in 1830,) have in some respects been very onerous to this appropriation.

Again, the interests of the service are seriously endangered by our present inability to meet the deficiency, except in the informal and unwarranted manner once practiced. There exist bills of exchange drawn on foreign stations, both in 1830 and 1831, chargeable to this appropriation, that cannot be paid, the former at any time and the latter at maturity, without the aid of Congress. The work at some of the yards cannot proceed further until a new appropriation is made, unless on the hope merely that it will be made for the arrearages and for the coming year.

Three vessels now fitting out must have their full equipment suspended or their wants from this fund supplied on credit. The last sloop-of-war piloted into New York harbor, after being blown off the coast over twenty days, has come in on a credit for the pilotage, and which cannot be discharged without the appropriation now asked for.

These circumstances are hastily alluded to, as a few among many others, illustrative of the urgency and importance of not only making this appropriation of \$80,000, but of carrying it through at the earliest day practicable.

Most of the demands outstanding are for services and supplies of a highly useful character, such as money advanced abroad to assist our absent vessels, on implicit faith placed in the credit, justice, and punctuality of the government, and such as expensive journeys in the performance of important duties, the passages of seamen, and the labor and tools at yards, as well as fuel for forges and vessels. These demands, as before remarked, are mostly in the hands of individuals,

and not of disbursing officers, as the latter are now strictly forbidden to pay any of them out of any balance on hand belonging to different heads of appropriation; and hence the deficiency is felt by a larger number of persons, and many of them ill able to endure it.²⁹ [47]

LEVI WOODBURY, Secretary of the Navy.

To Senate, April 10, 1832

In reply to yours of the 9th instant, I have the honor to state that the act to which you refer, concerning the transfer of appropriations, under certain contingencies, did not originate in this Department, nor was it reported on my request or suggestion. The history of it, so far as known to me, is believed to be this:

In the annual communication from this Department, at the commencement of the present session of Congress, I did suggest the expediency of making the naval appropriations more specific than heretofore, and therefore prepared the estimates so as to leave the enumerated contingent less than \$150,000, when it had formerly been about \$250,000. This was effected by throwing a number of the items, whose usual yearly amount was tolerably certain, under specific heads, and by striking those items entirely out of the enumerated contingent. But the chairman of the Committee on Ways and Means, in the House of Representatives, preferred a bill in the usual form, and I accordingly prepared, for that committee, on their wish, a second bill, restoring all the items to the enumerated contingent, and striking out their amount under the specific heads.

I had also recommended, and introduced into the first bill, an appropriation at the beginning of the year sufficiently large to meet the claims on all the items of the enumerated contingent during the whole year, instead of an appropriation, as usual, which would leave forty or fifty thousand dol-

²⁹ Also published as 22 Cong. 1 sess., H. doc. 23, 2 pp. Serial 217.

lars of those claims to be delayed and afterwards paid by new appropriations for arrearages. The sum, which eight or ten years' records in the Department showed had been annually supplied for arrearages, was from forty to fifty thousand dollars, making the whole amount proper for the old items in the enumerated contingent about \$285,000.

But that committee reported the bill at the former amount for these items, viz., \$250,000, and, to avoid the practice, which once prevailed, of taking the deficiency from specific appropriations without any authority, as well as to avoid what has happened since that practice ceased, the delay and embarrassment of a resort to new appropriations in subsequent years for arrearages, the committee, as I understand, introduced the bill now under consideration. One other reason has been suggested. The estimates and appropriations are made only to the close of the year; whereas the new appropriation bills seldom pass till the second or third month of the ensuing year, during which last time many of the heads of appropriation become wholly exhausted, while others may happen to have a surplus remaining. These circumstances, united with the greater exposure of the naval service to unforeseen contingencies than any other department of the government, constitute the only "necessity" for the bill which has occurred to me. Falling short, as some specific appropriations unexpectedly may, before new ones pass; deficient, as the appropriation to the enumerated contingent has long been known to be; injurious, as the failure of it before the year closes often has been to our credit abroad, as well as at home; and refusing, as Congress has, to increase it at the commencement of the year, I must be permitted to express my conviction that this bill, under these circumstances, is decidedly preferable to the losses and embarrassments incident to arrearages, or to the manifest illegality of supplying deficiencies from other appropriations, without the express sanction of Congress, whenever those deficiencies, from any cause, may happen to occur. If the further inquiries in your letter, as to the "acts of 1809

and 1817," require any answer not included in the above remarks, I will be happy to examine them, on your pointing out, more particularly, the acts and the sections which may be supposed to need attention. [133]

LEVI WOODBURY, Secretary of the Navy.

To Congress, December 4, 1832

By the changes made under the new arrangement for drawing bills of exchange abroad, either on England or this country, as most advantageous, and by the exercise of more care in our agents concerning the forms of business and the communication of seasonable advices, all our payments abroad have been effected without delay or sacrifices. No bills of exchange have been protested; the credit of our drafts has become good on every station, and on the two where most depressed heretofore, they have advanced considerably above par.

By means of the seasonable appropriation at the last session of Congress, for the arrearages which had been some years accruing, and by extreme caution since in relation to charges on the enumerated contingent fund, we have as yet been enabled to pay promptly all the demands under that head. No transfer has been made to aid it, in any case, under the temporary act of the last session.

Should Congress place the enumerated contingent fund on the footing heretofore and now recommended, and which new charges upon it in the present estimates render still more urgent, and which the experience of the last ten years, as shown by repeated bills for arrearages, and by irregular transfers from other appropriations to aid it, proves to be indispensable to meet the usual demands upon it in the ordinary contingencies of the service, there is but little doubt that the present desirable state of our moneyed accounts will long continue.

There is now on hand unexpended, of previous naval appropriations, about a million and a half of dollars; but prob-

ably most of this sum will be requisite to adjust outstanding claims, and complete the specific objects for which some of the appropriations were made.³⁰ [161]

LEVI WOODBURY, Secretary of the Navy.

To Congress, December 3, 1833

. . . The period of time at which the annual appropriations for this branch of the service are usually made is a source of great inconvenience and injury. The estimates and appropriations are known generally not to extend beyond the current year; consequently it happens that, after the 1st of January, there is nothing on hand under some heads to meet the daily demands of the service, amounting, on an average, to \$10,000 per day, unless a new appropriation has been made, or there happen to be some balances of a former year not called for. Under some heads such balances always exist; because some disbursements, by means of absence, distance, and other causes, are not completed within the year. But they seldom exist under other important heads, and ought not to, if the accounts are seasonably settled and the estimates were accurate, and the appropriations, as is usual, conform to the estimates. The power now vested in the President, to transfer a balance from one appropriation to another, is confined to certain classes of claims, small in amount; and hence, as to all others, no transfer can legally be made, and if no balance remain at the end of the year, and the new naval appropriation bills have not passed, payment is entirely stopped, or the whole operations of this Department dependent on them are suspended. Considering how large a part of these operations and of our expenditures necessarily takes place in distant quarters of the world, it will be seen that the embarrassment in this branch of the service must often be peculiar and aggravated. In the case of bills of exchange drawn abroad, chargeable to the appropriations already exhausted, the public

³⁰ Also in *Register of Debates*, Vol. 9, Pt. 2, p. 18.

faith, under the above circumstances, is sometimes in danger of being violated; our credit in foreign countries becomes injured; and the Treasury, as actually happened during the last winter, is exposed to large losses, if the holders choose to resort to protests and claims for the mercantile rate of damages.

Under the present system of passing so late the naval appropriation bills, it happens that, unless money voted under one head is, without authority, as was once the practice, applied under other heads, this unfortunate condition continues, every short session of Congress about two months, and every long session about four months. It can easily be remedied in two methods: one of them is to make, previous to the 1st of January, new appropriations for a quarter or half of the year towards all permanent objects. By limiting them to such a time and to such objects, and by taking the estimates of the former year as a guide, no inconvenience will interpose, and no error can occur which may not be readily corrected when the residue of the appropriation for the whole year is voted at a later period in the session. Another mode is to authorize the President to make necessary transfers from one head to another, in all cases where the new naval appropriation bills do not pass by the commencement of the year, and to require from him a report to Congress of the amount and causes of such transfers. If the authority be thus [357] restricted, it is difficult to discover any danger likely to result from its exercise; and it is believed that the surplus or balances on hand under some of the appropriations would usually prove sufficient to supply the wants under others. The detail and earnestness with which legislation on this subject is now urged must find their excuse in my strong convictions that no measure whatever, requiring, like this, no increased expenditures, could be more conducive to the reputation and efficient operations of our naval establishment. . . .³¹ [358]

LEVI WOODBURY, Secretary of the Navy.

³¹ Also in *Register of Debates*, Vol. 10, Pt. 4, pp. 55-56.

NO. 55

ACCOUNTABILITY IN THE POST OFFICE DEPARTMENT. REPORT (CONNOR), 1832³²

To House of Representatives, April 20, 1832

Mr. [HENRY W.] CONNOR [of North Carolina], from the Committee on Post Offices and Post Roads, . . . reported:

From an examination of the regulations adopted by the Postmaster General, and as acted on now by that Department, they appear to your committee to be, in every way, calculated to insure a faithful application of its funds, efficiency in their collection, and entire safety in their preservation.

By this system, the head of the Department has excluded himself from the receipt or payment of any of its funds; and the senior Assistant Postmaster General, who acts as the treasurer of the Department, is excluded from the payment directly to him, or by him, of any of its moneys. The whole revenue of the Department is received in one of two modes: first, either by deposits in the banks, which are designated, and which (exclusive of the branches of the United States Bank) are considered perfectly safe; or, secondly, by the payments of postmasters to contractors on the drafts of the Department. Certificates of deposits are made to the Department, and signed by the proper officer of each bank, respectively; which certificates are endorsed and registered in the chief clerk's office; and the drafts on postmasters are countersigned by the principal pay clerk; no payment being required but on the signature of two officers. The postmasters, who are directed to deposite the proceeds of postage in bank, when the proceeds of their offices do not amount to six hundred dollars in one quarter, are required to deposite the whole quarterly balance within fifteen days after the close of each quarter; when the quarterly balances exceed the rate of six

³² American State Papers, *Post Office Department*, pp. 345-46; 22 Cong. 1 sess., H. rept. 450. 2 pp. Serial 226.

hundred dollars per quarter, they are to make their deposits monthly; and when their quarterly balances exceed the rate of three thousand dollars per quarter, they are to make their deposits weekly; the proceeds of each month [345] being paid within the succeeding seven days, and the whole quarter's balance to be paid within fifteen days after the close of each quarter. For each sum thus deposited to the credit of the Post Office Department, duplicate certificates are to be taken; one of which is to be transmitted by the first mail thereafter, as the postmaster is not entitled to a credit for his payment until the receipt of this certificate at the Department.

The whole of the disbursements of the Department are made, also, in two modes: first, by checks on the banks which are the depositories of its funds; which checks are required to be signed by two officers of the Department, each acting independently of the other; and, secondly, by drafts on the postmasters, in favor of the contractors, as heretofore stated; thus effecting, by this mode, the double purpose, without the possibility of loss in either payment or receipt.

The money appropriated for the contingent expenses of the General Post Office, such as fuel, stationery, etc., is also kept separate from the funds of the Department; and its disbursement is assigned to another officer of the Department, who is required to account directly with the Treasury, annually.

The moneys appropriated for salaries of officers and clerks are not mingled with the funds of the Department, but are especially assigned to the care and disbursement of a distinct officer; and the salaries, being paid monthly and settled quarterly, are never entered in the principal books of the Department, but those accounts are kept in a separate book; and, finally, all vouchers for receipts and expenditures are regularly made to the Treasury Department, registered, and deposited. The best evidence of the correctness of the system adopted by the Department is, that, within the last three years, not a loss has been sustained by the Department, except

one, and that doubtful, and not exceeding forty dollars in amount. Your committee are unable to devise any other mode of accountability more effectual that would not be calculated greatly to embarrass the Department in its efficiency. Very many years since, a change in the organization of the Department was brought to the notice of Congress, and the propriety suggested of subjecting the payment of money in that Department to the same checks to which all other payments of public moneys were subjected; and that the sums arising from the postage of letters should be paid into the treasury. The objections being then the same as at this time, producing embarrassment in the operations of the Department, no definitive action by Congress was had, and the Department was left to pursue the system as then acted on. [346]

NO. 56

CONTINUATION OF THE OFFICES OF SECOND
COMPTROLLER AND SECOND AUDITOR.
REPORT (SMITH), 1832²⁵

To Senate, April 30, 1832

Mr. [SAMUEL] SMITH [of Maryland] made the following report:

The Committee on Finance, to which was referred, on the 31st January last, a resolution "that the Committee on Finance be instructed to inquire into the expediency of so amending the act of the 3d March, 1817, 'to provide for the prompt settlement of public accounts,' as to abolish the offices of Second Comptroller and Second Auditor, and assign the duties now by law referred to them to the First Comptroller and Third Auditor," report:

That, by order of the committee, the chairman addressed a note to the Secretary of the Treasury, in which the following questions were propounded, viz.

²⁵ 22 Cong. 1 sess., S. doc. 138. 2 pp. Serial 214.

1. Whether the Treasury Department can dispense with the services of the Second Auditor and Second Comptroller, or either of them, without injury to the public service?

2. Whether the Third Auditor and the First Comptroller will be able, satisfactorily, to perform the duties of the offices proposed to be dispensed with, that is, without any material delay in the settling of the public accounts?

3. Whether the office of Solicitor has, or can, in any way lessen the duties of the Second Auditor and Second Comptroller? or can, in any way, operate in the duties of those officers?

The answer of the Secretary of the Treasury, was dated 10th March, being the day on which he received the answer of all the officers to whom the inquiries have been addressed, and is as follows:

1. That the duties performed in the offices of the Second Comptroller and Second Auditor are of great extent and importance, and that the First Comptroller and Third Auditor cannot perform those duties in addition to the other duties with which they are charged, without material delay in the settlement of the public accounts; and that neither the services of the Second Comptroller nor Second Auditor can be dispensed with, without injury to the public service.

2. That the office of Solicitor has not, and from its nature cannot, in any way, lessen the duties of the Second Comptroller and Second Auditor.

The answer of the Secretary of the Treasury was accompanied by the letter of the Secretaries of War and Navy, the First and Second Comptrol- [1] ler, the First, Second, Third, and Fourth Auditor's, all of which are submitted, and all confirm the opinion of the Secretary of the Treasury, to wit: That the offices of Second Auditor and Second Comptroller cannot be dispensed with, without great injury to the public service.

The committee submit the following extract from the letter of Mr. Hagner, the Third Auditor:

“The information which it is presumed to be the object of your letter to obtain from me, is in answer to so much of the second of the foregoing queries as concerns this office, viz as to whether, in addition to the duties with which it is now charged, I can satisfactorily execute those of the Second Auditor, and this without any material delay in the settlement of the accounts of both offices; and in reply thereto, I have to state that, without such delay, it would not, in my opinion, be in my power to devote to those additional duties, and to the present very onerous duties of this office, that degree of personal attention, on my part, which the latter now receive, and which is considered by me proper to a satisfactory discharge of them.”

They also submit an extract from the letter of the First Comptroller, viz.

“After the exhibit which I have thus made of the numerous and arduous duties which are required to be performed by the Comptroller and clerks in this office, I have no hesitation in giving it as my most decided opinion, that the Comptroller and his clerks could not perform more duties than are now assigned to his office, as hereinbefore stated; and that, consequently, if the office of the Second Comptroller was abolished, no part of the duties of that office could be performed by the First Comptroller; and I take leave further to observe that, from the knowledge I have of a portion of the duties which are performed by the Second Comptroller, that the continuance of that office is absolutely necessary to the prompt settlement of the public accounts, which are now assigned to it; and that it could not, in my opinion, be abolished, without much injury to the Government, and great and serious inconvenience to individuals having accounts to settle with the War and Navy Departments.”

The Solicitor, in his letter, says, “I am not aware that the institution of the office of the Solicitor has in any way lessened, or can lessen, the duties of the Second Auditor or Second Comptroller.”

The committee have given the subject their most serious consideration, and are of opinion that the abolishing the offices of Second Auditor and Second Comptroller would be attended with great injury to the public service. They therefore ask to be discharged from the further consideration of the resolution. [2]

NO. 57

ON SIMPLIFYING THE SYSTEM OF PUBLIC ACCOUNTS. REPORT (WASHINGTON), 1832²⁴

To House of Representatives, January 6; 1837

An inquiry into the practicability of simplifying the system of public accounts, as recommended by the President in his last [1831] annual message to the two Houses of Congress.

The complexity of the public accounts is a matter of general remark, and all who examine the subject must concur in the President's opinion, that the system requires a general reform. There is undoubtedly more machinery than is requisite for the safe disbursement of the public funds, or the correct liquidation of the public accounts; and, if any part operate uselessly (to say nothing of the needless expense involved) it must operate injuriously, by retarding the prompt action of the departments, and by subjecting the claimants upon them to inconvenient and vexatious delays. If we examine the different parts of the machinery, and look at its means of giving information of the operations of the departments, we shall find that the system is not less imperfect. The duties are not distributed and arranged among the different offices in the most appropriate and suitable way, their limits of authority are not clearly laid down, and there wants a single office for general deposite and access after the accounts have gone through their course of settlement. To obtain informa-

²⁴ 24 Cong. 2 sess., H. doc. 71. 10 pp. Serial 302. Written 1832, printed 1837. See also Nos. 58, 61.

tion, in a system so deficient in order, is by no means easy, even to the executive officers; whilst to Congress it must often prove exceedingly embarrassing. If it is frequently a matter of perplexity to Congress, to a committee, or to an individual member, to determine where he ought to apply, so, on the other hand, it is sometimes a matter of no less difficulty with the officers to decide which can or ought to furnish the required information.

To devise a system of accounts for the principal departments, which shall be more efficient for all the purposes for which it is designed, in the hands of the heads of those departments, and, through them, of the great head of the whole; which shall be more prompt in the payment of money, in the settlement of accounts, the exhibition of results, and, withal, less expensive to the nation, is the object of the present inquiry.

But let us first survey the existing system. Let us look at its establishment, and examine its successive changes and modifications.

The Treasury Department, embracing the entire system of paying money and settling accounts, was established by an act of Congress approved 2d September, 1789 [1 Stat. L., 65], entitled "An act to establish the Treasury Department." This act provided for a Secretary of the Treasury, Comptroller, Auditor, Treasurer, and Register. Without descending to detail, it will be sufficient to state, that to the Secretary it assigned, 1st, the duty of superintendence of the revenues in its comprehensive signification; 2d, that [1] of drawing warrants for the payment and receipt of *all* public moneys. To the Auditor, it assigned the duty of settling *all* public accounts. To the Comptroller, the duty, on the one hand, of revising the settlements made by the Auditor, and, on the other, of countersigning all warrants of the Secretary of the Treasury, if drawn according to law. To the Register, it assigned the duties of recording and of preserving the public accounts; and to the Treasurer, the duties of receiving and keeping the public

moneys, and of disbursing the same upon warrants of the Secretary, countersigned by the Comptroller, and recorded by the Register.

Here we have the great duties of superintendence, of settlement, of revision and control, of registry, and of the receipt, custody, and payment of the public moneys, judiciously distributed, and distinctly defined. There was but one settlement, and one revision of accounts; and for the payment of money, the issue of a warrant by one officer, and its revision by another; the agency of the Register giving him no control over the disbursement, and being merely for information. These were the only checks provided for these objects; and their sufficiency for the due safety of the Government, and their facility of operation in the Treasury Department, are attested by the experience of more than forty years.

This system, projected by the first Secretary of the Treasury, has been long and much extolled, and, as I think, deservedly. One of his most sagacious successors in the department is *said* to have expressed the opinion that it could not be improved. Be this as it may, it is certain that all the attempts made to improve it, have tended to its injury. Admirable, however, as the system confessedly was, in my humble opinion, it was not perfect. The appropriation to the Secretary of the Treasury of the whole duty of drawing warrants for the payment of *all* the moneys of the Government, was unquestionably a defect in the system, however small its inconveniences in the early period of the Government, and whilst that entire system subsisted. As it regarded the labor involved, in so much as related to the other departments, it imposed upon an officer, otherwise sufficiently tasked in matters of the highest interest, duties of an inferior grade, not required by the true object and character of his office; and, as it regarded the disbursements of those other departments, so far as any power over them was conferred upon him, it was calculated injuriously to impair their activity, by controlling the Secretaries in the application of the means necessary to give effect to their

objects; a control to which he was not himself subject in relation to the funds of his own department. As a consequence of this defect, too small to be discernible in the prospect, it became necessary, as we shall see, in a few years to withdraw from the office of the Secretary of the Treasury a portion of its duties, and to assign them to another officer.

This system continued in harmonious operation for nearly three years, when the office of Accountant of the War Department was established, and, by being ingrafted upon the Treasury Department, gave the first blow to its unity and simplicity. By the act approved 8th May, 1792 [1 Stat. L., 279], entitled "An act making alterations in the Treasury and War Departments," the Accountant is required to transmit all accounts settled by him from time to time to the accounting officers of the Treasury, for revision; and the Treasurer is required to disburse all moneys previously ordered by warrants from the Treasury for the use of the War Department, upon warrants of the Secretary of War, countersigned by the Accountant. Whilst the Treasury accounts continued subject to two settlements, those of the War De- [2] partment, by this act, became subject to three; and the moneys appropriated for the use of that department required a double set of warrants for their disbursement: first, a Treasury warrant, of the usual form to set the moneys aside for the department; and then a warrant of the Secretary of War, countersigned by the Accountant, to apply it to its use as occasion required. A third inconvenience arising from this law was, the necessity it imposed on the Treasurer of keeping a double set of accounts; one as Treasurer, and the other as agent of the military department. It deserves to be noted, that this act substantially gave full power to the Secretary and Accountant of the War Department over the moneys appropriated for its use, the preliminary agency of the Treasury warrant embracing those moneys in gross sums, and being, in fact, but little more than a repetition of the act of appropriation. It deserves also to be noted, that whilst the Congress of that day affected too much

squeamishness to put the Accountant on a footing with the Auditors, and to subject the settlements of both, alike, to the revision of their official superior, the Comptroller, it raised the Accountant to a footing with that superior, in the more important part of his functions—that of countersigning and controlling the warrants drawn by the Secretary.

This act, as we have been prepared to expect, provided likewise for a diminution of the duties of the Secretary of the Treasury. It authorized him to direct the superintendence of the collection of the revenue on impost and tonnage, as he should judge best, and he accordingly directed the Comptroller to superintend it. These duties, considerable at the time of transfer, and since increased, are doubtless, at the present time, the most important branch of the Comptroller's duties. It may, therefore, be reasonably supposed, that it was in consequence of the design so to transfer them, that the appropriate duty of Comptroller, in relation to the war warrants, was assigned by the same act to the Accountant; and there can be no doubt that it was chiefly in consideration of the burden of this transfer, that it was judged necessary, at a more recent period to create a Second Comptroller, to revise accounts, as well as to countersign warrants.

From this period the system of public accounts could lay no claim to simplicity or harmony. The Treasury Department preserved its original organization in relation to Treasury matters, except the superintendence of the revenue, which will be again noticed; but the additions of Accountant of the War Department made by this law, and of Accountant of the Navy Department made by a subsequent law, failed to harmonize or unite with it, remaining as unseemly patches or unnatural excrescences on the original body, and producing an unnecessary revision of accounts, and an artificial and circuitous mode of paying money.

The Accountant of the Navy Department, was created by the act of 16th July, 1798 [1 Stat. L., 610], and placed, in relation to the Treasury, on the same footing in every respect,

with the Accountant of the War Department; and thereby it became necessary for the Treasurer to keep and render a third set of accounts, as agent of the Navy Department.

Not the least inconvenience arising from these deviations from the system of 1789, remains to be mentioned. The *detailed* expenditures of the War and Navy Departments could only be recorded in the offices of the Accountants who countersigned the *subordinate* warrants, and the Register's office ceased, accordingly, to afford information of the *actual* aggregate receipts and expenditures of the whole. It thenceforward became necessary, on all occasions when these results were required, to seek them in different quarters. A memorable mistake which occurred in obtaining some of these results, with a view to the annual estimates, led to the abolition of this mode of disbursing the moneys of the War and Navy Departments, and, as we shall see, to the substitution of the present, or requisition system, in the year 1822; a system which, though it varied the form, preserved the principle (originally defective) of a dependence of those departments, upon the act of the Secretary of the Treasury, for the moneys appropriated for their use.

The act of 25th April, 1812 [2 Stat. L., 716] establishing the General Land Office, was a deviation from the principle of the system of 1789—similar in character, but not in degree, to the transfer of the superintendence of the customs to the Comptroller, before referred to. This act authorizes the commissioner, under the direction of the Secretary of the Treasury, to superintend the public lands, &c.; and it further authorizes him to audit all accounts in relation to the public lands; thus uniting the duties of Superintendent and Auditor, which the act of 1789 carefully separated, and which must have been regarded as totally incompatible. Let us inquire in what this incompatibility consists, taking for this purpose, the case of the Comptroller. The superintendency of the revenue from the customs, includes the power of directing the payment of the necessary expenses incurred in its collection. Many of

these expenses are fixed by law, although paid out of the proceeds, and without appropriation; but many, also, are necessarily left to the discretion of the Treasury Department. Of this description are the number and compensation of inspectors, revenue cutters, and revenue boats, their officers and crews, law expenses not of the usual kind, &c. One reason why this power was given to the Secretary, doubtless was, that it was considered too important a one to be lodged in other hands, than those of the head of the department.. Another probably was, that, whilst there, its exercise would be subject to the revision of the accounting officers. In relation to so much as the Comptroller exercises, under the transfer referred to, the benefits of revision are obviously lost. His preliminary order to pay the money, forecloses his subsequent judgment, as to its legality. The same remark applies in relation to all subjects, in which his authority as superintendent, involves matters of account. The same may be said of the Commissioner of the General Land Office. His instructions upon any subject touching matters of account, are sanctioned by himself in auditing those accounts. But the principle, though the same in character, operates, as before remarked, in different degrees between these two officers. The superintendent of the public lands, if he give an order involving the payment of money, may indeed pass the account himself, as Auditor; but it will be subject to the revision of another officer. But the superintendent of the customs, if he give such an order, sits in final judgment upon the account as Comptroller.

In 1816 [3 Stat. L., 322], the office of Additional Accountant of the War Department was established for the settlement of accounts growing out of the war lately concluded, and was put upon the same footing, in every respect, with the Accountant.

During the administration of President Monroe, a vigorous effort was made to improve the system of public accounts, by bringing it back as far as possible to its original organization. By the act approved 3d of March, 1817 [3 Stat. L., 366],

“to provide for the prompt settlement of public accounts,” the ac- [4] countant offices of the War and Navy Departments, were abolished, and it was provided that thereafter *all* accounts should be settled in the Treasury Department. Five Auditors were created to settle the accounts of the different departments: two being assigned to the War Department, and one to each of the other departments. A Second Comptroller was created to revise the accounts settled by the Second, Third and Fourth Auditors; whilst the First Comptroller revised the accounts settled by the First and Fifth. This act put the *public* accounts upon the footing of the act of 1789. It brought them all within the pale of the Treasury, and provided for their settlement, to whatever department appertaining, in the same way. Had the object of this law been fully carried out, to the payment of money and the exhibition of results, it would probably have answered the purposes of its projector, and the system, though still imperfect, might have operated satisfactorily to the country for many years. This, however, was not the case. The circuitous mode of disbursing the moneys of the War and Navy Departments was continued, with modifications suited to the changes described. The warrants to be countersigned by the Second Comptroller, and registered by the Second, Third, or Fourth Auditor, according to the nature of the expenditure; and, as incidents to this registry, the keeping by them, the appropriations and preserving the accounts. The latter duty was, doubtless, enjoined in view of the locality of the offices, and the connexion of the accounts growing out of the war with each other; an arrangement, the necessity of which has doubtless ceased with the settlement of those accounts. Meanwhile, the separation of accounts, among different officers, after settlement, considered with a view to information, is a fruitful source of inconvenience, increasing as the settlements proceed.

The inconveniencies resulting from the artificial mode of disbursing the moneys of the War and Navy Departments, have been briefly alluded to. We now come to the substitute

adopted in 1822, being the last attempt by law to modify the system at large. By the act approved 7th May, 1822 [3 Stat. L., 688], it was provided that the moneys in the hands of the Treasurer, as the agent of the War and Navy Departments, should be paid back into the Treasury, and that from and after the 1st July succeeding, the moneys appropriated for their use should be drawn from the Treasury, by warrants of the Secretary of the Treasury, upon requisitions of the Secretaries of those departments, countersigned by the Second Comptroller, and registered by the proper Auditors: the object of which was to bring the expenditures upon the Treasury books, and enable the Register, as he had formerly done, to furnish general aggregate results of the actual receipts and expenditures of all the departments, when required. The object proposed by this law was doubtless gained, but at an expense of time, both to the departments and to claimants, beyond its value, great as that unquestionably was. When it is stated that, under this system, the settlement of a claim in the usual way, in the War or Navy Department, involves the agency of about twenty officers of Government, before the claimant can receive his money, it will easily be understood that this is the most objectionable part of the system, and that, in which the greatest retrenchment of expense can probably be effected.

These remarks have been confined to the examination and illustration of the principles upon which the system of public accounts has proceeded. In considering a substitute for the present system, a similar rule will be observed. When the outline of that substitute is given, some leading [5] details will be suggested, deserving of consideration if the system is carried into effect; remarking, however, that it is my object rather to deal with the system at large, than with the different parts; to examine the offices in connexion with each other, rather than the peculiar regulations by which any one may be governed.

These details might form a more fit subject for a further

speculation, or they might be more satisfactorily elicited from the different offices themselves.

The first point proposed in the new system is efficiency—efficiency in the payment of money, and in the settlement of accounts. The principle of revision and control, to some extent, will be necessary for the safety of Government, in relation to both. A general office of registry will establish a connexion between the various parts of the system, furnish information in the aggregate and detail, and tend to preserve these parts in harmonious action with each other.

To accomplish these objects, it is not intended to propose a scheme either difficult or novel; the plain and simple principles found in the act of 1789, and which experience has approved, with the single exception pointed out, will answer every purpose, by giving them such an extension to the enlarged establishments of the Government, as should have been the object of the changes and modifications described.

And, 1st. Of efficiency in the payment of money.—To accomplish this, it is proposed to abolish the requisition system of the War and Navy Departments, and the letter system of the State Department, and to put their Secretaries in the power of drawing money, on the same footing with the Secretary of the Treasury. This proposition involves that part of the system (considered defective) of 1789. This defect we have seen, though not discernible to the framers of that system, yet operating in it as a most burdensome imposition of labor upon one officer, whilst it was an undue derogation from the authority of others; under the first material change in that system, producing increased inconvenience, and in process of time giving rise to an exciting event in the politics of the day; and under the last change, become the source of constant vexation and complaint, troublesome to the departments and harassing to the claimants.

That the practice was continued upon the first, and even upon the succeeding modifications of the system, when the relative position of the department, was changed, must have

been owing to indistinct notions of the true theory of the Treasury system, and from confounding the *department*, with the *office* of the Treasurer; the true and proper treasury of the nation, as it is the depository of all its moneys. In no other way can we sufficiently account for the *idea*, which has so long prevailed, so unfounded in theory, and so inconvenient in practice, that when money is appropriated in the Treasury, for the use of another department, an act of the Secretary of the Treasury, a sort of new appropriation is necessary to give effect to the first. In fact, the money is appropriated in the hands of the Treasurer, and there can be no sound reason, when Congress has done this, why all the Secretaries should not draw directly upon him for it, precisely alike, under the same limitations and safeguards.

There is another *idea* of the same family, but whether the parent or the offspring of the former, is not certainly known, which deserves some notice. It is, that the Secretary of the Treasury has stronger obligations and a more particular responsibility, in money matters, than the other Secretaries. This idea is as shallow as the former. He is the great financier of the nation— [6] devises plans for the improvement of the revenue, and superintends its many sources of supply; but when the moneys reach the public coffers, his peculiar and appropriate duties as financier are at an end. These duties, multifarious as they are, all look but to the one great object—the collection of the public funds, *into* the Treasury, and have no more necessary connexion with a just responsibility for its disbursement, *thence*, for all the purposes of the Government, than have the peculiar duties of the Secretary of War, who provides for the defence of the country on land, or of the Secretary of the Navy, under whose orders the national flag is displayed at sea. In fact, all the Secretaries have certain separate and peculiar duties, and certain duties that are common to each other. The latter class is the duty of paying the agents, &c., employed in their departments. These money

duties, they should discharge in a like manner, both as to labor and authority, and upon a fair and equal responsibility. This subject might be pursued, but it is considered unnecessary. It might be shown, indeed, that the *idea* is mischievous, instead of salutary in tendency; and that whilst the other Secretaries have, in fact, the substantial control over the moneys of their departments, the idea that the care of the public funds was the peculiar province of the Secretary of the Treasury, would be calculated to make them less careful and vigilant, in their disbursement. But, in truth, these distinctions, between the different Secretaries, are perfectly idle; they are taken from the same distinguished class of citizens, and are all equally trustworthy.

2d. The warrants, then being drawn by all Secretaries alike, for the moneys appropriated for their respective departments, we come next to consider the principle of control, or the proper provision to check these acts of the Secretaries, and to keep them in due bounds, to prevent their drawing more money than is appropriated, or drawing that money otherwise than as the law authorizes. This duty, including the keeping the necessary books of appropriation, ought to be devolved upon a single officer—the First Comptroller; and without meaning to intimate that it is not, I may be permitted to remark, that it ought to be firmly exercised. Under the new system, the Comptroller would be a very important officer; for he alone would have a controlling power over all disbursements, and ought to be paid in a corresponding manner. The relative dignity of public officers is established by their relative compensation, and it could not be expected that this officer could act as a due counterpoise to the power of the Secretaries in the payment of money, unless he were brought more nearly on an equality, in salary, with them. Here let me reprobate another dangerous *idea* of the same prolific stock—that the Secretary and Comptroller have a concurrent or joint responsibility in the issue of warrants. Although it

has the sanction of a great name, once an ornament to the department, it is unsound in theory, and may—must prove mischievous in practice.

To this officer should also be assigned the duty of revising all public accounts. This will supersede the office of Second Comptroller; and to enable him to perform those two branches of duty, constituting the entire principle of revision, he must be relieved from the superintendency of the customs, so incompatible with the duties of Comptroller, to be restored to the Secretary of the Treasury, and discharged in the manner hereinafter pointed out.

3d. Of the settlement of public accounts.—It has been seen that, during the administration of Mr. Monroe, the system of 1789 was re-established, so [7] far as related to the settlement of accounts; or, in other words, that it was extended, so as to embrace all the departments. The leading features, therefore, of the Auditors' offices as at present established, not inconsistent with a single Comptroller's office, or the duties to be assigned to the Register, are in conformity with the plan proposed. To promote simplicity, so important in an extensive system, there ought to be one Auditor assigned to each department, and required to adjust the accounts arising in it, all, and no more. This arrangement would give more duty, but probably not more labor, to some Auditors than to others; but this inconvenience, even if it were as great as it is certainly trivial, should yield to the unquestionable advantages to be expected from the simplicity and harmony it will combine in the operations of the system. The rule would permit exception, rather in the case of the large departments than the small. It might, for instance, and probably would, be found necessary to continue two Auditors, as at present, for the War Department; but it would be indispensable for the Department of State, which is the smallest in matters of account, to have one; though he might, as a further exception to the rule, continue to audit the Post Office accounts.

4th. Of registry.—There being established but one office of revision, it follows, as a matter of course, that this office should perform all the duties of registry. This will put the Register's office in relation to the general system, on its original footing under the act of 1789.

5th. Of the Treasurer's office, or of the immediate payment and receipt of public money.—The Treasurer's office stands now, under provision of law, upon its footing under the act of 1789; the law creating the separate agencies of the War and Navy Departments having, as we have seen, been repealed. The law *in transitu* in Congress, in relation to the late Treasurer, will enable his accounts to be closed, and relieve the office from the special deposits—a fruitful source of trouble and perplexity. The regulation of the Treasury Department in the year 1829, in relation to the Treasurer's office, introduced some valuable improvements in its mode of doing business, and the machinery continues to operate in a healthful and satisfactory manner.

Thus closes the outline, embracing the five leading principles of the proposed system of public accounts, a system in which it has been simply attempted to preserve what is good, and to remedy what is amiss, uninfluenced by any desire to produce partial results, to consult or affect particular interests, or to establish favorite theories; a system believed to be as efficient as is consistent with safety, and as safe as is consistent with due efficiency—simple in construction, and capable of readily yielding the necessary results of its operations. To this may be added the remark, that it is susceptible of almost indefinite extension, and that if it is desirable to make the General Post Office a part of it, or to create a Home Department, nothing would be easier than to do so, upon the principle of extension laid down.

Some details will now be offered. The process of obtaining money on an account is unnecessarily long, even in the Treasury. The Auditor sends the account, when adjusted, with a report to the Comptroller, who revises and forwards

them to the Register, who enters them, and sends a certified copy to the Secretary of the Treasury, to serve as the basis of a warrant. By the Comptroller's sending the report of the Auditor itself to the Secretary for the issue of his warrant, and the account to the Register for record, [8] every useful purpose would be answered, time would be saved to the claimant, and much useless labor to the Register.

The adjustment of accounts in the General Land Office, relating to the public lands, ought, in pursuance of the views given, to be restored to the First Auditor, from whom they were originally taken. To those who know how much the business of the Land Office has swelled of late years, the proposition to relieve it of a portion of its duties will not appear the least desirable part of the plan.

The superintendence of the collection of the revenue from customs, performed by the Comptroller, and that of the public lands, performed by the Commissioner, are portions, as we have remarked, of the great duty of superintendence, originally assigned to the Secretary. To enable him to discharge them, a Superintendent of the Customs, in lieu of the Second Comptroller, superseded, ought to be created. This officer, and the Commissioner of the General Land Office, should have the entire authority, under the direction of the Secretary of the Treasury, over their respective branches of revenue.

Of the same character is the office of the Solicitor of the Treasury, lately established. He ought to exercise, under the direction of the Secretary, the entire authority over suits and debts, both in ordering suits upon reports to be periodically made by the Register, and finally to judgment and execution, and to compromise or release. He might likewise perform, under the like direction, all duties in relation to applications for remission of fines, penalties, and forfeitures. His duties would embrace all claims of the United States arising out of the special deposits, which it is proposed to withdraw from the Treasurer's accounts.

It is a necessary part of the proposed plan to relieve the fifth Auditor from the duties he now performs in relation to light-houses, their location, construction, and supply, buoys, beacons, floating-lights, improvements of harbors, rivers, &c., for which his office is not constituted, and to restore them also to the Secretary of the Treasury. To enable the Secretary to discharge them in a manner at once economical to the Treasury and extensively useful to the nation, he should be furnished with a competent assistant, of science and experience, capable of bringing these subjects into systematic order, making surveys, preparing estimates, digesting plans, &c. To procure the services of such an assistant, the grade and compensation of a civil engineer, under the act of May, 1824, would probably be sufficient.

This principle likewise would be capable of easy extension. The engineer referred to might serve as the nucleus of a corps of any size necessary to perform any other civil engineering connected with the revenues of the nation, that it might think fit to devolve on the Secretary of the Treasury.

The bodily labor required of the President, in signing a great number of parchments—many of them of but little value—patents for public lands given and sold, for useful inventions, &c., is known to be extremely burdensome, withdrawing his time from the great and weighty interests of the nation, and interfering with his healthful recreation and exercise. It is proposed to authorize the President to appoint two persons to sign these papers, or to attest his printed signature to them. Examples of a similar course, when the necessity could not be stronger, are known in our Government, and might be adopted as approved precedents in the present case.

In pursuing the arrangement of details, the great divisional lines of the [9] system as laid down should be observed. Within these lines the officers can doubtless give much better views upon the subject.

Duties of the same kind should, whenever practicable, be

placed in the same hands; and where they are necessarily divided, as in the case of the Auditors, the officers should act under the like laws and regulations. The Register should have the sole responsibility of preserving the public accounts, and the Comptroller the sole duty of prescribing forms.

The chief clerks might in *all* the offices, as they are in some, be made responsible, in the absence of the head of the office, for the care of the books and papers.

Some general regulation might also be adopted in relation to the payment of small claims of a miscellaneous character at the seat of Government.

This inquiry has been necessarily free, but I hope will be found to contain nothing that will give offence to any. I feel that veneration for the past, and that respect for the present dignitaries of the departments, to which they are most justly entitled. I am aware of the delicacy of the subject, and I trust I have examined it in a way perfectly consistent with these sentiments. [10]

P. G. WASHINGTON.³⁵

NO. 58

REORGANIZATION OF THE TREASURY DEPARTMENT. REPORT (WOODBURY), 1834³⁶

To Senate, December 8, 1834

In the Senate of the United States, May the 8th, 1832, it was

“Resolved, That the President of the United States be requested to cause to be prepared and laid before the Senate, at the commencement of the next session of Congress,

³⁵ Peter G. Washington was chief clerk in the Treasurer's Office when he wrote this report. He had served as clerk in the Third Auditor's Office, 1817, the Secretary's Office, 1823, and the Treasurer's Office, 1829. He became chief clerk in the Sixth Auditor's Office, 1836, Sixth Auditor, 1845, and Assistant Secretary of the Treasury, 1853.

³⁶ 23 Cong. 2 sess., S. doc. 6. 13 pp. Serial 266. See also Nos. 57, 61.

a plan for the re-organization of the Treasury Department, with a view to simplify the forms of settling and keeping the accounts, and of rendering them more intelligible; of a more equal distribution of the labor and duties, and abolishing some of the subordinate branches, and reducing the number of clerks in the Executive Departments.”

This resolution having been referred by the President to this department for examination and report, various reasons, which need not here be repeated, occurred to delay them until February last. On the 18th of that month a similar resolution, in all respects, except directing the call, in the first instance, to the Secretary of the Treasury instead of the President, and limiting the reply to no particular period, passed the House of Representatives. The undersigned, in obedience to these requests, has examined the points presented with all the care and reflection in his power, under the great pressure of other duties, and will now proceed to submit the results to Congress, with the utmost brevity practicable, without a neglect to discuss and explain the whole subject to an extent corresponding in some degree with its acknowledged importance.

RE-ORGANIZATION

It will be found that the plan for re-organization of the Treasury Department, when analyzed, is expressly required to be prepared.

First. With a view to simplify the forms of settling accounts, of keeping accounts, and of making them more intelligible; and

Secondly. With a view to a more equal distribution of labor, for abolishing [1] some of the subordinate branches, and for “reducing the number of clerks in the Executive Department.”

All these particulars, except the last, seem to relate, exclusively, to the Treasury Department, in its various ramifications. The last, though it nominally includes *all* the Ex-

ecutive Departments, it is presumed, was intended to embrace them only in respect to the operation on them of any changes recommended in the Treasury Department. It is well known that all the other departments might be more or less influenced as to the number of their clerks, according to any changes made here, which would devolve more or less labor on those departments in relation to their fiscal business, as connected with the Treasury. Under that view alone, therefore, as to this clause of the resolutions, the undersigned will proceed in their consideration. While seeking to enforce the designs of Congress on the particular subjects enumerated, it will be presumed that no alterations were probably wished; which, in their general operations, would lessen any of the useful checks, now existing, to prevent errors in the Treasury, either accidental or designed, and to guard against losses to the public, or misapplication of money, by departures from specific appropriations, or which would diminish the means of furnishing promptly, to Congress and the public, desirable information as to the receipts and expenditures, and of averting delays in the collections or settlement of the extensive moneyed concerns of the Government.

Keeping these salutary precautions in view, it has been the endeavor of the undersigned, under the analytical head of each principal branch or bureau of this department, to propose such changes as, on full inquiry, appeared conducive to any of the ends contemplated by the above resolutions, without a disregard of the precautions themselves.

In the whole result, much satisfaction has been derived from the conviction, that, without any material violation of long usages and established forms, and without causing any shock or embarrassment in the usual business of the Treasury, these changes, if adopted, bid fair to produce a sensible improvement in the symmetry and fitness of the several functions devolved on many of the officers; a greater simplicity in the details and divisions of their respective duties. Some reduction in the number of clerks, an easier understanding by the public of the business of each bureau, and a more equal

distribution of labor, with an increase, instead of a diminution, in some of the useful checks on unauthorized and injudicious expenditures.

The principal business of the Treasury Department is divided into two great branches, one of which relates to the adjustment of accounts against the Government, and the other to the collection of its revenues. All the officers immediately attached to this department are intended to aid in the discharge of one or the other class of those duties, and though, in some particulars, a few of these officers are required to perform some acts connected with both the settlement of accounts and the collection of the revenue, and can continue to be so employed without essential inconvenience, the two subjects being, in some respects, so intimately blended together: yet the *chief* business of some is much more closely connected with the mere settlement of accounts, and of others with the mere collection of revenue.

1. The subject of a re-organization of the department should, therefore, be examined, first, in respect to the officers and business chiefly pertaining to the former, and next in respect to those chiefly pertaining to the latter. The details, under these divisions, will be most natural by beginning with [2] the Auditors, who hear and decide for the claims and evidence of individual against the Government, and with the Comptrollers who re-examine and control the hearing and decision of the Auditors. In these respects these two classes of officers are judicial.

Afterwards we shall proceed to the Register, whose office was created for the purpose of recording the decisions or judgments of both, and preserving the evidence and vouchers; and lastly, to the Treasurer, who carries the favorable decisions of the others into effect, by making payment after those decisions have been so rendered and registered, and the proper warrants have issued for the money.

In these respects these two last officers are wholly ministerial.

The above enumeration will comprise all such officers as,

in connection with certain duties in the collection and disbursement of money, have original and almost exclusive jurisdiction over the settlement and payment of most claims against the United States, where appropriations have been made by Congress to adjust them.

2. After this it will be proper to enter into the details of any changes deemed eligible in that class of officers more immediately employed in superintending the collection of the public revenues, whether from customs on foreign merchandise, or from the sale of public lands. Under that division, it is intended to embrace the Commissioner of the General Land Office, and the proposed Commissioner of the Customs, whose chief duties, now performed by the First Comptroller, in conjunction with others of great importance, are recommended hereafter to be discharged by a separate officer, to be called the Commissioner of the Customs.

The office of the Solicitor of the Treasury comes properly under this general division, because, if any difficulties or litigations arise in the progress of collections, as well as in the keeping or disbursement of the public money, he is the officer lately attached to this department for professional assistance. Any changes in his duties will, therefore, be duly considered, in this part of the enquiry, and some additional ones proposed, whether it be deemed advisable to continue this officer as a separate bureau in this department, or to associate him with that of the Attorney General.

A few observations on some contemplated alterations in the duties now devolved on the head of the Treasury Department, will embrace every thing else intended to be submitted in the details of this report.

AUDITORS

The present five Auditors are probably numerous enough for all fiscal purposes; but their respective titles by numbers, and the manner of assigning duties to them, are not calculated, in all cases, to make those duties well understood by the public, or to be free from complexity, and an inappro-

prate mixture in one bureau, of subjects totally unlike. The term "auditors," as showing to the public, that they are the officers to first *hear*, or to examine the evidence, and state the results on the accounts or claims of all individuals against the Government, for settlement, is sufficiently significant. But the designation of the different Auditors, merely by their number, conveys no information as to the particular department with which each is associated, or the particular subjects for hearing and examination, which are devolved on each. It is, therefore, recommended that their designation by numbers be changed; and the duties assigned to each be more simplified, and rendered more intelligible by a new division of them, in part, and by attaching one of [3] these officers, and one only, to each department. The present First Auditor might then be called the Auditor of the Treasury Department, and have the additional duty of auditing the land accounts confided to him, as these last appertain to this department.

The present Second Auditor should, in this new arrangement, be called the Auditor of the State Department, and have the whole duty of the present Fifth Auditor, on that subject, devolved on him; as on the Fifth Auditor there are, and have been, heretofore, imposed the most incongruous duties. The Third Auditor would then be appropriately called the Auditor of the War Department.

The present Fourth Auditor would be called the Auditor of the Navy Department; and the Fifth Auditor would be called the Auditor of the Post Office Department, and his duties confined exclusively to that office; those connected with the State Department being transferred to the Auditor for the State Department; and those concerning light-houses to the Commissioner of the Customs, as hereafter further explained.

This would apprise the public at once, and constantly, of the nature of all their functions, and of the proper places whither to resort for the adjustment of claims of different

characters, and for the transaction of a large portion of all business in its incipient stages with the several departments. In the event of the adoption of these proposed changes, it is manifest that the duties of some Auditors may be very different in magnitude, as to their details, from those of others; but then, as now, the talent, acquirements, and respectability, required in the head of each bureau, would not be very dissimilar, and, consequently, no difference is proposed in their salaries and rank. But, in this new division of duties, a corresponding change in the arrangement and number of their respective clerks would become indispensable.

Two or three of the clerks, allowed by law, in the First Auditor's office, will be unnecessary, and may be dispensed with after the payment of the public debt, unless the newly suggested duties, as to land accounts, should be devolved on him; in which event, he may probably need most, or all, of his present force.

In the Second Auditor's office a reduction is practicable of more than one-half in number. This is proposed to be effected by a transfer of the whole of his present clerks to the Third Auditor, and by having him receive from the Fifth Auditor a sufficient number of clerks for the performance of his new business, who have had experience in the transaction of it.

From the Third Auditor's none can be spared, but he will need all the clerks transferred by the Second Auditor, except, perhaps, one or two, if an assistant, as some suppose, shall be found necessary in the discharge of his arduous duties, and be assigned to him on a salary equal to that of a chief clerk.

In the Fourth Auditor's two clerks can be dispensed with, unless a property account of the Navy is hereafter to be kept there.

In the Fifth Auditor's at least five clerks, heretofore employed in the business of the State Department, can be transferred to the Second Auditor, leaving only the accounts of the Post Office in his charge, and four instead of three clerks devoted to those alone, with greater efficiency; and to be hereafter increased in number, if necessary, with the increas-

ing business connected with our great Post Office establishment. The other clerks in his office it is proposed to transfer, with the business, of light-houses, to the Commissioner [4] of the Customs. It seems required, by a due regard to system, uniformity, and proper accountability, that neither those empowered by law, to decide on the necessity of certain services and purchases, nor those who make the purchases and contracts, should also adjust the accounts rendered for them; but that the Auditors themselves, whether the claims originate under authority of the heads of bureaus, or of departments, should have the exclusive power, in the first instance, to judge of the reasonableness and just amount due, looking to all the evidence in the case, and to the laws and fixed prospective regulations that apply to it. Their decisions will then pass in review before the Comptroller, imposing on him the same guides, and afterwards be subject to an appeal, when they differ in opinion, and only then, to the Secretary of the Treasury, in all cases not arising under his own orders.

In the others, if deemed more appropriate, an appeal might be authorised to the Solicitor or to the Attorney General. In cases where the accounting officers agree, the decision should be regarded as final, except such redress as Congress, on application of the claimants, may be pleased to direct.

COMPTROLLERS

It is proposed to continue to devolve on the office of Comptroller, all the duties originally contemplated for it; but to relieve it from those not appropriately connected with the functions of comptrolling. In this manner, all those duties in the settlement of accounts, and in the restriction of the public expenses, within the amounts appropriated, by countersigning all warrants, and keeping a check statement of all appropriations and expenditures, and which duties are now discharged by both the First and Second Comptrollers, could be discharged by one of them, probably with the same, and, after the payment of the public debt, and the system of May, 1822 [3 Stat. L., 688], as to drawing warrants, is changed,

with a less number of clerks, than is now employed in that part of their business.

By the devotion of the undivided attention of a certain number of persons, to that part alone, so as to combine, in all, as much time in its discharge as is now spent, the whole comptrolling, which will then remain, and which is so very essential to the pecuniary safety of the Government, can, doubtless, be performed with equal, if not increased skill, accuracy, and efficiency. Besides this, a legal and proper check would then, undoubtedly, be obtained in all cases, in passing accounts by the Comptroller. This is not now supposed to be had by the First Comptroller, in respect to some accounts, which may occasionally, though very seldom, grow out of any of his own previous decisions or directions, as Superintendent of the Customs: and it is manifest, that no effectual check can ever exist, in any case, where the same officer authorizes the expenditure, and audits or controls the audit of the account. The duties which the First Comptroller now performs, and has long performed, as Superintendent of the Customs, it is proposed to separate wholly from his duties as Comptroller, and to devolve them, apart and exclusively, on another officer and bureau, constituted for that single purpose. This would simplify the organization of this department in those particulars, and render the chief respective duties of the two officers, now called Comptrollers, much better understood by the community.

Until vacancies occur, it seems appropriate that, these duties, being thus divided, the separate bureau, as to the customs, should be established under charge of one of the present Comptrollers, and more properly, perhaps, of the second one, who, in that event, should have his title changed to "Com-[5] missioner of the Customs," in analogy to the title given to the Commissioner of the Land Office. Then each of those Commissioners would become the respective and immediate head of one of the two great collection systems connected with our customs and our public lands.

About five clerks thus transferred from the Comptroller's,

another from the Fifth Auditor's, and one from this office, would probably be sufficient to aid the person occupied in the discharge of the increased duties proposed for the Commissioner of the Customs.

The present Comptroller, with the remaining clerks now in the offices of both Comptrollers, reducing the whole number one, after the debt is paid and the system of May, 1822, changed, would, in my opinion, as before remarked, be able, with readiness, to perform all those duties appropriately connected with the situation of Comptroller.

It is believed, also, that in this way no alteration in the salary or rank of either officer would now be necessary, and that the evil of an insufficient number of clerks in the office of the Second Comptroller, at present a subject of complaint, will, by this arrangement, be in a great measure remedied, without any addition to the public expenditures. Because, so far as regards the collection of debts, and the correspondence connected therewith, the office of the Comptroller has been relieved, for some years, by first devolving that duty on the Fifth Auditor, and recently on the Solicitor of the Treasury.

The extinguishment of the whole national debt, and the closing of the books, accounts, &c., connected with it, as well as the proposed change in drawing warrants, in the War and Navy Departments, if adopted the ensuing year, will bring a further and material relief in the labors now performed in the offices of the two Comptrollers, as well as in some others, and the person, hereafter acting as sole Comptroller, with the aid of the present force in both offices, left to be devoted to the peculiar business of comptrolling, will, as before explained, be probably able to perform it all with promptitude and ease. But if found necessary, after trial, an assistant, as suggested in the case of the Third Auditor, would be allowed, on a salary about equal to that of a chief clerk.

It would seem advisable to provide, by law, some further check in his office, over the payment of any money in advance, except in the particular cases, and to the particular

amounts, authorized by acts of Congress, or by the President, under those acts.

To effect that object, which is not now fully attained, it might be well to require, that in all cases of requisitions for advances, a copy of the authority for them, should punctually be lodged with the Comptroller.

REGISTER

In the arrangements of this office, no change is contemplated, except that all the papers connected with the office of Second Comptroller, and now deposited with the Second, Third, and Fourth Comptroller [Auditor], should, after a certain period has elapsed, sufficient to dispense with frequent references to them, be placed where they appropriately belong, and where the original design of this office required, in the charge and under the responsibility of the Register. That period might, perhaps, from the nature of their business, be conveniently extended to four or five years, in the Third and Fourth Auditors' Offices, and all accounts and vouchers of older date be afterwards transferred to the Register's Office. In the mean time, the Register could locate a clerk or clerks in their offices, to have charge of the vouchers, or [6] could leave them there on the responsibility of those Auditors. They could afterwards be removed and arranged, so that, very readily, long adjusted claims or vouchers, on any subject whatever, could at once be found in a single bureau, instead of being sought for in three or four. Perhaps, after the business of the national debt is closed the ensuing year, a reduction of one clerk could be judiciously made in this office, notwithstanding the proposed transfer of papers to its charge. The title of the Register, if altered to that of Register and Keeper of Accounts and Vouchers, would render his duties more intelligible to the public.

TREASURER

No changes are proposed in this office beyond what, of late years, have been introduced under existing laws, giving

greater security against forgeries and frauds, by having no payments made by the depositaries of the public money, except on regular warrants, signed by all the customary officers, instead of mere drafts of the Treasurer, formerly in general use.

Through a letter, by now advising each depositary of every warrant issued against him, and by consolidating the hospital and pension funds of the navy, into the usual accounts of receipts and expenditures, greater safety and simplicity have been attained; and, if deemed necessary, the benefit of all these changes might be secured hereafter, permanently, by new legal provisions. One material change, during the past year, was introduced, which has diminished somewhat the apparent number of defaulters, and closed up some unsettled accounts, without injury to the Government. In all cases where land had been set off in execution, or sold and bought in by the United States, the account, instead of being left open, as formerly was the practice, till the land was finally disposed of to some third person, has been closed by the credit of the amount for which the land was set off or sold, according to the real operation of law; and the Treasury has, in order to prevent errors in appearance, then charged to the lands, thus obtained, the amount invested in them, until the lands are conveyed to some third person, when their produce is properly and ultimately brought into the Treasury. There would be a manifest advantage, in some respects, as to the greater simplicity and uniformity required by the resolution, in any new organization of this department, if a similar system was, by law, extended to all the receipts of the Post Office, which now prevails, as to the other receipts of revenue; and, in case Congress recognize its fiscal arrangements, if they should require those receipts to pass in form into the Treasury, and be drawn out in the usual way, and all its accounts to be adjusted by the proper Auditor and Comptroller, like other accounts connected with the other departments. In that event, it is proposed to permit the Post Master General to retain the

same controlling power over requisitions, &c., which is exercised by the Secretaries of State, War, and Navy. He could draw his warrants directly on the Treasury, and under the same checks with them; but, in that case, the number of warrants would be so numerous, and perhaps inconvenient, on the books of this department, that, in analogy to what now exists in the Post Office, one or more officers to act as collector, sub-treasurer and paymaster for it throughout the Union, would seem necessary. By such an arrangement, only a few warrants in respect to him or them, would be drawn, and only in large sums, specifying the heads of contemplated expenditure, but leaving the particulars to be exhibited, investigated and adjusted finally, in the settlement of the accounts of those officers, as is now practised with some similar officers in the Treasury and Army. [7]

* * * *

It only remains to offer a few suggestions in respect to some of the duties devolved on the head of the Treasury Department, and to recommend a few changes which appear to be required for a more natural or suitable arrangement, and for public convenience and economy.

SECRETARY OF THE TREASURY

The duties of the head of this department should be limited to appropriate subjects, if practicable; and hence, the Virginia claims for revolutionary services in the Army and Navy, though now mostly disposed of, could be transferred with much propriety to the War Department, and the payments of deficiency in commutation, under the act of May, 1828 [4 Stat. L., 269], be made to revolutionary officers and soldiers by the same department. They would more easily and economically be connected with the payments under the act of 1832 [4 Stat. L., 529], and under the old pension system.

When all this business is collected into one bureau, exclusively directed to the subject, and in possession of the most important papers, mistakes and frauds would also be much less likely to occur.

The mere building of marine hospitals, ware-houses and light-houses, had better, on some accounts, be transferred to the same department, as having skilful engineers, though an intermediate arrangement is here recommended, providing for the performance of all such duties by the engineer corps when required by the Treasury Department, and placing the immediate superintendence over all of them, as before suggested, in the Commissioner of the Customs. The system is laborious, inconvenient, and unnecessary, which directs the signing by the Secretary of the Treasury of each warrant, for every small sum required from time to time by the Navy and War Departments. By the act of May, 1822, it was adopted instead of the system which always before prevailed, of his signing all the warrants to draw money out of the Treasury for those departments, but signing them only occasionally and for large sums. These sums were then placed to their credit in the Treasurer's hands, as agent for those departments, and were afterwards drawn from him by their Secretaries, from time to time, in such small sums as were needed. [10]

Effectual checks against over drafts, or misapplications, exist in the Comptroller's office without the present system; much delay is also caused, by the present system, to the public and to officers, in obtaining their money; and additional labor is imposed by it, not only on the Secretary of the Treasury, but on the whole business of comptrolling and registering.

If the ancient system was restored, it might be some improvement; but the improvement would be unquestionable, and much greater, if the heads of all the departments, separately and alone, were empowered to draw all their own warrants, and draw them directly on the Treasurer, as Treasurer, and not as agent. In this case, there would still exist the responsibility of those heads of departments respectively, for all their official acts, and the usual checks against over drafts, which now exist, by accounts being opened and kept with each appropriation, in the Comptroller and Register's offices, and which checks it is not proposed in this report to alter or dis-

cuss, and, in addition to them the auxiliary checks of the account or balance-sheet now kept in each department, of the amount of each of its appropriations and drafts. The same checks, as now, on the allowance and settlement of particular claims, will likewise remain with the Auditors and Comptroller.

The effect of these changes would be, to make the division of labor between the heads of the different departments more equal, appropriate and intelligible, to the public; and officers and creditors would obtain their money, after their accounts are adjusted, in about half the time now required, as something like twenty different persons, and six or seven different offices, must now be resorted to, after a sum is first ascertained to be due, before a warrant from those departments is completed.

In the event that this, and the other changes proposed, should be adopted, no difficulty would result from a reduction of one or two, in the number of clerks now allowed in this office, though its general duties and labors, independent of the public debt, have long been on the increase.

The change suggested, as to warrants from the Navy and War Departments, would also assist in dispensing with some clerk hire, in the offices now connected with comptrolling and registering.

In the new organization of this department, a slight alteration, which would seem advisable in all the departments, is recommended, so as to make the chief clerk, *ex officio*, responsible for all the books and papers, and to empower him to discharge the duties of the head of the department in his absence.

The convenience of all concerned, and the prompt despatch of ordinary business for the public, would be much promoted by such a provision.

Great caution might also be usefully exercised, that the permanent clerks, not only in this office, but in all its subordinate bureaus, and in "all the Executive Departments," so

far as affected by the new organization now proposed, should not be increased beyond the number necessary for the current business of the year, and instead of their increase, that a larger provision be made, to enable the heads of the departments and bureaus to employ extra clerk hire, during the great pressure of extra business, while Congress is in session, and on other urgent occasions.

It now happens, that either the permanent and regular business of some offices is in part delayed or neglected for weeks, and months, to meet congressional calls, and other extra requirements, chiefly during its session; or that the business of Congress, and of petitioners, is injuriously postponed, from the inconvenience, or impracticability, of answering those calls in due season. [11]

If the clerks are permanently increased, so as to enable the departments to keep up the regular business, and also answer the extra calls of Congress during its session, there is little, or very insufficient, employment for many of them, during most of the recess.

With one other general suggestion, in aid of the present and proposed checks or securities against the misuse of the public money, the undersigned will close his remarks concerning the re-organization of the Treasury Department.

Notwithstanding the numerous forms and obstacles which now exist, to prevent the smallest sum from being taken out of the Treasury, without the previous authority of Congress, the Treasurer being now charged on the public records, and under his own written acknowledgment, with every dollar that goes into the Treasury, and cannot be discharged from a single dollar of it except by those records, and a written direction obeyed by him, in the form of an order or warrant for payment, signed and verified by three other distinct officers, showing the money to be wanted to meet some appropriation made by Congress itself; yet it is possible, that a combination among all these officers, or an accident, escaping the vigilance of all, might lead to an improper withdrawal

from the Treasury of some part of the public money.

To guard against this, it might be advisable to require, by a standing law, what has been heretofore performed on at least two occasions,—in 1794 and 1801,—that is, a periodical examination, by a committee of Congress, into the actual condition of the Treasury. That examination, going beyond the forms and records, beyond the face of all the accounts kept, and even the publication, required by the Constitution, of the receipts and expenditures of all public money, should, in a special manner, whenever the slightest suspicion exists, extend to a close inquiry into the settlement itself, of any accounts; the occasion for any allowances; the rules and extent of all discretionary expenditures; the evidences of the actual amount of money in the Treasury; and any other circumstance which would tend to detect error, or lead to salutary improvements in any of the existing laws.

The preceding remarks, in reply to the resolution of Congress, concerning a re-organization of this department, and “reducing the number of clerks in the Executive Departments,” contains all which it is deemed material now to submit.

Without claiming any originality for some of the ideas expressed, as the experience and suggestion of officers long and respectably connected with the administration of different parts of the Treasury Department, have been invoked freely, and very usefully, on this occasion, in aid of my own reflections and researches; yet it is hoped that the changes recommended, if incorporated into the present establishment, will produce some very beneficial effects; and, it is sincerely believed, will tend to make it approximate much nearer to the views and wishes of Congress, as embodied in those resolutions, than does the existing organization of the Treasury, or any one which is known to have been heretofore proposed for public consideration.

Difficulties will perhaps spring up, on various sides, to defeat changes which may have, or may be imagined, to have

an unfavorable effect on some incumbents personally, and others officially, while honest differences of opinion will be likely to occur in respect to the probable advantage to result from some other changes. [12]

But these circumstances have not influenced the undersigned to desist from the frank recommendation of any which, in a public view, he sincerely believed would tend to produce a salutary reform, and which, he trusts, will produce it, however well he knows all the difficulties of such an undertaking—"the vestiges of the past, the obstacles of the present, and the contingencies of the future." [13]

LEVI WOODBURY, Secretary of the Treasury.

NO. 59

UNSATISFACTORY CONDITION OF THE ACCOUNTS OF THE POST OFFICE DEPARTMENT. REPORT (EWING), 1835²⁷

To Senate, January 27, 1835

Mr. [THOMAS] EWING [of Ohio] made the following report. . . .

The Committee on the Post Office and Post Roads . . . report:

* * * *

One of the principal difficulties which had been encountered in the investigation during the last session of Congress was that of arriving, even by approximation, at the state of the finances of the Department. . . . On the whole, the accounts were in a state of great uncertainty and confusion, and so extensive and complicated the transactions which they embraced, that it was deemed wholly impracticable for your committee, by their own personal labor, to balance the books, and arrive at any result at all approaching to accuracy. It was

²⁷ 23 Cong. 2 sess., S. doc. 86. 363 pp. Serial 268. *Register of Debates*, Vol. 11, Pt. 2, Appendix, p. 341. See Act of July 2, 1836, 5 Stat. L., 80.

the more difficult, as the ordinary books of entry do not appear to contain the materials for a full and fair adjustment of the accounts which they purport to exhibit; . . . [1]

* * * *

This confused and imperfect, if not erroneous, situation of the accounts, together with the want of a balance sheet, brought up to stated periods, rendered it a burdensome task to put these books in such order that your committee could ascertain, by their inspection, and by the testimony of witnesses, what was the actual condition of the Department, and the balance for or against it, on the day to which it was proposed to bring down the examination.

* * * *

But it being desirable that the actual state of these accounts should be ascertained, your committee, as the best mode of arriving at it, employed two individuals, skilful accountants, . . . to examine the books, and prepare a general sheet.³⁸ . . . Until that be done, any report . . . so far as relates to the finances, must necessarily be conjectural and imperfect. [2]

NO. 60

NEW SYSTEM OF ACCOUNTS FOR THE POST OFFICE DEPARTMENT. REPORT (KENDALL), 1835³⁹

To Congress, December 7, 1835

* * * *

The system upon which the Books of the Department have always been kept, precludes an exact statement of the revenue and expenditure which have accrued within any given period. . . [387]

* * * *

³⁸ 24 Cong. 1 sess., S. doc. 289. 8 pp. Serial 282.

³⁹ 24 Cong. 1 sess., H. doc. 2, pp. 387-400. Serial 286. *Register of Debates*, Vol. 12, Pt. 4, Appendix, pp. 19-25. See Act of July 2, 1836, 5 Stat. L., 80.

When the undersigned took charge of this Department, his attention was immediately called to the condition of its finances; but it was soon found that no satisfactory account of its debts or its means could, within any short period, be obtained from its books. . . . [388] In this state of things, it was deemed expedient to make an effort to extricate the Department from its embarrassments. The measures resorted to for that purpose, were as follows, viz:

* * * *

4. The introduction of a system which should effect a more prompt collection and application of the current income of the Department. [389]

* * * *

A balance of the books of this department has not been effected for about twenty years. . . .

In keeping the new books, an attempt is making, through the agency of General Accounts, to show specifically from what sources the revenue of the Department is derived, and to what purposes it is applied. . . .

It has long appeared to the undersigned, that, by a system of this kind, the application of the public moneys may be shown more specifically than by any other system of specific appropriation. [392]

* * * *

There is another feature, in which the present organization of the Post Office Department is defective and unsafe. It is believed to be a sound principle, that public officers who have an agency in originating accounts, should have none in their settlement. The War and Navy Departments are in general organized upon this principle. . . . [399] But the Postmaster General practically unites these three functions in his own person. He issues orders and makes contracts and regulations, producing the expenditure of money; settles the accounts and pays the money. Although he is required to render a quarterly account to the Treasury, to be settled as

other public accounts are, this requisition [requirement] has long ceased to constitute any practical check upon him, nor can it ever be otherwise under the existing system.

. . . The most important improvement required, is to separate the settlement of accounts entirely from the Post Office Department, and vest it in an Auditor, appointed by the President, with the advice and consent of the Senate, whose duties shall in general correspond with those assigned to the Accountant under the present organization.

The Postmaster General would then be placed on a similar footing with the other heads of Departments. His power over the funds of the Department should extend only to a superintendence over the rendition of accounts, to prescribing the manner in which postmasters shall pay over their balances, to making drafts for the collection and transfer of post office funds, to issuing warrants on the Treasury for the purpose of paying balances reported to be due by the Auditor, and making advances in special cases. . . .—December 1, 1835. [400]

AMOS KENDALL, Postmaster General.

NO. 61

REORGANIZATION OF THE TREASURY DEPARTMENT. REPORT (GILLET), 1836⁴⁰

To House of Representatives, June 7, 1836

Mr. [RANSOM H.] GILLET [of New York], from the Committee on Commerce, made the following report:

* * * *

In order fully to understand the subject, the committee give a short account of the duties of the head of the Department, and the different officers attached to it. But, before doing this, they will give a brief history of the Department from its organization.

* * * *

⁴⁰ 24 Cong. 1 sess., H. rept. 740. 42 pp. Serial 295. Substantially reproduced (1837) as H. rept. 81, 25 Cong. 2 sess. 45 pp. Serial 333.

The Treasury Department had its origin in a resolution of Congress, dated February 17, 1776 [*Journals*, Vol. 4, p. 156]. It was then resolved, that a standing committee of five be appointed for superintending the Treasury; that it be the business of this committee to examine the accounts of the Treasurer, and, from time to time, to report to Congress the state of the Treasury; to consider the ways and means for supplying gold and silver; for supplying the army in Canada; to employ and instruct proper persons for liquidating the public accounts with the different paymasters and commissaries in the continental service, and the conventions, committees of safety, and others who have been, or shall be, entrusted with the public money; and from time to time, report the state of the accounts to Congress; also, to superintend the emission of bills of credit. They were authorized to employ one or more clerks, for stating, keeping, and liquidating the public accounts.

On the first day of April, 1776 [*Journals*, Vol. 4, p. 243], it appears, by another resolution, that the former one was not deemed sufficiently explicit. It was, thereupon, resolved, that a Treasury office of accounts be instituted and established, and that such office be kept in the city or place where Congress shall, from time to time, be assembled, and hold their sessions.

This office of accounts was directed to be under the superintendence of the standing committee for the Treasury. An Auditor General and a competent number of assistants and clerks, were provided.

This system did not prove satisfactory; and, on the 26th of September, 1778 [*Journals*, Vol. 12, p. 956], it was changed, and the following provisions were made:

Resolved, That a house be provided at the city or place where Congress shall sit, wherein shall be held the several offices of the Treasury. That there shall be the following offices, to wit, the Comptroller's, Auditor's, Treasurer's, and two chambers of accounts. Each chamber of accounts consists of three commissioners and two clerks, to be appointed by

Congress. That in the Treasurer's office, there be a Treasurer annually appointed by Congress, and one clerk to be appointed by the Treasurer. That in the Auditor's office, there be an Auditor annually appointed by Congress, and two clerks appointed by the Auditor. That in the Comptroller's office, there be a Comptroller annually appointed by Congress, and two clerks appointed by the Comptroller."

The resolution required the vote of nine States to appoint the officers. This resolution made very specific regulations, prescribing the duties of the several officers above enumerated. [2]

This regulation was again changed, on the eleventh of February, 1779 [*Journals*, Vol. 13, p. 177], and a Secretary appointed.

By an ordinance of July 30, 1779 [*Journals*, Vol. 14, p. 903], a new system was established. By that ordinance a Treasury Board was established, consisting of two members of Congress, and three persons who were not members. This Board had a secretary, clerk, and messenger. It also provided an auditor general, a treasurer, and six auditors. The duty of each officer, under this arrangement, was provided by the ordinance. The auditors of the army were required to reside in the army.

On the 17th of December, 1779 [*Journals*, Vol. 15, p. 1390], and on the 24th of June, 1780 [*Journals*, Vol. 17, p. 556], resolutions explanatory of the foregoing, and giving some other instructions, were passed.

On the 7th of February, 1781 [*Journals*, Vol. 19, p. 125], it was resolved, that there be a Superintendent of Finance, a Secretary of War, and a Secretary of Marine. It was made the duty of the Superintendent of Finance to examine into the state of the public debts, the public expenditures and public revenue; to digest and report plans for the improving and regulating the finances, and for establishing order and economy in the expenditure of the public money; to direct the execution of all plans which shall be adopted by Congress

respecting revenue and expenditure; to superintend and control the settlement of public accounts, &c.

On the 11th of September, 1781 [*Journals*, Vol. 21, p. 948], these latter regulations underwent a revision. Several of the offices were discontinued, and, in lieu thereof, it was resolved, "for the more effectual execution of the business of the Treasury, and the settlement of the public accounts, the following officers shall be appointed in aid of the Superintendent of Finance, his assistant, secretary, and clerks, namely, a Comptroller, a Treasurer, a Register, Auditors, and clerks." The duties of the several officers were prescribed in the resolution.

On the 28th of May, 1784 [*Journals*, Vol. 27, p. 469], an ordinance was passed establishing a board of treasury, and conferring upon it the powers exercised by the superintendent of finance under the regulations of September 11, 1781.

From this account, it will be perceived that various experiments were tried previous to the adoption of our federal constitution.

At the meeting of the first Congress under the constitution, the subject of the organization of the Treasury Department was considered, and a plan adopted, which continues to be the basis of that Department. By the first section of the act of September 2, 1789 [1 Stat. L., 65], it was provided, "That there shall be a Department of Treasury, in which there shall be the following officers, namely, a Secretary of the Treasury, to be deemed the head of the Department, a Comptroller, an Auditor, a Treasurer, a Register, and an assistant to the Secretary of the Treasury; which assistant shall be appointed by the said Secretary."

The second section prescribes the duties of the Secretary of the Treasury in the following words:

"That it shall be the duty of the Secretary of the Treasury to digest and prepare plans for the improvement and management of the revenue, and for the support of public credit; to prepare and report estimates of the public revenue and the

public expenditures; to superintend the collection of the revenue; to decide upon the forms of keeping and stating accounts and making returns; and to grant, under limitations herein established, or to be hereafter provided, all warrants for moneys to be issued from the Treasury [3] in pursuance of appropriations by law; to execute such services, relative to the sale of the lands belonging to the United States, as may by law be required of him; to make report, and give information, to either branch of the Legislature, in person, or in writing, (as he may be required,) respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office; and, generally, to perform all such services relative to the finances as he shall be directed to perform."

By subsequent acts of Congress, various other duties have been enjoined upon him: a few only will be enumerated.

* * * *

. . . At every session of Congress, various duties are devolved upon this Department. The committee will not attempt to enumerate them. They content themselves with giving a mere outline of his general duties. They do not propose to alter the duties assigned him by the present laws to any considerable extent. The present system of disbursing public money for the other Departments throws upon this office much manual labor in signing warrants, and consumes much time which he ought to devote to other purposes. It is proposed to authorize the Secretaries of State, War, and Navy, to grant warrants upon the Treasurer of the United States for all moneys required for the service of their respective Departments, in the same manner and under the same limitations as the Secretary of the Treasury is now authorized to grant them for the service of his Department. To enable them thus to draw, it is proposed to carry to the credit of such Department, by an appropriation warrant, the money appropriated for the use of such Department, whatever sum shall

remain unexpended at the end of each year, to be carried to the credit of the surplus fund.

This arrangement will in no way relax or change the rules of accountability. It will only require each Department to draw its own money for its own purposes, and there will remain precisely the same checks on the part of the accounting officers as at present exist.

FIRST COMPTROLLER

It will be seen that the office of Comptroller was created by the ordinance of September 11, 1781, and does not appear to have been abolished by the ordinance of May 28, 1784. By the act of September 2, 1789, establishing [4] the Treasury Department, this office is expressly created, and its duties clearly defined. The third section of that act declares, "That it shall be the duty of the Comptroller to superintend the adjustment and preservation of the public accounts; to examine all accounts settled by the Auditor, and certify the balances arising thereon to the Register; to countersign all warrants drawn by the Secretary of the Treasury, which shall be warranted by law; to report to the Secretary the forms of all official papers to be issued in the different offices for collecting the public revenue, and the manner and form of keeping and stating the accounts of the several persons employed therein. He shall, moreover, provide for the regular and punctual payment of all moneys which may be collected, and shall direct prosecutions for all delinquencies of officers of the revenue, and for debts that are, or shall be, due to the United States."

By the act of the 3d of March, 1817 [3 Stat. L., 366], the following provision was made in relation to the duties of this officer, who, for the first time, is designated as the *First* Comptroller:

"That it shall be the duty of the First Comptroller to examine all accounts settled by the First and Fifth Auditors, and certify the balances arising thereon to the Register; to

countersign all warrants drawn by the Secretary of the Treasury, which shall be warranted by law; to report to the Secretary the official forms to be used in the different offices for collecting the public revenue, and the manner and form of keeping and stating the accounts of the several persons employed therein: he shall, also, superintend the preservation of the public accounts subject to his revision, and provide for the regular payment of all moneys which may be collected."

By the 13th section of this act, it is made "the duty of the First Comptroller to lay before Congress, annually, during the first week of their session, a list of all such officers as shall have failed in that year to make the settlement required by law."

It will be perceived by the act of the 3d of March, 1817, that a portion only of the duties of comptrolling are required to be performed by the First Comptroller. He retained only the supervision of the transactions of the First and Fifth Auditors. At the time of this change, it is presumed the duties of this officer were deemed too extensive for his supervision. At that time, as well as at the present, the greater share of the business of this officer had no connection with the appropriate duties of his office. On the 25th of October, 1792, Mr. Hamilton, then Secretary of the Treasury, transferred to this officer, by virtue of the sixth section of the act of May 8, 1792 [1 Stat. L., 279], "making alterations in the Treasury and War Departments," the general superintendence of the collection of the revenue arising from customs. The committee have not been able to find the original order assigning him these duties, nor a copy of it, but they have found a circular, which Mr. Hamilton issued to the collectors of the customs, notifying them of the change he had made. A copy of this circular is hereto annexed, together with an explanatory note from the Acting Comptroller. This regulation devolved upon the Comptroller duties which have become very extensive, and many of them very intricate, and are in no way connected with the duties properly assigned to

that office. They are, first, to prepare the requisite forms and instructions for keeping and rendering the different accounts and returns in relation to the customs, marine hospital tax, &c.; second, to prepare alphabetical tariffs of duties conformably to the changes and alterations which are made in the rates from time to time by acts of Congress; third, to de- [5] cide the questions of law which may arise in the issuing marine documents to the vessels of the United States, and in relation to the rates of duties demandable, as well under the laws of the United States as under treaties and commercial arrangements with the different foreign powers.

There are, besides, many incidental duties to be performed, arising out of the superintendence, as before mentioned, which cannot be readily particularized. The Acting Comptroller says, "from the many changes which have taken place in our revenue system and navigation laws since the year 1816, when the tariff underwent an essential modification, the correspondence on revenue subjects has been increased in the Comptroller's office in a fourfold ratio at least."

The committee propose to restore to this officer the duties of comptrolling now devolved upon the Second Comptroller, and relieve him from all those which are now imposed upon him in relation to the collection of the customs, and making annual statements to Congress of outstanding balances. It is believed that this arrangement will not materially increase his duties. This change will enable him to devote his whole time and attention to a single branch of the public service. He will then be the judge, in the last resort, of all questions growing out of the decisions of the several Auditors. While there are two law officers of this description in the Department, both passing finally upon questions, and only numerically distinguished, the public, without an intimate acquaintance with the law, will not be able to determine to which of them to apply for the transaction of their business. And we would ask, how are the public to know, by the present law, to whom to apply to attend to questions arising in the collec-

tion of the revenue? The law does not indicate the officer who has charge of that branch of the public service, and even the order under which he acts is not now to be found. It cannot now be proved in a court of law, that the officer who actually performs this duty has, by law, any right to perform this branch of his duties. His duties ought all to be designated by law and be of an analogous character.

SECOND COMPTROLLER

This office was created by the 3d section of the act of March 3, 1817, entitled "An act to provide for the prompt settlement of public accounts." His general duties are prescribed by the 9th section of that act as follows:

"That it shall be the duty of the Second Comptroller to examine all accounts settled by the Second, Third, and Fourth Auditors, and certify the balances arising thereon to the Secretary of the Department in which the expenditure has been incurred; to countersign all warrants drawn by the Secretaries of the War and Navy Departments, which shall be warranted by law; to report to the said Secretaries the official forms to be issued in the different offices for the disbursing the public money in those Departments, and the manner and form of keeping and stating the accounts of the persons employed therein; and it shall be his duty to superintend the preservation of the public accounts subject to his revision."

From this it will be perceived that the Second Comptroller supervises the accounts of two Departments only—the War and Navy Departments; while the First Comptroller, in addition to his other extensive duties, also supervises the accounts of the State, Treasury, and Post Office Departments. The duties actually performed in relation to the accounts of the latter Department, owing to considerations not now necessary to mention, are limited. [6] The committee propose to change the name of the Second Comptroller to that of Commissioner of Customs, and assign to him the duties now performed by the First Comptroller in collecting the revenue de-

rived from customs, as assigned to him under the order of 1792; and also that part of the duties performed by the Fifth Auditor, under the order of 1819, which relate to the building and repairing light-houses and light-vessels, beacons, monuments, buoys, and piers, and supplying light-houses with oil, and the adjustment of all expenditures of the light-house establishment. It is also proposed to transfer to this officer the collection of the outstanding direct tax and internal revenue, which has, since the act of May 29, 1830 [4 Stat. L., 414], creating the office of Solicitor of the Treasury, been among the duties of that officer; and also require him to superintend the building and equipment and employment of the revenue cutters and revenue boats.

These duties are all intimately connected with the collection of the revenue derived from customs, and will form ample and appropriate duties for a separate bureau. This arrangement of the duties to be performed in the Treasury Department, will enable one bureau to devote its undivided attention to the single subject of the customs. The usual and natural effect to be produced, will be a more prompt despatch of the public business.

The committee will here remark that our revenue is principally derived from two sources, the customs and public lands. By far the larger portion is derived from the former. Congress has deemed the business connected with the sales of the public domain of sufficient importance to establish a separate bureau for its more convenient and speedy despatch. The head of that bureau has the general control and direction of the affairs in it, while his assistants are exclusively devoted to the particular duties assigned to them. The policy of this arrangement has never been questioned. If the superintendence of the minor branch of the public revenue requires the agency of a separate bureau, it is quite certain that the major branch needs the undivided attention of a similar one. There are a greater number of custom-houses than of land offices, and the number of public servants in the former is greater

than in the latter; the number of light-houses, lightboats, beacons, monuments, buoys, spindles, and public stores is very great. The collection and disbursement of the marine hospital tax requires no inconsiderable attention. The legal questions arising under our tariff and navigation laws and treaties are very numerous, and create a very extensive correspondence. These several duties will be quite numerous enough for a single bureau, and require the undivided attention of an officer of talents and business habits. It is believed personal examinations by such an officer, or a competent agent, into the internal management of the several custom-houses, would be productive of beneficial effects. Such an examination would tend to produce uniformity in the manner of transacting business, and would lead to the detection and dismissal of such agents from the public service as might be found to be unworthy. If more officers should be employed at a post than the service required, the number could be reduced; and, if sinecures should be discovered, they would be abolished. Should it turn out to be true that occasionally a subordinate officer gives undue preference to one merchant over another in the despatch of business, or receives presents from those with whom he transacts business, the offender would be likely to be detected, and dismissed from the public service. Such an agent would examine into the condition of the public storehouses, light-houses, &c. and see that the latter were supplied with pure oil. He would [7] also examine the marine hospitals, and into the manner in which the marine hospital fund is disbursed. It is believed that such a personal examination and inspection are quite as essential to this branch of the public service, as to the Army, Navy, or Post Office Department, where they are often made. In the former, the leading duties of the two inspector generals are personally to examine into the condition of the public property at the different posts, and into the discipline and conduct of the officers and men. Personal examinations of our naval depots are frequently made by officers specially detailed for that duty. The Post

Office Department employs agents to make personal examinations into the condition of the offices of the various postmasters in the country; they also ascertain whether the contractors carry the mails in such vehicles, and with such horses as their contracts require. This is almost the only way in which many abuses in that service can be detected. It is believed that all concur in the utility of such agencies. The effect of these various examinations is, beyond all doubt, beneficial. Equal benefits must result from extending them to the operations connected with collections of the revenue derived from customs. The actual condition of the buildings and public property ought to be known to the Department. Without personal examination, it is not likely ever to be fully ascertained. The committee believe that Government property will be more likely to be properly kept and preserved, when it shall be known that the head of the bureau, or its agent, is certain thoroughly to examine its condition. The local officers will be less likely to be negligent of their duty, and also less likely to make extravagant and useless expenditures of the public money, if it is known that a strict scrutiny will be applied at frequent periods.

FIRST AUDITOR

The duties of this officer are prescribed in the fourth section of the act of March 3d, 1817, in these words:

“It shall be the duty of the First Auditor to receive all accounts accruing in the Treasury Department, and, after examination, to certify the balance and transmit the accounts, with the vouchers and certificate, to the First Comptroller, for his decision thereon.”

This places the auditing for the Treasury Department exclusively in one bureau, and is not liable to confusion. The only change which is proposed in relation to this officer is to change his numerical name, and, in its place, give him one that shall indicate the duties which the law requires him to perform. It is proposed to call this officer the Auditor of the

Treasury Department, and to require him to audit all accounts arising out of the collection of the customs, the sales of the public lands, marine hospitals, and other revenues of the United States, except the revenues of the Post Office Department.

SECOND AUDITOR

The functions of this officer are prescribed in the fourth section of the act above mentioned, in these words:

“That it shall be the duty of the Second Auditor to receive all accounts relative to the pay and clothing of the army, the subsistence of officers, bounties and premiums, military and hospital stores, and the contingent expenses of the War Department.” [8]

And, by the same section, he is required to examine these accounts, certify the balance, and transmit the accounts, vouchers, and certificates to the Second Comptroller for his decision thereon.

By a proviso to this section, it is enacted “that the President of the United States may assign to the Second or Third Auditor the settlement of the accounts which are now confided to the additional accountant of the War Department.” Under this authority, the Secretary of the Treasury, by order of the President, made an order on the 13th of March, 1817, a copy of which is hereto annexed, requiring these duties to be performed by the Third Auditor. In the same order, the Second Auditor was directed to examine all accounts arising out of the Ordnance Department, and the acts for organizing and equipping the militia, and also the general arrearages between the 30th of June, 1815, and the 1st of January, 1817.

The first section of the act of February 24th, 1819 [3 Stat. L., 487], provides:

“That it shall be the duty of the Second Auditor of the Treasury to receive all unsettled accounts arising out of Indian affairs, with the exception of those arising out of Indian trade, and examine the same, and thereafter certify the bal-

ance, and transmit the accounts, with the vouchers and certificates to the Second Comptroller for his decision thereon: *Provided*, That if, in the opinion of the President of the United States, the public interest and convenience would be promoted by assigning all or any part of the said accounts to the Third Auditor, he shall be, and hereby is, authorized to make such assignment accordingly."

The second section provides, "That it shall be the duty of the Auditor charged with the examination of the accounts, as aforesaid, to keep all accounts of the receipts and expenditures of the public money in regard to them; to receive from the Second Comptroller the accounts which shall have been finally adjusted, and to preserve such accounts with the vouchers and certificates. And it shall be the duty of the said Auditor to make such reports on the business hereby assigned to him, as the Secretary of War may deem necessary, and require, from time to time, for the service of the War Department."

The above includes the principal duties of this officer as they are to be collected from the statutes, but it is presumed that all are not included. Enough are given to give a general idea of them, which is all that is desired by the committee.

[Since the foregoing was written, the committee have received a communication from the Second Auditor, stating very fully his various duties, which they append to this report.]⁴¹

It will be perceived that this officer has the auditing of only a portion of the accounts of the War Department. The Third Auditor receives all accounts relative to the subsistence of the Army, the Quartermaster's Department, and generally all accounts of the War Department, other than those assigned to the Second Auditor.

There does not appear to be any very palpable reason for this subdivision of the auditing in the War Department. It is believed that the whole of the accounts of that Department

⁴¹ Brackets in original text.

should be committed to one officer, and be under his general supervision. It is the most natural division of the public accounts, to give the whole that arise under each Department to an Auditor especially assigned to that Department. It is proposed to transfer the duties of this officer to the Third Auditor, and to assign to the former, the auditing the accounts arising in the Executive [9] Department, all accounts arising in the judicial, legislative, diplomatic and consular Departments, and the accounts of persons employed in, by, or under the State Department. The duties which will be assigned to this officer, which are now performed by the Fifth Auditor, will not be as extensive as those assigned to the Third Auditor, but they often involve nice and delicate questions, and require all the attention of an Auditor. He, however, will not need a very large number of clerks to assist him. It is proposed to call him the Auditor of the State Department.

THIRD AUDITOR

The duties of this officer are prescribed in the fourth section of the act of March 3d, 1817, in these words: "That it shall be the duty of the Third Auditor to receive all accounts relative to the subsistence of the Army, the Quartermaster's Department, and generally, all accounts of the War Department other than those provided for;" and he is also, by the same section, required to examine the accounts which he shall receive, and certify the balance and transmit the accounts, with the vouchers and certificates, to the Second Comptroller for his decision thereon.

The fifth section provides, "That it shall be the duty of the Auditors, charged with the examination of the accounts of the War and Navy Departments, to keep all accounts of the receipts and expenditures of the public money in regard to those Departments, and of the debts due to the United States on moneys advanced relative to those Departments; to receive from the Second Comptroller the accounts which

shall have been finally adjusted, and to preserve such accounts, with their vouchers and certificates, and to record all warrants drawn by the Secretaries of those Departments, the examination of the accounts of which has been assigned to them by the preceding section. And it shall be the duty of the said Auditors to make such reports on the business assigned to them as the Secretaries of the War and Navy Departments may deem necessary, and require for the services of those Departments.”

By the proviso of the 4th section of this act, the President is authorized to devolve the duties, formerly confided to the additional accountant of the War Department, upon either the Second or Third Auditor. By the order of the 13th of March, before referred to, these duties were confided to the Third Auditor.

A great number of duties have been assigned to this officer, under various laws, and by Executive orders, many of which are described in a letter from him to a member of the committee, and in the orders themselves, which are hereto annexed.

It is proposed to assign to the Third Auditor, the auditing all accounts arising in the military service of the United States, in the Indian Department, out of pensions, and other allowances of the revolutionary war, and military pensions of the late war and other wars, and all other pensions except naval pensions, and the accounts of all officers and persons employed in, by, or under, the War Department.

This arrangement will increase the duties to be performed in this office, and, consequently, more clerks will be required than are now attached to it. With additional force of clerks, the business proposed to be assigned to this officer can be as easily and well performed as if subdivided as they now are. In order to have the office indicate the duties that are performed in it, the committee propose to change the name of the officer, and call him the Auditor of the War Department.

If experience should, however, prove that [10] the duties proposed for this Auditor should embrace too extensive a range to be properly under the control of one person, it may then become necessary to give him an assistant to take charge of one branch. It is believed, however, that the duties would be equally as well performed by a clerk of the first grade as by an assistant. This would prevent the multiplication of offices, which is objectionable.

FOURTH AUDITOR

The act of March 3, 1817, prescribes the duties of this officer, as follows: "It shall be the duty of the Fourth Auditor to receive all accounts accruing in the Navy Department, or relative thereto." He is also directed to examine them, and certify the balance to the Second Comptroller; and also to transmit to that officer the accounts, vouchers, and certificates, for his decision thereon. The fifth section of the act above referred to, requires him to keep accounts of receipts and expenditures, and make reports to the Navy Department, precisely the same as the Second and Third Auditors are required to do, in relation to the War Department. The duties proposed to be assigned to this officer are substantially the same he now performs, to wit: That he shall audit and adjust all accounts arising in the naval service of the United States, in the marine corps, and out of the navy and privateer pensions, and all accounts of officers or persons employed in, by, or under, the Navy Department. It is proposed to call him the Auditor of the Navy Department.

FIFTH AUDITOR

The duties of this officer are prescribed by the fourth section of the law of March 3, 1817, as follows: "It shall be the duty of the Fifth Auditor to receive all accounts accruing in, or relative to, the Department of State, the General Post Office, and those arising out of Indian Affairs, and to examine the same, and thereafter certify the balance, and transmit the

accounts, with the vouchers and certificate, to the First Comptroller for his decision thereon." [11]

* * * *

It will be noticed, that the committee have proposed to assign all the duties now performed by this officer to other officers, except what relates to adjusting Post Office accounts. It seems to be the general desire of all parts of the House, to have a distinct Auditor for the Post Office accounts, and the committee had intended to propose the assignment of that duty to this officer, which would give to each of the great Departments a separate Auditor. This subdivision and allotment of the duties of the several Auditors, is still deemed to be proper. The House, however, have, since this report was mostly prepared, adopted a provision making a Sixth Auditor, or an Auditor of the Post Office Department. The committee do not think it proper for them, under the circumstances, to attempt to make any provision in relation to the Post Office Department. The provision already adopted, provides a separate Auditor for that Department, which is in substance what the committee had proposed. The arrangement of duties which was contemplated by the committee, would have made the Fifth Auditor what the provision referred to makes the Sixth, or Post Office Auditor. The arrangement which we propose, taken in connection with that adopted by the House, will render it unnecessary to continue the office of Fifth Auditor. More than five Auditors are not required by the exigencies of the public service. A greater number will produce confusion in relation to their duties in the Department, but more especially with those at a distance who have business to transact with the Auditors.

It is proposed that the Auditors, as provided under this new arrangement, shall have and exercise the same power, in adjusting the accounts assigned to them respectively, and shall proceed in the same way, in all respects in relation to the same, as they now do in relation to the accounts adjusted

by them under the present laws, except so far as the same are restrained or modified by the provisions which are proposed. They will all be required, under the new arrangement, to transmit the accounts adjusted by them, with their report on them, to the Comptroller, in the same manner that the First and Fifth Auditor now do to the First Comptroller, and as the Second, Third and Fourth do, to the Second Comptroller. The Comptroller will act as the general supervisor of the accounts adjusted by each of them, and a uniformity of construction of laws will follow as a natural consequence. [12]

SOLICITOR OF THE TREASURY

By the act of May 15, 1820 [3 Stat. L., 592], the President was authorized to appoint "such officer of the Treasury Department as he should, from time to time, designate, to act as agent of the Treasury; to direct and superintend all orders, suits, or proceedings in law or equity, for the recovery of money, chattels, lands, tenements or hereditaments, in the name and for the use of the United States."

Very extensive powers are conferred by this act on this agent, which are specified in the act itself. These duties are believed to have been continued in the agent until the year 1830. On the 29th of May, of that year, an act, entitled "An act to provide for the appointment of a Solicitor of the Treasury," was passed, which created a new officer, the principal part of whose duties are pointed out in the first section. It provides, "that all and singular, the powers and duties which are by law vested in and required from the Agent of the Treasury of the United States, shall be transferred to, and vested in, and required from, the said Solicitor of the Treasury; and the said Solicitor of the Treasury shall also perform and discharge so much of the duties heretofore belonging to the office of Commissioner, or acting Commissioner of the Revenue, as relates to the superintendence of the outstanding direct and internal duties. The said Solicitor shall have charge of all lands and other property which shall have been, or

shall be assigned, set off, or conveyed to the United States in payment of debts, and of all trusts created for the use of the United States in payment of debts due them; and to sell and dispose of lands assigned or set off to the United States in payment of debts, or being vested in them by mortgage, or other security, for the payment of debts, and in cases where real estate hath already become the property of the United States by conveyance," &c.

The act further directed the Secretary of the Treasury to transfer to the Solicitor all books, papers, and records which might appertain to the duties of his office. He instructs district attorneys, marshals, and clerks in relation to the duties of their offices in civil suits, and they report to him in relation to all such suits. In a word, he has the general supervision of all ministerial officers who are employed in the collection of debts due to the Government.

It is proposed to require substantially the same duties of the Solicitor as are now required of him, except the collection of outstanding direct tax and internal revenue; and, in addition thereto, to devolve upon him a portion of the duties now required of the Comptroller in relation to the collection of debts due to the United States. Also, to make him the depository of all bonds executed to the United States for the faithful performance of any contract, or official duty, or the payment of money other than custom-house bonds; and, also, of all deeds and evidences of title to land obtained and used for public purposes. Also, to require of him such annual statements, in relation to outstanding balances due the Government, as are now required of the Comptroller.

This arrangement of his duties will place in his hands all such matters as appropriately belong to a Solicitor of the Treasury. He will be clothed with all his present powers, and also some now exercised by the Comptroller. His general operations, however, in relation to the collection of debts, will be subject to the control of the head of the Department to which such debt shall appertain. [13]

TREASURER

The duties of the Treasurer are clearly defined in the "Act to establish the Treasury Department," passed September 2, 1789, and have undergone few, if any, modifications. The fourth section of that act provides:

"That it shall be the duty of the Treasurer to receive and keep the moneys of the United States, and to disburse the same upon warrants drawn by the Secretary of the Treasury, countersigned by the Comptroller, and recorded by the Register, and not otherwise; he shall take receipts for all moneys paid by him, and all receipts for money received by him shall be endorsed upon warrants signed by the Secretary of the Treasury; without such warrant, so signed, no acknowledgment for money received into the public treasury shall be valid. And the said Treasurer shall render his accounts to the Comptroller quarterly, (or oftener if required) and shall transmit a copy thereof, when settled, to the Secretary of the Treasury."

The section further provides that he shall, on the third day of every session of Congress, lay before both Houses accurate statements of all accounts rendered by him to the Comptroller, and that he shall, at all times, submit his accounts to the examination of the Secretary and Comptroller.

It is not proposed to make any material change in the duties of this officer. He will continue to perform all the duties now required of him. The authority given to the Secretary of State, Secretary of War, and Secretary of the Navy, to draw the money which shall be appropriated for their respective Departments, on their own warrants, will of course require him to pay their drafts, instead of paying only those drawn by the Secretary of the Treasury, as is now required by law.

REGISTER OF THE TREASURY

The sixth section of the act of September 2, 1789, points out the duties originally assigned the Register of the Treas-

ury, as follows: "That it shall be the duty of the Register to keep all accounts of the receipts and expenditures of the public money, and of all debts due to, or from the United States; to receive from the Comptroller the accounts which shall have been finally adjusted, and to preserve such accounts, with their vouchers and certificates; to record all warrants for the receipt or payment of moneys at the Treasury, certify the same thereon, and to transmit to the Secretary of the Treasury copies of the certificates of balances of accounts adjusted, as is herein directed."

* * * *

. . . No essential change is proposed in the duties of this officer. [14]

* * * *

The committee beg leave to say, that they do not claim to be the authors of much of the proposed arrangement of the Department. They append, hereto, a report made by Mr. Woodbury in 1834, to the Senate, wherein will be found the basis of it. They have carefully examined the laws relating to this subject, and pointed out the present leading duties of each officer, and added, under the appropriate head, the duties which they think he ought to perform. This they believed would enable the House clearly to understand the subject, and enable the members to judge of the propriety of the measure proposed. They take this occasion to say, that after they had made considerable progress in preparing a bill to carry out their views on this subject, they ascertained that a select committee, appointed, during a former Congress, had prepared a bill in relation to it, which was printed by order of the House. They found this bill contained many of their views, and so far as it corresponded with them, they adopted it in the bill which they report.

The committee here take occasion to say, that until recently, they had not turned their attention to the subject of the particular duties of the officers of the Treasury Department,

and they are far from believing that they now understand fully all the detailed duties which each perform. The enactments prescribing these duties are scattered through the laws of Congress, from the organization of the Government to this time. Some of the duties also rest in Executive orders. It is not improbable that the committee have mistaken some of the duties which these officers perform, owing to the scattered condition of the laws, and to the existence of orders which have not come to their knowledge. The duties which they propose, are, however, clearly indicated in the bill which they report, and no confusion can result to the Departments or country in consequence of the proposed changes. On the contrary, both will be benefitted by them; both will know where to look to ascertain the duties which each of these officers perform. [15]

NO. 62

CONTROL OF EXPENDITURES IN THE STATE
DEPARTMENT. REPORT
(MORRIS), 1838.⁴²

To House of Representatives, May 26, 1838

Mr. MATHIAS MORRIS [of Pennsylvania], from the Committee on the Expenditures in the State Department, made the following report:

* * * *

Whether any, and what, provisions are necessary to be adopted, to provide more perfectly for the proper application of the public moneys, and to secure the Government from demands unjust in their character or extravagant in amount, is another subject of examination to which the attention of the committee has been directed, and concerning which they would refer to the opinion of the Secretary of State [John Forsyth], contained in a letter of date the 2d of December, 1837, addressed to the President of the United States, an extract of which is as follows:

⁴² 25 Cong. 2 sess., H. rept. 931. 25 pp. Serial 336.

“In compliance with your desire, I have had under consideration the necessity for further legislation, in order to secure the faithful application of the public moneys to the objects to which they are appropriated, to prevent their misapplication or embezzlement by those entrusted with their expenditure, and generally to increase the security of the Government against losses in the disbursement thereof; and have the honor to report thereon, that, in my opinion, so far as relates to the disbursements made in connection with this Department, a stricter accountability than is at present provided for, would not be attained by further legislation for that purpose; being under the impression that the best security for the faithful application of, and accounting for, the public moneys, is to be derived from the character of the officers to whom they are to be intrusted. . . .” [2]

* * * *

In conclusion, the committee readily assent to the opinion expressed by the Secretary of State “that the best security for the faithful application of, and accounting for, the public moneys, is to be derived from the character of the officers to whom they are to be intrusted.” With this safeguard, there is but little danger of the public funds being unnecessarily [!] squandered; without it, the laws will be evaded and violated. [5]

NO. 63

RETRENCHMENT; REORGANIZATION OF THE EXECUTIVE DEPARTMENTS. REPORT (GILMER), 1842⁴³

To House of Representatives, May 23, 1842

Mr. [THOMAS W.] GILMER [of Virginia], from the Select Committee on Retrenchment . . . made the following Report:

* * * *

⁴³ 27 Cong. 2 sess., H. rept. 741. 240 pp. Serial 410.

The first arrangements made for the accounts of the Government, after the adoption of the Constitution, provided for the settlement of them all, primarily and finally, in the Treasury Department, whether they were on account of revenue collected or money advanced, or to whatever branch of the public service they appertained, including, it is believed, the Post Office Department. In the year 1792 [Act of Feb. 20, 1792, 1 Stat. L., 232, 234, sec. 4], the Postmaster General was directed to [5] obtain accounts from his deputies, and render his accounts for his receipts and disbursements quarterly to the Treasury, for final settlement; and upon the establishment of the offices of accountant of the War Department, in May, 1792 [Act of May 8, 1792, 1 Stat. L., 279], and the accountant of the Navy Department, in July, 1792 [Act of July 16, 1798, 1 Stat. L., 610], they were required, in like manner, to render, quarterly, the accounts settled by them to the Treasury, for final settlement. The additional accountant, created in 1816 [Act of April 29, 1816, 3 Stat. L., 322], for the purpose of settling the accounts then in arrear, which had grown out of the war with Great Britain, reported his settlements in the same way to the Treasury. These double settlements of the accounts of the War, Navy, and Post Office Departments, have been successively abandoned. In the year 1817 [Act of Mar. 3, 1817, 3 Stat. L., 366], the accountant of the War Department gave place to the Second Auditor of the Treasury, the additional accountant to the Third Auditor, and the accountant of the Navy Department to the Fourth Auditor; and a Second Comptroller having been created at the same time, to revise the settlements of these three officers, the accounts of those departments underwent at once an original and final settlement, in like manner as the accounts of the Treasury Department. A Fifth Auditor was established, who was charged with the settlement of the diplomatic accounts and the final settlement of Post Office accounts, subject to revision of the First Comptroller, until the act of July, 1836 [Act of July 2, 1836, 5 Stat. L.,

80, 81, sec. 8], for the reorganization of the Post Office Department and the establishment of the Auditor's Office of the Treasury therein. In this office all the accounts of the Post Office Department now receive their original and final settlement, except a single account, to wit: the account for the contingent expenses of the Postmaster General's Office, which continues (the committee are at a loss to see why) to be rendered to the Fifth Auditor.

All these Auditors are essentially and practically, though not in name, officers of the departments upon the accounts of which they are respectively employed. The General Land Office, established in 1812, has, for a portion of its duties, the settlement of the land accounts, (subject to the revision of the Comptroller,) which had previously appertained to the First Auditor; and various other offices and bureaus have been established by law or regulation, such as the Paymaster General's Office, the Pension Office, the Office of Commissioner of Indian Affairs, the military bureaus attached to the War Department, the Navy Commissioners' Office, the Solicitor of the Treasury, the Patent Office, and others, which will be noticed in the progress of this report.

The Treasury Department, as originally established, appears to the committee to have been well adapted to the purpose for which it was designed, and no better standard can perhaps be found than the principles it contains by which to compare the forms and proceedings of the offices since established, from time to time, as occasion has required. It contained a Secretary, Comptroller, Auditor, Treasurer, and Register. Of these, the only officers which were essentially accounting were the Comptroller and Auditor. The Secretary was to superintend the business of his Department, including the collection of the revenue, and to grant warrants, to be countersigned by the Comptroller for the payment of money, but no authority was given him to adjust or decide upon accounts. The Treasurer was himself an *accountable* officer, and not an officer to pass on the accounts of others; and the Regis-

ter had no authority over either payments or settlements, but was simply to keep books of account, to register the settlements and payments made, and, finally, to preserve the accounts and vouchers. No better scheme could well be devised to secure correctness in the accounts, and [6] prevent improper payments of public money. The Comptroller acted as a check in both respects; and as there was but a single revision, either of the accounts or warrants, no unnecessary delay was occasioned in the despatch of the public business. The object of an independent office for the preservation of the accounts is the least apparent of the scheme. No check was thereby secured, unless it be regarded as one that the conduct of the officers concerned in the accounts would be more certainly open to investigation in the hands of the Register; but as a separate office was not established for this purpose, in connexion with the accounts of the War and Navy Departments in the year 1817, when the Treasury system was extended to them, nor in connexion with the Post Office accounts in 1836, when the office of Auditor was established to settle them, the committee are disposed to regard the object as either wholly immaterial, or as not justifying the expense it involves.

There are certain distinctive features in the several Departments, applicable to their accounts, which deserve to be borne in mind. The Treasury is the great receiving Department, whilst the State, War, and Navy Departments are exclusively disbursing, and have systems of accountability, respectively, varied according to their several functions. The Post Office Department, constructed to subsist upon its own revenue, is at once a receiving and disbursing Department, employs its agents in the double capacity of collecting and disbursing officers, and requires, accordingly, a more complex system of accounts. There are certain objects, however, confided to the Treasury Department, for which advances of public money are required, and for which it has accounts to adjust; and settlements, for present payment, are made at

all the Departments, which imply no accountability for either revenue collected or money advanced.

The duties of the heads of the Departments, the committee suppose, bear a general analogy to each other, modified by the peculiar objects as well as the peculiar organization of their respective Departments. They all have the same political or cabinet duties to perform. They provide for the appointment of the officers and agents of their Departments, for paying their compensation, for advancing the moneys they require, direct details of service and supply, make contracts, and generally superintend the various interests and objects confided to their Departments, leaving the adjustment of the accounts which may grow out of these appointments and advances, contracts and superintendence, to the accounting officers. The duties of the heads of the Departments may be considered as administrative, and should be regarded as essentially and properly separate and distinct from the settlement of accounts. The clerks employed in their offices perform the various duties of recording letters, filing papers, issuing commissions, passports, and certificates of citizenship, and warrants or requisitions, keeping appropriation accounts, writing letters, &c. In some instances, portions of the duties which previously appertained to the heads of the Departments, and had been performed by the clerks in their offices, under their direction, have been assigned, by law or regulation, to other offices—such as the Patent Office, the Land Office in part, the Navy Commissioners' Office, the Pension Office, Office of Indian Affairs, the military bureaus, &c.; but these officers are to be considered as assistants of the respective heads of the Departments to which they appertain, and their duties as essentially administrative as if they had remained in their hands. Considering these officers in this light, and supposing the accounting officers of the Treasury as be- [7] longing to the several Departments to which they are respectively attached, the following statement will exhibit the number of

officers and clerks employed in each branch of service for each of the Departments, and the expense they involve: [8]

* * * *

Some of the subordinate offices involve duties of both descriptions. The First Comptroller's Office, besides preserving its original organization as an accounting office, performs, under the direction of the Secretary of the Treasury, the duty of superintendence of the customs.

The Land Office was established chiefly to perform administrative duties, but it also adjusts the accounts of receivers of public moneys for land sold; and the Fifth Auditor, although superintending the light-house establishment, settles also the accounts therefor.

The Solicitor of the Treasury is enumerated in the class of administrative duties; but there may be a question, whether he is properly so, as the corresponding duties, in relation to suits in the Post Office Department, have been assigned to the Auditor for that Department.

The Treasurer is classed with the Treasury Department; but he seems to be rather a general than a special officer, since he receives and keeps the moneys alike of both the Treasury and Post Office Departments, and disburses the moneys appropriated for the service of all.

The statement exhibits the Auditors' offices as appertaining to particular Departments, but they are not to be understood as being so in fact. The utter absence of any system or uniformity in the arrangement of these offices to the Departments is doubtless the source of much embarrassment and confusion. The Fourth and Sixth Auditors are exclusively and properly employed on the accounts of the Navy and Post Office Departments, and are confined to them; whilst the Second and Third Auditors, with an aggregate force greatly inferior to that of the Sixth, divide between them the accounts of the War Department, to which they both appertain. The First Auditor divides the Treasury accounts with the Commissioner of the General Land Office and the Fifth Auditor, al-

though, if he had all such accounts, the force he would require, in addition to his present number of clerks, would not make the whole more than twenty; and the Fifth Auditor, though he has but nine clerks, derives his general stock of duties (administrative and accounting) from no less than three separate Departments—[10] the State, Treasury, and Post Office Departments. The inequality in the number of clerks in these offices is also a proper subject of consideration, whether it respects the expense it involves, or the fair and equitable distribution of labor among the officers employed. If one Auditor's office were assigned to each Department, there would necessarily be a difference amongst them all in the amount of labor, calling for differences in the number of their clerks, as the several departments all vary in the number of agents they employ, and of course in the number of accounts growing out of their operations. If any other rule is adopted, there seems no reason why the increased labor of one Department or office should be met by an indefinite provision of clerks, instead of additional offices with Auditors, and a certain number of clerks corresponding with the usual and proper proportion of such offices as already established, or which may be found convenient and proper.

The committee regard the fact, that the immense number of accounts of the Post Office Department are, under that indefatigable officer, (the Sixth Auditor,) promptly settled and adjusted, as indisputable evidence that one Auditor's office can be made to answer all the objects of accounting to each of the Departments—an arrangement desirable, not so much from any view to the expense that may be saved, as to the harmony to be introduced into the system, and the facility and method that would follow in despatching business and giving information.

As the result of their examination into the constitution of the Auditor's office, the committee are satisfied that great advantage would arise from changing the numerical designations of these officers as Auditors of the Treasury, and assigning

one to each Department, to be called the Auditor of that Department, and giving him the whole accounts of such Department.

The administrative duties of the Fifth Auditor should be withdrawn, and connected with other administrative duties, in relation to the customs, in the hands of the First Comptroller, or some other officer.

The union of administrative and accounting duties, in the hands of the First Comptroller, the committee regard as peculiarly objectionable. As the final judge in matters of account, he was designed to be independent of the Secretary; but, in superintending the customs, he appears to be entirely subject to his control. The tendency of this submission in one part of his duties is but too well calculated to impair his independence in the other: and it is probable that, in the practical operations of his office, the distinction between his two classes of duty is apt to be overlooked. The general tendency of the system has doubtless been to give a prevailing influence, touching even upon accounts, to the administrative branches of the Departments over the accounting. The higher salary of the Secretary, his political position and connexions, and his access to the President, contribute to this influence, and doubtless to disincline the accounting offices to resist his authority, whenever he is inclined to assume the responsibility of decision. This office should be restored to what it was, or was intended to be—the final umpire in matters of account—and should be freed from the administrative duties in connexion with the customs. If these duties should be withdrawn, it is probable that this office would be capable of revising the accounts and comptrolling the disbursements of all the Departments. But the local separation of the War and Navy Departments probably renders the preservation of the Second Comptroller's Office necessary, on account of the constant delay to claimants and the loss of time of the clerks, if the [11] settlements of the Auditors of these Departments were daily

and hourly to be sent to and returned by the First Comptroller, before payment could be made.

The superintendence of the customs, now appertaining to the First Comptroller, and of the light-house establishment, appertaining to the Fifth Auditor, ought, as a matter of sound principle, to be separated from the accounting offices mentioned, and placed in different hands. A new office might be created for this purpose, to be called the Commissioner of the Customs; or the duties might be assigned to the Solicitor of the Treasury, (an office of but three clerks, and having no authority to decide upon accounts;) or, further, the accounts of the State Department, being very inconsiderable in number, and not employing more than four or five clerks, might, instead of there being a separate Auditor for that Department, be assigned to the Auditor of the Treasury, and the Fifth Auditor might be made the proposed Commissioner of the Customs.

The whole force connected with the several Departments at the seat of Government may be estimated, roundly, at from five hundred and fifty to six hundred persons. Most of these are clerks, engaged in the examination, adjustment, and keeping the accounts of the receipts and expenditures of the Government, in correspondence, copying, &c. The Treasury Department is, of course, intimately connected with all the others. Through the agency of its six Auditors and two Comptrollers, its Register, Treasurer, &c., the accounts of all receiving and disbursing agents of the civil, military, and naval services, or all the fiscal details of the Government, come under the general supervision of this Department. It is, consequently, the most extensive Department, and the other Departments are only parts of it, as far as the accounts of the Government are concerned. Much the largest number of the clerks, therefore, in all the Departments, are engaged in the accounts of various descriptions. The First Auditor has charge of the accounts of the revenue generally, civil list, &c., and

has thirteen regular clerks. The Second Auditor has charge of the accounts for pay, subsistence, forage, clothing, purchases, contingent disbursements of the army, and of the medical and ordnance departments of the army, and of the Indian bureau generally, and has fifteen regular clerks. The Third Auditor has charge of the accounts of the Quartermaster's department, those for fortifications, for the military academy, for surveys and internal improvements, pensions, &c., and the claims connected with the war with Great Britain; he has twenty-seven clerks. The Fourth Auditor has charge of the accounts of the Navy Department; he has fourteen clerks. The Fifth Auditor has charge of the accounts of the State Department, those of the contingent fund of the Post Office Department, and those connected with light-houses, &c.; he has nine clerks. The Sixth Auditor has charge, generally, of the accounts of the Post Office Department; he has sixty-eight clerks. The accounts from the First and Fifth Auditors' offices are referred to the office of the First Comptroller; he has fifteen clerks. Those from the Second, Third, and Fourth Auditors, are referred to the Second Comptroller; who has ten clerks. There is what is called (without any legal authority) a diplomatic bureau, and also a consular and a home bureau, in the State Department, with three or four clerks each. The Treasurer's bureau has eleven clerks; the Register, twenty-one clerks; and the Land bureau, eighty clerks—all connected with the Treasury Department. The Indian bureau has twelve clerks; the Pension bureau, eleven; the Commanding General's bureau, one; the Adjutant General's seven; the [12] Quartermaster's six; the Clothing bureau, one; the Commissary's, four; the Paymaster's, five; the Surgeon's, two; the Engineer's, five; the Topographical, four; the Ordnance, eight clerks, connected with the War Department. The Board of Navy Commissioners have one secretary and six clerks.

The accounts of disbursements are far more complicated and numerous than those of receipts; and hence the adjust-

ment of claims against the Government necessarily involves more labor and investigation than the settlements with receiving agents. The several classes of accounts connected with military disbursements are respectively subjected to examination, first, in some bureau or other subdivision of the War Department; then in the office of the Second or Third Auditor, and then in the office of a Comptroller. The labor of this examination actually devolves, it is believed, with scarce an exception, on the clerks in the several offices through which the accounts pass. Claims, accompanied by vouchers and explanations, are submitted, generally, to the head of some bureau. They are referred by him to one of his clerks, for examination. The clerk returns them to him, with his opinion and advice; which is certified, without further examination, to one of the Auditors. The same papers are referred by the Auditor to one of his clerks, who examines and reports to him; when he, without further examination, certifies to one of the Comptrollers in like manner. The Comptroller refers the papers to one of his clerks, who examines and reports to him, who finally decides. From the number of claims thus submitted, it is impossible that either the Auditor or Comptroller can investigate each. Indeed, it is doubtful whether this could be done by the heads of bureaus, or inferior officers, and others to whom they are presented in the first instance. The only examination made, generally, by these officers, is confined to such points as their particular attention may be called to by their respective clerks.

Each claim is thus subjected to three several examinations. There being only six Auditors and two Comptrollers, who have authority to admit or reject claims, and who are required to act upon all the claims connected with the Government, in all its details; and as they have, in several instances, fewer clerks than the subordinate examining bureaus, where accounts are only examined and certified, and not allowed or rejected, it follows that the examinations in these offices must be more slight than in those where there is really no power

of action or decision on them. The Comptrollers, Auditors, and heads of bureaus, decide and certify in conformity with the suggestions of their respective clerks. The contracts for disbursements connected with the military service, under which the claims against the Government arise, are made, generally, under the control and supervision of the bureaus where the claims are first examined, and whence they are certified to the Auditors. The claims thus examined and certified from numerous bureaus, involving all the details and varieties of expenditure, are distributed among two Auditors, where, notwithstanding the examinations are slighter in consequence of the scrutiny they have previously undergone, they are (in the only office examined by the committee) detained sometimes for years before they are acted on. This delay operates great injustice to the Government as well as to claimants; but it is not the only circumstance which induces the committee to doubt whether the present arrangement is the best. Responsibility is seldom really increased by the multiplication of agents to do the same business. Instead of acting as mutual checks, it is more probable that the triple examination of claims, [13] first in bureaus, next in the Auditor's office, and then in the Comptroller's encourages negligence in each, and distributes the responsibility among so many, that it scarcely applies to any.

The examination of many claims against the Government involves intricate questions of law and evidence. The duties of the Auditors and Comptrollers are, in fact, among the most important connected with the Government. It is their duty to see that the revenue appropriated is legally expended. They are bound to do justice to the Government and to claimants; and the more complicated the classes of claims submitted to them, the greater the difficulty of their being clearly comprehended and promptly despatched.

The estimates for appropriations at the present session, the accounts of which would be settled at the offices of the Second and Third Auditors, amount to \$11,717,791 27. The ex-

penditures on account of the army are not only the most important in amount, but they are most liable to be misapplied, and require the utmost degree of vigilance and fidelity in the accounting officers of the Treasury. A report, which the committee heretofore submitted, shows that abuses of a very serious character have been practised in the allowance of large sums of money, not only without law, but in direct violation of law, to officers of the army. There has been a culpable disregard of law and duty, and inexcusable prodigality in the allowance of many claims connected with the military service. If these abuses are not corrected, the Government will be involved in shameful extravagance, and the military and civil branches of the service subjected to severe reproach. The facts which have been submitted with regard to extra allowances to both civil and military officers, double and sometimes triple pay, the extortions on the Treasury under pretext of contracts and services not authorized by law or established by evidence, the gross and wholesale injustice to the Indian tribes, show that there is a want of sufficient checks in this Department to protect the interests, the justice, and the character of the Government. It is believed that the expenses of the army and navy of the United States, per man, are about double those of the armies and navies of several European Governments. They certainly exceed very far the expenses of the British service, in which troops are transported over the whole extent of the seas, and marched into the interior of the most distant and barbarous continents.

Without referring to the unpleasant details of the abuses which have done so much to swell the expenditures of our peace establishment, and which would be still more destructive to our defence in war, the committee would inquire whether the causes of these evils may not be found, at least to some extent, in the defects of the present arrangement of business. A great deal may be done by honest and vigilant officers, even under the worst system, to secure fidelity and economy in the disbursements; but it is unwise as well as

unsafe to continue a defective system of accountability, which exposes the public interests to constant danger under the best management, and exposes those who manage it to censure, if not to temptation. The responsibility for disbursements is now distributed among the clerks and heads of three several classes of offices, all of whom examine, and two of whom decide on, claims; or, in other words, there are three distinct tiers of officers, all employed in fact on the same duties. The expense incurred by this multiplication of offices and salaries would constitute no sufficient objection to the present organization, if the guards of the Treasury were [14] multiplied to the same or to any extent. But while it is, to say the least, doubtful whether responsibility is not diminished by this subdivision among so many who are to share it, and while we have seen that the present mode of settling these accounts has not answered the demands of public justice or economy, it is worthy of inquiry whether the distribution of business may not be simplified and rendered more efficient.

It occurs to the committee that the object to be attained is to lessen the number of agents who now share this responsibility, and to concentrate it where it will be felt, and where abuses can be at once detected. This may be done by changing the organization of the bureaus, or that of the Second and Third Auditors' offices, so as to require that the accounts shall come under the supervision of only two instead of three offices, and pass directly from the bureau or the Auditors to the Comptroller. If the heads of bureaus are authorized to audit the claims which are now only examined by their clerks, and certified to the Auditors' offices, the offices of the Second and Third Auditors can be dispensed with. If it is thought better, as it probably will be, to require claims to be sent directly to the Auditors connected with the expenditures of the War Department, (or to one Auditor instead of the two now employed, if the previous suggestions of the committee shall be approved,) as is now done with the Auditors connected with the other Departments, then much the largest portion of the

force now employed in the several bureaus can be dispensed with. In either event, claims would pass directly from the Auditor to the Comptroller; and, as each examination would involve the responsibility of a decision, it would be more minute and thorough than it is now. The certificates by which the accounts are now transferred from the bureaus to the Auditors involve very little, if any more, responsibility than exists in the inferior or subaltern agencies, from which they are transmitted to the bureaus. They merely pass the accounts to the Auditors, for examination; and the Auditors' clerks find in this previous and generally slight examination only an excuse for negligence on their part, which is fortified by the knowledge that each claim will afterwards be examined again in the Comptroller's office. The examination to which claims are now subjected in the bureaus, where there is no power to decide on them, is either useless or injurious. It is useless, if it has no influence on the subsequent examination and action before the Auditors and Comptrollers. It is injurious, if, without imposing responsibility on the bureaus, it diminishes the responsibility by lessening the scrutiny of the Auditors and Comptrollers.

The business of the Second Auditor's office (the only office of the sort on which the committee have been able to bestow any attention) is greatly in arrears. This is ascribed by that officer to the want of a sufficient force; but the real cause will more probably be found in the defective distribution and arrangement of business in the office itself. To remedy this evil by augmenting the force in the Auditors' offices, unless an Auditor's clerk is expected to be capable of doing much more than other clerks, it will be necessary to multiply the number of clerks in the Auditor's offices until it equals that of all the clerks in all the bureaus from which claims are transmitted. The present distribution of business is unequal among the several Auditors, and still more so as between the Auditors' offices and the bureaus. There are probably fifty or sixty clerks employed in the various bureaus from which claims pass to

the Second Auditor's office; so that, if it is necessary to keep the business up by merely increasing the clerks, they may have to be multiplied three or four fold. [15]

Whether the military bureaus shall be modified and reduced, or the offices of the Second and Third Auditors abolished, the objects indicated may be attained in either way. The accounts of the navy expenditures, and those of the Post Office Department, now pass directly to the Fourth and Sixth Auditors, without the intervention of bureaus or other subordinate examining agencies. This is the case generally with the accounts of the Government, except those of the army and Indian expenditures. The accounts of the recruiting service in the army are now sent directly to the office of the Second Auditor. The committee have already noticed an instance in which the head of a bureau or office is authorized to audit the accounts of his office, and no inconvenience has resulted, of which the committee are aware. The Commissioner of the General Land Office has been long authorized to audit, besides examining the accounts of that office. It is worthy of remark, that the greatest looseness seems to have prevailed where accounts have passed through the three examinations of bureaus, Auditors, and Comptrollers. This may be ascribed, perhaps, to defects in the organization of the bureaus, in some degree, but chiefly, the committee believe, to the complication and confusion resulting from the employment of too many agencies on the same business.

It may be objected to conferring the power of auditing accounts on the bureaus, that most of them are under the charge of military officers, who may not be as familiar with civil duties, or as amenable to civil authorities, as Auditors should be. This is not, in fact, an objection to requiring this additional duty of the heads of these bureaus; but it is an objection to the bureaus themselves, as now constituted. If it were unwise or inexpedient, for this reason, to confer on them the authority to audit claims, it is not less so to permit them to manage the business of their bureaus under which these claims arise. The

objection applies to the appointment of military men in civil duties; and thus far the committee regard it as well founded. It may be questioned whether such employments do not generally result in injury both to the army and to the civil service. The committee believe that the staff of the army at the seat of Government is much too numerous and expensive for time of peace, and that a very extensive reduction can and ought to be made in many of the military bureaus, and that some of them may be dispensed with altogether. The committee regret that they have not been able to examine this particular branch of the service in detail, in order to elicit facts which they doubt not would sustain the opinion expressed. If, therefore, in order to accomplish the end to which the committee have adverted, it should be necessary to diminish the number of military officers employed on civil duty, or on duties connected with accounts at the seat of Government, this would be an additional recommendation, in the estimation of the committee. Most, if not all, of these accounting bureaus should be more thoroughly blended with the civil department of the Government than they are now. The committee are at a loss to perceive any reason for the employment of an army officer to take charge of the accounts of the Quartermaster's, or Commissary's, or Paymaster's department with the Treasury, that does not apply with much more force to the appointment of a military man at the head of the War Department. The army, in all its operations and details, is under the control of the Secretary of War; but the accounts of these bureaus relate only to the disbursement from the Treasury of such appropriations as Congress may make for each. [16]

The original design in organizing the Government seems to have been to attach, as far as possible, all accounting agencies to the Treasury Department. The innovations on this design, which have been made from time to time, have only embarrassed the system, by making it more complicated, without increasing either its responsibility or efficiency. The com-

plex system of expenditure and account is one of the greatest practical obstructions to economy and responsibility in the Government. The Departments at the seat of Government, instead of being accessible and intelligible to the people, who come from all quarters of the Union on business with them, are labyrinths, which often perplex those most experienced in their mazes.

The whole annual expense of the office of the Second and Third Auditors is now, with forty-two clerks \$54,550
 The annual expense of the bureaus connected with these Auditors, with about seventy clerks is about . . . 95,000

The force employed in these bureaus, in the business of accounts alone, is probably at least equal to that employed in the offices of the Second and Third Auditors. The residue is employed in administrative duties auxiliary to the business of the War Department. The larger portion of the force in the bureaus could therefore be dispensed with, if claims should be sent directly to the Auditors. No increase would be necessary in the Auditors' offices by such change, unless the force there is already insufficient, as no more accounts would have to be examined than at present. The business of the Indian bureau will admit of considerable reduction in any event; but it would be still greater if the accounts, now very imperfectly kept there, should be transferred entirely to the office of an Auditor. The evidence appended will show that it is difficult to trace the accounts of this very important bureau any where, except from loose papers distributed through several different offices.

Some of the bureaus are rapidly growing into Departments. The Post Office, from the extent and importance of its business, has been long legally recognised as a Department proper. The plan of a Home Department has been frequently suggested, contemplating the union of the business of the Indian bureau, the Land Office, and the Patent Office, under one

general supervision. The committee are not aware of any sufficient reasons for such a measure at this time. They think it would be better to reduce the organization of each of these bureaus. The Patent Office is considered an appendage to the Department of State; but it has all the external arrangements and appearances of a Department itself. From a mere depository of models, seeds, &c., it is making rapid strides to rank among the Departments, having appropriated to its use one of the most extensive and costly edifices of the Government, with an extensive array of officers, of various grades.

The committee cannot forbear to express, in decided terms, their disapprobation of a practice which seems to have prevailed for some time, and to a pernicious extent, in the Departments. Under color of what are termed *regulations*, large amounts of money are often applied to purposes never contemplated by the appropriating power, and numerous offices are sometimes actually created in the same way. It appears, from the testimony submitted, that the accounting officers of the Treasury feel themselves "bound to presume that these regulations are pursuant to law." These are dangerous precedents, and deserve the prompt rebuke of Congress. [17] The peculiar and exclusive prerogatives of the legislative power may be thus assumed by the Executive. The whole revenues of the Government may be misapplied, and all limitations on appropriations set at defiance, if those whose duty it is to see that the disbursements conform to law are at liberty to recognise any other authority as paramount to the expressed commands or prohibitions of the legislative power. Such a recognition of Executive supremacy is fatal to the best-considered checks and balances of our scheme of government. It destroys the equilibrium of the system, and annihilates a power which the people, through their immediate representatives, have always claimed as indispensable to the existence of every representative government. It is far better that temporary and partial inconvenience should sometimes be endured, than that the fundamental axioms of constitutional government

should be subjected to the capricious control of individual discretion. The wisdom of Congress can generally foresee and provide for most exigencies which can arise in the public service; and if it should fail to do so, its sessions are so frequent that little inconvenience could result from the short delay necessary to obtain all proper authority of this sort. The Executive, moreover, has always the power of convening the legislative body. It is hoped that in future this code of Executive legislation may cease to be known in our history. It is impossible to add any legal checks on such an abuse of power, more distinct or emphatic than those which already exist. [18]

* * * *

Besides the general reflections which the committee have thought proper to submit, they report the following resolutions, . . .

* * * *

Resolved, That it is expedient either to dispense with the offices of the Second and Third Auditors, or with the several bureaus attached to the War Department, so far as they are employed in the examination of claims or accounts, or otherwise, as accounting agencies in connexion with the Treasury. [28]

NO. 64

TRANSFER OF NAVAL APPROPRIATIONS. DEBATE, 1843-44⁴⁴

House of Representatives, December 26, 1843

* * * *

Mr. [WILLIAM] PARMENTER [of Massachusetts], from the Committee on Naval Affairs, reported a bill to authorize the President of the United States to direct transfers of ap-

⁴⁴ 28 Cong. 1 sess., *Congressional Globe*, Vol. 13, pp. 71, 187-88, 209-10. See Act of Feb. 23, 1844, 5 Stat. L., 651.

propriations for the naval service under certain circumstances. This bill having been read twice.

Mr. PARMENTER explained the objects of the bill, and expressed the hope that it would then be put on its passage. The object was to enable the Secretary to transfer the balances of appropriations from objects where they were not wanted to works which had been commenced and which had been suspended in consequence of the exhaustion of the appropriations. By this means, the Secretary would be enabled to carry on some works of importance, and to give employment to a number of mechanics who were necessarily discharged during the recess.

Mr. [DANIEL D.] BARNARD [of New York] observed that, from the information he had received, he feared that the gentleman would not be able to effect the object he had in view by the passage of the bill before them. He understood that, even if there should be a transfer of appropriations allowed, there were outstanding accounts against the department sufficient in amount to absorb all these balances; so that the object of the Secretary, to set these men to work, could not be accomplished without new appropriations.

Mr. PARMENTER replied, that the gentleman was under a mistake; that the report of the Secretary of the Navy would show that the aggregate of the appropriations was sufficient for the service; and that all that was wanted to carry on the works of the fiscal year, was to enable him to transfer appropriations from objects where they were not wanted, to others where there was a pressing necessity for them, and to meet such emergencies of the service as could not have been foreseen.

Mr. C[HARLES] J. INGERSOLL [of Pennsylvania] asked if it would not be better to pass this bill over to to-morrow. He considered the subject too important to be passed through without more mature reflection.

Mr. C[AVE] JOHNSON [of Tennessee] said he was about to submit a motion that would put a stop to this proceeding.

He was not willing that a matter of this importance should be passed through without full discussion in Committee of the Whole House; and he therefore moved to refer it to that committee. He made this motion for the reason that the House had no control over the expenditures of the navy, without adhering to the practice of specific appropriations; for there was no limit of a peace establishment for the navy; and the Secretary could make the expenditures for particular objects what he pleased, if allowed to transfer the appropriations in this way. For example: at the last session, they appropriated one million of dollars for certain objects, on which the Secretary had gone on to employ hands enough to exhaust two millions—thus setting his discretion above that of the Congress of the United States. It was in this way that he furnished an argument for additional expenditures to keep these men in employ, and threw the odium of refusing to continue them on Congress. He hoped, therefore, that this subject would be taken up and fully discussed in Committee of the Whole. It was a matter that ought not to be left to the discretion of any Secretary, but ought to be controlled by specific appropriations. He moved to refer the bill to the Committee of the Whole on the state of the Union.

Mr. PARMENTER here read an extract from the report of the Secretary of the Navy, more fully to show the objects of the bill, and the necessity of the transfers. He objected to the reference to the Committee of the Whole, because two months at least would elapse before it could be acted on; and the necessities of the service were immediate and urgent.

Mr. CAVE JOHNSON said that, by making these transfers, the House would lose all control of the expenditures of the navy, and enable the Secretary of the Navy to put the country to an expense for certain objects that the House never contemplated.

Mr. [DAVID] LEVY [of Florida] observed that it was not his habit to intrude any remarks of his on the House, except when the business of the Territory he represented was under

consideration; but he could not refrain at the present moment from stating a fact which would clearly show the propriety of referring this subject to the Committee of the Whole, as proposed by the gentleman from Tennessee, . . . Out of \$800,000 or \$900,000 which had been appropriated for the repairs of the navy yard at Pensacola, (the only naval station south of Virginia,) there were at least \$350,000 unaccounted for by the Navy Department; and why was it not accounted for? Because the Secretary, instead of applying this sum to the Pensacola yard, (for which it was appropriated,) had taken it upon himself to expend it on other yards. The simple mention of this fact was enough, he thought, to show the House the necessity of adopting the motion of the gentleman from Tennessee.

Mr. [JOHN P.] HALE [of New Hampshire] hoped that this bill would take the direction proposed for it by the gentleman from Tennessee, . . . If there was one department of the Government that required a most searching investigation, it was that of the navy; and he hoped that no appropriation would be made for it, nor any transfer appropriations be made, as proposed by this bill, until that investigation was had. The appropriations for the naval service had swelled out from four millions (what they were in General Jackson's time) up to eight or nine millions. Nine millions, he believed, was what was asked for by the present Secretary; and this, too, in time of profound peace. It was time to put an end to these enormous appropriations, which amounted to more than were made in any year of the last war, when the navy was winning laurels from the most powerful nation on the earth. It would be well for gentlemen, who had other important interests in their care, to look at the vast amount of appropriations for the navy, and see if they could not cut them down so as to leave more for those objects. For his part, he would vote liberally for many important objects, and on which there would be something to show for the money expended, rather than see it squandered on the navy, and leav-

ing no more of a trace behind than our ships leave behind them on the ocean. He trusted that this bill would not be touched for the present; and that the naval appropriations would be delayed until an investigation could be had. He had no doubt that a proper investigation would result in showing that the naval appropriations could advantageously be cut down at least four or five millions.

Mr. PARMENTER agreed with the gentleman from New Hampshire, that, to a considerable extent, the appropriations called for by the Secretary of the Navy were too high; but that had nothing to do with the question before the House. This bill was to provide for pressing emergencies; and unless it passed speedily, the public service would suffer. If necessary, he would be willing to modify it in any way to suit gentlemen, though the bill was presented in the usual form of bills of the kind, and it was necessary in this branch of the public service to vest some discretion in the Executive; but he must object to the reference to the Committee of the Whole, as that proceeding would cause a delay of at least two months. As to the investigations recommended by the gentleman from New Hampshire, he had no objection to them, and he would be willing to go for any reduction in the naval service that might be shown to be necessary and expedient; but in the mean time these necessary expenditures must be provided for.

Mr. CAVE JOHNSON asked if the Committee on Naval Affairs had inquired into the expenditures of the last summer? He understood that in the latter part of it the department had expended nearly two millions of dollars, and, by this means, brought about the very state of things they were now seeking to remedy.

Mr. [SAMUEL] BEARDSLEY [of New York] was not sufficiently familiar with the acts of Congress on this subject, and the bill before the House, to enable him to speak of that part of the bill which was the subject of discussion, with precision; but he understood the main scope of it was to appro-

priate certain portions of the public money to meet certain unforeseen contingencies of the service that were now pressing and urgent; or, in other words, to take money that was not wanted for the objects for which it had been appropriated, and apply it to other objects where it was wanted. Now, it seemed to him, that the remarks of gentlemen with regard to the enormous expenditures of the Navy Department did not bear on the case before the House. There might have been two millions instead of one expended in two months; the naval appropriations might enormously have increased for the last ten years, and the Secretary might have estimated for more money than ought to be expended on this branch of the service; but was that a good reason for resisting this bill, which was to provide for objects of immediate and pressing necessity? When they were about appropriating money for the naval service, it would be time to inquire into the propriety of giving the nine millions the Secretary asked for. It might be that the Secretary, in his expenditures, had gone farther than he was allowed by law to go; but all this had nothing to do with the question before the House, and they had the means of reaching him at the proper time, if such should be found to be the fact. He hoped, therefore, that the motion of the gentleman from Tennessee would not prevail, and that this bill would not be referred to the Committee of the Whole, to be thereby delayed some two months. He hoped that it would be laid on the table, and printed, so that the members might examine it; and if it should be found that there were necessary and proper expenditures which ought to be provided for, that they would take the bill up and pass it.

Mr. [EDWARD J.] BLACK [of Georgia] observed, that he should vote for the proposition of the gentleman from Tennessee; but, at the same time, he must remark that he regretted to witness a tone of feeling in regard to the navy which he could not but consider as hostile. He was led to this conclusion from hearing the remarks of the gentleman from New Hampshire; and though he would heartily agree with

that gentleman on reducing the expenditures of the navy, he must express the high regard he felt for that arm of our national defence. It was that arm of our defence which was most important to the South, and to the whole Atlantic seaboard, and it was the one that would be first called to meet the enemy in the event of a war. While he was willing to vote to cut down the appropriations, he was still ready to vote enough to keep the navy up to its present rate. [71]

* * * *

House of Representatives, January 24, 1844

The bill to authorize the President of the United States to direct the transfer of naval appropriations under certain circumstances, was taken up and read.

Mr. PARMENTER went into an explanation of the nature and objects of the bill, and stated the pressing demand for the money intended to be transferred, to enable the department to carry on its operations. The bill, he said, had been so amended as to obviate the objections that had been made against such transfers, as deviating from the established principle of specific appropriations. The bill was limited both as to time and amount, as it was to extend only to the end of the present fiscal year; and the sum was not to go beyond \$200,000. No additional appropriation was involved, and no surplus of appropriations for other objects would be used, unless they were not needed for that object.

Mr. C. J. INGERSOLL observed, that he should like to understand if the bill was amended so as to limit the time and amount of the transfers. That being the case, he should not object to it; and he believed that, had the first bill been so framed, it would have passed without any objections. That bill conflicted with a principle—that of specific appropriations—which had been in practice for forty years.

Mr. PARMENTER said the bill was limited to the present fiscal year, that expires on the 30th June next; and the sum to be transferred was limited to \$200,000.

Mr. THOMAS SMITH [of Indiana] observed that, not being very well informed on the subject, his object in rising was to elicit information from those gentlemen who were able to give it. He took it to be the correct principle that appropriations should be specific; and that those who had the administration of them should rigidly confine them to the objects for which they were appropriated. As he understood the first bill, it placed it in the power of the Secretary of the Navy to dispose of the entire appropriation for that branch of the service at his own discretion, which was equivalent to their making one general appropriation. But the gentleman came forward with an amendment to that bill, limiting the transfers both as to time and amount; and further took the power of making them from the Secretary, and gave it to the President. What was the effect of this? Why, it would go the country that \$200,000 was placed at the discretion of the executive; and what was it more than a mere accommodation to him? Would he not have the power to withhold the money from one object to which it had been appropriated, and apply it to another to which he was more favorably disposed? Now, he was entirely opposed to giving this power either to the President or the departments, and would confine the appropriations to the objects designated by Congress. They had been told that one of the objects was to give employment to many workmen who had been discharged for want of money to pay them, and were now in a state of suffering. Whose fault was it that they had been discharged? Was it the fault of Congress, or of the appropriation? By no means. It was the fault of those who employed them without the means of paying them.

Mr. PARMENTER rose simply to explain two points in the gentleman's remarks. One was, that the power was given to the President, instead of the Secretary of the Navy; and the other was, that it would be in the power of the secretary to withhold appropriations from one object, and apply them to another to which he was more favorable. To the first, he would reply that it was the usual form to give the power to

the President; and to the second, he would say that no power was given to transfer an appropriation from any object, and apply it to another, unless the first was completed, and did not need it.

Mr. [?] MORRIS spoke in favor of the bill, and referred to several public works which were suffering for the want of means to carry them on or protect them from the weather. He considered the passage of this bill would be a wise and economical measure.

Mr. C. JOHNSON observed that when this question was formerly before the House, he made a few observations in regard to it, and asked what were the balances of these appropriations that were to be transferred. For instance: in the act of the last session, Congress appropriated one million and a half of dollars for repairs of the navy; and that appropriation, the Secretary told them, was exhausted, and he wanted to apply the balances that were unexpended of other appropriations, for other objects to continue these repairs. Now, before he gave his sanction to this application of these balances, he wanted to know how this million and a half had been expended. The Secretary told them that he had expended this million and a half for repairs; and asked for more. We say to him, (continued Mr. J.) that we did not intend that he should have more for this object, when we appropriated that sum. But it was proposed to take the money from appropriations that had been made for other objects. Now, on looking at this bill, he found that \$100,000 had been appropriated for the navy-yard at Pensacola, and an appropriation for the New York navy-yard, which had not been expended, the Secretary wanted to apply to other objects.

Mr. PARMENTER called the attention of the gentleman from Tennessee to the clause of this bill which prohibits the transfer of certain balances.

Mr. C. JOHNSON said that did not change his argument. He charged that appropriations made for the pay of crews, &c., when on service, had been transferred to other branches; and,

when the sailors came back, and claimed their pay, another appropriation was necessary. He contended that some restraint should be put on the heads of departments, and he hoped the House would not pass this bill.

Mr. C. J. INGERSOLL would be very glad to hand over the Secretaries to the tender mercies of the gentleman from Tennessee; but he could not see any good reason why they should nip themselves, or stop the navy, and turn the poor workmen adrift in the midst of winter.

Conceding that there had been mismanagement on the part of the Secretaries, yet everybody knew that it would be three months before provision could be made for the branches to which it is now sought to make this transfer, in the general appropriation bill; and if this bill were not passed, the men would be punished for the faults of the Secretaries.

Mr. [HENRY C.] MURPHY [of New York], with great respect for the experience of his friend from Tennessee, . . . confessed that he could not see the force of the objection which that gentleman urged against the passage of this bill. The gentleman from Tennessee, in reply to the argument of the gentleman from Massachusetts, . . . in favor of this transfer to the repairs and increase department, said that injustice might be done to those who were of right the recipients of that appropriation. Now, as he (Mr. M.) read the bill before the committee, he was of opinion that provision was made to obviate every injustice. The honorable gentleman read an extract from the bill in support of his position.

Gentlemen, however, argued as if this was a new mode of proceeding; but he said, in reply, that, since 1809, there was hardly a time when this power was not given to the heads of departments. In the year he had mentioned, a general law was passed authorizing the President, on the application of any of the Secretaries, to make transfers from one branch of public expenditure to another; and that law remained, with slight modifications, until very lately. He enumerated the periods when Congress had legislated on this subject; and

then urged that here they had the almost uninterrupted practice of the government for a long period, and the recommendation of the President in his message, and of the Secretary in his report, in favor of the principle laid down in this bill.

But this was not a measure to give employment simply to a few men. He knew well that, in one of the navy-yards of the United States, there was a vessel half coppered, which could be completed and launched by an expenditure of from \$5,000 to \$10,000; but, if that vessel were allowed to remain in her unfinished state until the general appropriation bill was passed, the government would lose more than would now suffice to complete the coppering.

Some observation was here made to the honorable gentleman, in an under tone, by a member near him.

Mr. [HENRY C.] MURPHY [of New York] replied, if this case did not commend itself to the good sense of the gentleman, he should not press it on local grounds. He then went on to show that the public service would greatly suffer if specific appropriations were in all cases to be made, and no transfer were to be allowed.

Mr. [ARCHIBALD] ATKINSON [of Virginia] said gentlemen from the western States were too much accustomed to look upon the navy as belonging to the seaboard; but he (Mr. A.) considered it the navy of the East and the West, the North, and the South. He was a friend [187] to the navy, and he should stand up on all occasions for proper retrenchments in the Navy Department; for, to continue its popularity with the people, they must reduce its expenditures; but let them not take its life-blood away. He then defended the bill generally against objections which had been made to it, showed its necessity, and advocated its passage.

Mr. [HUGH A.] HARALSON [of Georgia] said the members of this House were sent here by the people; and they were supposed to know the wishes and feelings of the people. By those representatives, appropriations were made for spe-

cific objects; and his idea was, that those appropriations never should be diverted from the purposes for which they were voted by the people's representatives. The bill now before the committee, gave to the Secretary a too unlimited power; for he was to judge whether the unexpended balances were necessary or not, and might transfer them to other branches, although the representatives of the people had appropriated them to specific objects. To this he had great objection. He wished, when appropriations were asked for, that the people should know their object; and when they were directed into a particular channel, that they should go there, and that no one should be allowed to give them a different direction. If an enlargement of policy was necessary—which it was not necessary for him to discuss—he should desire the money to be called for directly for that purpose. If it were shown to be necessary, it should have his vote; but he was unwilling to vote money for a particular purpose, and then that it should be diverted to other objects than those to which the people's representatives said it should go.

After some further discussion, in which Messrs. PARMENTER, HUGHES, HOPKINS, BIDLACK, CAVE JOHNSON, and BELSER participated, the committee rose, and reported that they had come to no conclusion upon either of the subjects which they had had under consideration. [188]

* * * *

January 30, 1844.

On motion of Mr. PARMENTER, the House then resolved itself into a Committee of the Whole on the state of the Union, . . . and took up for consideration the bill to authorize the transfer of appropriations in certain cases.

* * * *

Mr. [JAMES J.] MCKAY [of North Carolina] then proceeded to explain the object of the bill before the committee. All the departments of the government had similar powers to that asked to be conferred on the Secretary of the Navy.

He would admit the appropriations heretofore made had been improvidently expended. A million of dollars had been expended, he believed, within three or four months after the commencement of the last calendar year. Well, the whole appropriation was gone, and how stood the department in regard to liabilities? This transfer was not for the purpose, as some supposed, of enabling the department to put workmen at the navy-yards in employment. No; it would only enable that department to meet its liabilities now resting on that department, to meet which there were now no funds whatever. There was an amount of liabilities of \$787,000 incurred beyond the appropriations made, some of which might not be called for until the next or a subsequent year. He had written to the head of that department, to ascertain how much of that sum would be wanted for the fiscal year, and he was informed that, for the department of construction, repair, &c., \$100,000 would be required; and for the department of ordnance, &c., \$272,000 would be necessary. Thus, then, \$372,000 was required to meet liabilities which had been incurred beyond the appropriations in those branches of the public service; and why should the House hesitate to make the transfer? The objections to the bill were predicated on the improvidence of the department. The department had illegally incurred these liabilities, it was said; but they had been incurred, and it was the duty of Congress to provide the means to discharge them; and, if any appropriations on hand could be spared from those branches to which they had been appropriated, why should not the transfer be made? This was no new power that the bill would give to the executive departments, for it had existed almost from the foundation of the government.

Mr. CAVE JOHNSON was very sorry to hear his friend from North Carolina . . . taking such a course. The gentleman from North Carolina was the last man in this House that he should have expected would have taken such a course. And what kind of reason had been assigned for this transfer? If they gave permission to make the transfers, would not the gentle-

man come to Congress before the end of the session and ask for appropriations for the very branches of the public service from which the transfers would be made? The ground taken was rather ground for the impeachment of the Secretary; and it ought to be so considered and treated by the House. Congress had made certain appropriations, and what had the Secretary done? Why, he not only expended the sum to which he was limited, but had incurred liabilities to a large amount. And why did he not come to Congress and ask for appropriations to meet those liabilities? Because Congress would want to know what he had done with that million of dollars which had been appropriated, and how it had been expended. He (Mr. J.) regarded this application to transfer appropriations, as an indirect application for an appropriation of \$200,000 more than the million of dollars to which Congress had limited the expenditures of those branches of the public service. And what was to become of that sum of \$200,000? Before he would vote for such an appropriation, he would call upon the Secretary to show where it was to go; for should they trust the management of the expenditure of this sum to a Secretary who had thus squandered the public money? He was opposed to such a course; and he would vote nothing beyond the regular appropriations, unless an investigation into this matter should take place. Such an investigation should be at once commenced; and if it were discovered that wrong was done, they should punish the wrong doer.

Mr. J[AMES] BRINKERHOFF [of Ohio] said it appeared this application was predicated on the abuses of the department; but if claims on Congress could be made to rest on such a foundation, he knew not where they should find a stopping place. For a series of years there had been an outcry for a diminution of expenditures, and Congress had limited the sum to be expended by the Navy Department; and the members of the last Congress went home to their constituents satisfied with what they had done. And what do they see now? Why, that the secretary went on, and in the short space of

two months expended the whole of the sum to which he was limited, and incurred liabilities of upwards of \$700,000; and then came here and asked Congress to cover either the deficiencies of a former Congress, on the extravagance of the Navy Department. He (Mr. B.) would consent to no such appropriations. How were they to limit the expenditures in the recess of Congress? The constitution provided that there should be no expenditures but by virtue of appropriations made by law. But that was set aside, and there would be no check on the expenditures if this system of incurring prospective liabilities were to be allowed to go on. If gentlemen wished to maintain a wise economy in the public expenditures, he could assure them this was not the way to do it. It had been well observed by the gentleman from Massachusetts . . . some days ago, that administrative economy was not their business; but economy in the appropriations was their business, and the department should be made to understand that, when Congress asserted that there should be economy, it should be maintained in administration. If they did not do this, there would be no limit to the extravagance of the executive departments. Congress might agree, in accordance with a report and a bill of the Committee of Ways and Means, to limit the naval expenditures for the coming fiscal year to five millions and a half, instead of nearly nine millions, hitherto asked for; but of what avail would this be, if Congress was to set the precedent of making appropriations to fulfil contracts of the department, which had been made without reference to existing appropriations? This country was in no immediate and pressing want of a navy—none at all. True, they were bullying poor, weak Mexico, and, according to appearances, were about to back out of a just contest for our rights with Great Britain; but there was no necessity for great naval service, and now was the time to tell the departments that they must and shall limit their expenditures to the appropriations. He should vote against this bill. They had been accused of a want of friendship for the navy. He liked the

navy, but he did not like its faults. The navy fought its way to public favor, some twenty-odd years ago; and if it could be shown that the navy had now as fair an escutcheon as it had then, he would vote liberal appropriations. But he did not believe that its character was in consonance with what it was twenty years ago. He believed, and the public, too, believed, that there was a want of efficiency and of manly energy in that department of the government: there was a want of a proper moral tone, too, in the navy. The country believed that there were excrescences that wanted lopping off; and he knew of no way in which Congress could effect it but by starvation.

Mr. PARMENTER replied at great length in defence of the bill; but, from his position in the House, he was inaudible at the reporter's desk.

Mr. BLACK asked if it did not strike his friend as a circumstance not a little astonishing, that during a greater part of the administration of General Jackson, and the whole of the administration of Mr. Van Buren, and during the subsequent administrations of this government down to a late period, the very practice which was now under consideration, and which was so fiercely objected to, existed, and the power of making transfers from one appropriation to another, was held under their control without submitting it to this body. Did the gentleman remember that during these two administrations, while he was in Congress, not one word was said about the exercise of this power by the War Department, the Department of State, and by the Treasury Department. Even the Navy Department, which was now so fiercely and systematically attacked, was then let alone. Even the gentleman from Tennessee, with all his notions of economy and retrenchment, said not one word about this power of making transfers until the present administration came into power, and then it suited the Whig party to thwart him, and take away from him the power which was exercised by all the administrations which preceded him, as was done by the act of the last session. They

all knew where this act came from—it was from the other side of the House, and was designed to thwart the executive. In furtherance of this object, they not only attacked the navy, but wished to strip the department of its legitimate head, and it was now exhibited to the country without a head. There was no Secretary of the Navy now, and the next movement would be to cut the navy down to a few frigates. Was this just, or was it proper? On what principle would gentlemen justify it to themselves or to the country, to trust this power in the hands of General Jackson, Mr. Van Buren, and General Harrison, and deny it to Mr. Tyler? There was no justice in it, and he hoped that that view of the subject alone would induce them to vote for this bill.

It was not his purpose to eulogize this administration; but he was willing to treat it as he had done all other administrations, and judge it by its acts; and if they should be found consistent with the constitution and the welfare of the country, he should give it the same support. After commenting on and answering the various objections that had been made to the bill, Mr. B. went on to show that it was one of limitations and restrictions, and came strictly within the principle contended for by gentlemen who were in favor of specific appropriations; for the transfer was now to be under the authority of Congress, instead of, as heretofore, under the authority of the departments. In answer to the objections that had been made against an increase of the navy, Mr. B. said, that these gentlemen who were in favor of organizing the Territory of Oregon should not oppose the navy; for without an increase of that arm of our defence, they must not expect to accomplish the objects they have in view. Yet gentlemen who were in favor of the organization of this territory, were the very men who were for cutting down the navy. He did not know that he himself should go for it; but he was confident that he would not, unless another organization and the admission of another territory was provided for.

Mr. J[AMES M.] HUGHES [of Missouri] asked leave to

explain—as he presumed the gentleman alluded to him as one of those in favor of the organization of the Territory of Oregon; he would take occasion to say that he was not an enemy to the navy; but he was opposed to the corruptions existing in it, of which he had abundant evidence. He wished it to be distinctly understood that he was not hostile to the navy—that he wished to see it placed on a useful and effective footing; but he was determined, if possible, to ferret out the abuses and corruptions which impaired its efficiency.

Mr. BLACK continued. If there were abuses and corruptions existing in the navy, that was no argument against this bill, for it went to reform abuses and make the transfers contemplated dependent on [209] Congress; whereas they were formerly made on the authority of the department alone. If there were corruptions, let them be brought forward and exposed, and he would join in applying the correction; but he hoped gentlemen would not oppose this bill because they believed there were corruptions in the navy, which had nothing to do with it. But he was going on to say, that if the Oregon Territory is to be organized, it could not be maintained without an increase of the navy. On this subject, he would not say that he would sustain the naked bill for the organization of Oregon, unless it included other objects; for he did not believe that the territory of itself would be worth the millions of treasure and the blood that it would cost the country. He would not consider such a measure an unalloyed mischief if there should not be other considerations to compensate for its adoption. But if Oregon should be connected with Texas, and come in with that country, it would be with his hearty concurrence and support.

Mr. [GEORGE W.] HOPKINS [of Virginia] did not understand this bill as the gentleman from Georgia did. The gentleman spoke of it as a mere transfer of money; but, in his opinion, it did more, and involved additional appropriations. For instance: if there should be, after the expiration of the fiscal year, a deficiency in the appropriation for the pay of the

navy, there must be an additional appropriation. Now, if gentlemen intended this as a mere transfer of appropriations from one head to another, they would not object to the amendment he was about to offer, which was to strike out the words "during the fiscal year," and this would make the restriction general, and leave the expenses of the navy within what was contemplated by the last appropriation bill. If this was done, he should make no objection to the bill, though he must say that he preferred the principle of specific appropriations. He would not adopt the precedent here that, when Congress has made specific appropriations, any department shall carry the expenditures beyond them, and thereby compel it to make additional appropriations.

Mr. H. concluded by offering to amend the bill by striking out the words "during the present fiscal year."

Mr. [HENRY A.] WISE [of Virginia] replied to the objections that had been urged against the bill, and showed that the principle contained in it was not a new one. The power of making transfers of the balances of appropriations from one head to another, had existed in all the departments of the government, and had been exercised by the Navy Department up to the time of the passage of the bill for its reorganization.

Before the passage of that bill, as the gentleman from New York had observed, the Secretary of that department had the power, when an appropriation was made for an item of expenditure, and a balance remained idle in the treasury, to transfer that balance to another object, for the accomplishment of which there was a deficiency of appropriations. This power now existed in the War Department, and, indeed, in all others except the Navy; and the object of depriving that department of that power, was to prevent abuses which might occur, but the attempt to prevent abuses sometimes defeated itself. Those who were so much opposed to corruption, by passing this bill, were not hitting the right nail on the head. When the appropriation came up, and the question arose as

to the propriety of voting a large or a small sum, gentlemen would have an opportunity of determining, and of taking the responsibility of suspending the works; but, in regard to this money, it was already appropriated. The bill had [come] unanimously from the committee. It came from the friends of economy on that committee, as well as from the friends of the navy. Some gentlemen had intimated that, if it was proposed to make a definite appropriation, they would vote for it; but they cannot trust the power to transfer appropriations to the Secretary of the Navy. The bill was intended to authorize the transfer of a specific sum, which must lie idle unless this power were given.

Mr. HOPKINS inquired of the gentleman whether the committee had ascertained that, this \$200,000 being taken from the appropriation for the pay of the navy, and applied to the object proposed by this bill, there would not be necessity for a further appropriation hereafter to supply the deficiency.

Mr. WISE said he would remind his colleague that there was a long list of items under the last appropriation act, besides the pay of the navy. Certainly the officers, non-commissioned officers and seamen, who had been enlisted and employed, must be paid; but there were other items of appropriation; there was the item for provisions, that for transportation, and many others; the effect would be, neither to increase nor diminish the whole amount to be granted; it merely took from one hand and put into the other.

Mr. HUGHES inquired of the gentleman from Virginia, under what head this sum of \$200,000 was placed?

Mr. WISE said it did not matter under what head it might be, whenever a balance was left, it was authorized to be transferred; and of course, when no balance existed, none could be transferred.

Mr. HUGHES called the attention of the gentleman to the statement contained in a document prepared by the Medical Bureau, where it appeared that \$17,000 had been paid for ninety-five cypress canoes, each capable of carrying about

three men. That account, it appeared, had been audited and paid within the last year.

Mr. WISE said he had himself had considerable experience in auditing accounts, and he would give gentlemen a little information upon that subject. It might be that Lieut. McLaughlin had wasted a great deal of money, but he would inform the gentleman that this charge made by him was one of the smallest he had ever heard of.

Mr. HUGHES. The canoes were worth about \$5 apiece.

Mr. WISE. As to that, I would myself give \$10 apiece, and take the whole. But he would inform the gentleman that this very case was now undergoing investigation; and he would add that, in his opinion, four times the abuses complained of in this case, existed in regard to others. And in regard to the navy generally, he considered it far more pure than many other departments. Take, for instance, the Indian bureau. Take the collectorship of the Treasury Department. Look at the Land Office and the Treasury Department itself. He would infinitely prefer Gen. Jackson, with all his stern severity—he would prefer Van Buren with whatever claim to confidence his friends were disposed to admit. They might go to their navy-yards, to their rope-walks, to any branch of the naval service, and, he repeated, as compared with many others, this branch of the public service was as pure as any. Just at this moment, when the board of naval commissioners was abolished—when the system was very imperfect—when its machinery rubbed in working for want of more aid and more force in that department,—just as they were about to perfect a system of responsibility in that department—this course was to be pursued towards it.

Congress had left the Navy Department without organization for some forty years, and without rules and regulations to this very moment. Congress also kept nearly every clerk employed in answering inquiries, and furnishing information which could be obtained from the document room, where it had been again and again transmitted. Congress should, there-

fore, take blame to itself for much of that which was now complained of.

He went on to specify calls on the department for information which had been already supplied, thus giving useless trouble to the clerks, who were not now sufficiently numerous to discharge the other duties devolving upon them.

Some explanations were also given in a conversation in which MESSRS. WISE, BRINKERHOFF, and MCKAY, took part, more especially in relation to the prospective contracts for which the present liabilities were created.

Mr. WISE then resumed, and concluded with a eulogy of the navy and naval officers, and a defence of the system pursued in entering into prospective contracts.

Mr. BARNARD opposed the bill at some length.

Mr. B. contended that this was nothing more nor less than an appropriation bill, and involved an appropriation of \$200,000, which he would prefer making in a direct way if it must be made, rather than in the manner now proposed. Mr. B. in conclusion submitted an amendment, the effect of which was to make the bill directly an appropriation bill.

Mr. R[ICHARD] D. DAVIS [of New York] said that if he understood the matter in question, (and he wished to state how he understood it,) he should vote for the bill; preferring it in the present form to an appropriation bill. Appropriations, he understood, were generally made for expenditures under different heads; and were made to cover what was supposed, from the estimates of the departments, would be the amount of expenditure for each particular head. The difficulty which now embarrassed the Navy Department, as he understood it, was, that the money appropriated for one of these objects had been exhausted, (whether correctly or not, he would not pretend to say,) while there remained in hand unexpended balances appropriated for other objects that were not wanted.

The proposition now made to the House was to enable a transfer to be made out of appropriations from which a sum

could be saved sufficient to supply the deficiency. The bill enabled the department to transfer a surplus fund, in cases where, by economy, enough could be saved to supply the deficiency occasioned by the transfer. But, concede that all that had been said against the bill were true, and that no money could be saved from other appropriations, the result would be merely that a direct appropriation would have to be made to supply the place of that which was taken; as, without the transfer, it would have to be made for the purpose for which the transfer was proposed.

After some further discussion, in which Messrs. DAVIS, OWEN, and MILTON BROWN took part, the question was taken upon the amendment to strike out the words "during the remainder of the fiscal year," and decided in the affirmative.

The amendment some time since offered by Mr. BARNARD, and published at the time it was offered, was also agreed to.
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NO. 65

PROPOSED IMPROVEMENTS IN TREASURY
PRACTICE. REPORT (GUTHRIE), 1853⁴⁶

To Congress, December 6, 1853

* * * *

Upon a careful examination and consideration of the treasury acts, it was considered within the power and duty of the department, if not absolutely required, to cause the public money to be always in the treasury, or in the custody of the assistant treasurers and depositaries designated by law, until regularly withdrawn for the purpose of disbursement in accordance with appropriations; and that all powers vested in the department in relation to the collection, safe-keeping, transfer, and disbursement of the public money, should be entrusted to and exercised by its officers. That plan has been

⁴⁶ *Report of the Secretary of the Treasury on the State of the Finances, 1853*, pp. 13-17; 33 Cong. 1 sess., *Congressional Globe*, Vol. 23, Appendix, pp. 4-5. See Act of Mar. 3, 1857, 11 Stat. L., 249.

adopted and adhered to, and no difficulty or inconvenience has arisen from the working of the system and it is believed none can arise. [13]

The 6th section of the act [Act of Aug. 6, 1846, 9 Stat. L., 59, 60] to provide for the better organization of the treasury, and for the safe-keeping, transfer, and disbursement of the public money, requires it "to be safely kept without loaning, using, depositing in banks, or exchanging for other funds." The section not only requires the assistant treasurers, &c., to perform the duties specially imposed by the act, but also requires them to perform all other duties which should be imposed by Congress or by any regulation of the Treasury Department made in conformity to law. The disbursing agents of the several departments of the government being without safe places of deposit, for the public money entrusted to them, it was deemed right and within the provisions and the spirit of the law to require the treasurer and the assistant treasurers and depositaries designated by law to receive deposits from the disbursing agents of the government, and to pay out the same on their checks. A regulation to that effect was issued and is in operation, and accompanies this report. It is a great convenience to disbursing agents, and also secures the safety of the public money. The privilege of so depositing has not as yet been embraced by all the disbursing agents, and it has been suggested that some of them deposit with banks and brokers, under an erroneous idea that the act does not apply to them. It is believed that such deposits are in contravention of the law. No loss would be likely to occur in prosperous times; but, in adverse times, the money might not be forthcoming to meet the public demands. If this regulation should continue, and all the disbursing agents avail themselves of its advantages, the assistant treasurers at the principal ports where the public money is collected and disbursed, will require an additional clerk, at a competent salary, to act for the assistant treasurer in case of necessary absence.

In the Treasury Department, the accounts of all collectors, disbursing agents, &c., are rendered and settled. The law requires collectors to render their accounts quarterly, but authorizes the Secretary to require them oftener. Upon examination, it was found that the accounts of collectors of the customs were rendered quarterly, but did not generally reach the department until about the termination of the succeeding quarter, and were not settled by the accounting officers for some seven, eight, nine, or even more months from the end of the quarter for which they were rendered. This left unsettled accounts with collectors of the customs for at least two-thirds of the annual revenue from that source—say over \$30,000,000—and left in the hands of some of them large amounts until the settlement of their accounts. The prompt rendition and settlement of these accounts, being deemed of vital importance to the correctness of the same and the safety of the revenue, it was thought that a change should be effected, if possible. Upon inquiry and investigation, it was considered that these accounts could be rendered monthly, and settled within the succeeding month. A regulation to that effect was issued, requiring all collectors to render monthly accounts from and after the 1st of July, 1853, which accompanies this report. The accounts for the months of July, August, and September were rendered, and settled under this requisition; and for the month of September, all, except those of the Pacific coast and some small districts on the Atlan- [14] tic, were rendered and settled within the month of October. The fact was thus ascertained that it is entirely practicable to have the accounts all so rendered and settled within the month, except those on the Pacific coast, which will require about two weeks longer.

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Attention was also given to those branches of the department where the accounts of disbursing agents and others, owing money to or having claims against the government, are

adjusted and settled. It was found that the official corps was disorganized, and some of the bureaus very much out of order, and greatly in arrear with the business confided to them.

The table W, which accompanies this report, exhibits the aggregate of accounts rendered and unsettled in each office in the month of March, 1853, and the amount of them which were outstanding on the books of the Solicitor of the Treasury. This table shows that there were accounts unsettled, to the aggregate of \$132,521,704.09, and that there had been settled an aggregate of \$30,500,154.50, leaving a balance of \$102,021,549.59, still outstanding; but of these there are \$14,918,802.36 on the books of the Solicitor of the Treasury, most of the accounts having been stated by the Auditors. . . .

* * * *

It was also ascertained that many disbursing officers had not rendered their accounts within the three months required by law, whilst many of the accounts in the Third Auditor's office had been in the office unsettled for one, two, three, four, five, and even more years, and [15] the work was greatly behind in most of the offices. It was determined to reform the condition of these offices as soon as practicable. The first object to be effected was the prompt transaction of the current business, and the employment of as large a force as could be spared to bring up the arrearages.

The Third Auditor's office, under the newly appointed Auditor, F. Burt, charged with the settlement of a portion of the accounts of the War Department, was greatly in arrear. He was required to ascertain the state of its business, and put it in the best possible condition by the meeting of Congress, and make report up to that time. His report to the 31st of October, 1853, is herewith submitted, and exhibits the condition in which he found his office, and that which it had reached on that day. It is due to Mr. Burt to state, that besides the labor performed, as exhibited in his report, more

correct principles of accounting and settling have been introduced, and that he is entitled to the credit of the reform he has made. The condition of that office, as appears by an additional report, is, at this time, such as Mr. Burt anticipated, and now the office has brought up its arrearages, and is capable of promptly acting upon all the business confided to it.

The business confided to the Second and Third Auditor's offices could be more advantageously distributed than it now is, and, it is believed, to the more prompt despatch of their duties. A proposition detailing such a partition accompanies this report, and is recommended to the consideration of Congress. Congress, in constituting and carrying out the Treasury Department, adopted the principle of having all accounts with and against the government stated, with a report of facts by an Auditor, and a re-examination by one of the Comptrollers, or the Commissioner of Customs. This principle has been departed from in allowing the Commissioner of Pensions to issue certificates of allowance to pension agents, and the pension to be paid without the allowance having been revised. The proposed arrangement gives to the Third Auditor the settlement of all army accounts, and to the Second Auditor all pension accounts, and brings the allowances of pensions by the commissioner under the control of the Second Auditor and Second Comptroller, thus restoring uniform action as to all allowances and settlements in the department.

Upon examination, the Sixth Auditor's office, charged with settling the accounts of postmasters and contractors for carrying the mail, was found to be greatly in arrear. The accounts of postmasters for small balances were found to have remained unsettled for several years, and such was the general condition of the business of the office as to render it doubtful whether the annual exhibits required by law could be made in time for the meeting of Congress. The newly appointed Auditor, W. F. Phillips, by efficient arrangement and persevering action, has restored order to the office and system to the business, and placed it in a condition to adjust and

promptly settle all accounts. His report, herewith submitted, exhibits the condition in which he found the office, and that in which he has placed it, and entitles him to credit for the manner in which he has managed its duties.

The reports from the First, Second, Fourth and Fifth Auditors, the First and Second Comptrollers, the Commissioner of Customs, the Register of the Treasury, the Solicitor of the Treasury, and the Treasurer of [16] the United States, are herewith submitted. These offices, except those of the First and Fifth Auditors, were not so much in arrear as the Third and Sixth Auditor's offices; but greater promptitude and despatch have taken place in most of them, and it is believed that better rules of action have been introduced. The arrearages can be brought up, and the regular despatch of the current work secured.

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There is no limitation to the presentation of claims against the United States before the accounting offices, and claims disallowed, in whole or in part, are presented again and again upon the same, or but slightly varied, statements of facts. There are precedents in the department allowing these re-examinations, and large sums have been paid upon claims previously presented, adjudicated upon, and disallowed. There are other, and, it is believed, better precedents in the department against these re-examinations, holding the prior examination and disallowance of the claim, in whole or in part, conclusive until Congress directs the re-examination. The rule established by the latter precedents has been adopted, and no re-examination is allowed except upon the principle of a new trial at law, or a re-hearing or review in equity, when the application is made on sufficient grounds and within a reasonable time. The attention of Congress is respectfully called to this subject. [17]

JAMES GUTHRIE, Secretary of the Treasury.

MONTHLY SETTLEMENT OF DISBURSEMENT
ACCOUNTS. REPORTS (GUTHRIE), 1855-56⁴⁶

To Congress, December 3, 1855

* * * *

The system of accounting at the Treasury of the United States is that of accounting in an action of account in a suit at law, or a suit in equity, by reference to an accountant or master in chancery, with or without instruction, as the parties and court deem necessary for a full exhibit of the facts. The accountant or master states the account for and against the parties, plaintiff and defendant, and makes report in writing of the items allowed and disallowed, with reference to the evidence and the law applicable to the same. The parties appear before the accountant or master in person or by attorney, and furnish the evidence relied upon, and also references to the law. The practice is, to file the account and report in court, and give a day to the parties to except, which is done in writing, and afterwards the case is heard by the court, and the exceptions sustained or over-ruled, and judgment or decree regularly entered. The same course is pursued where no exceptions are filed. The court has power to recommit the case to the same or another accountant or master for a restatement of the account, upon such principle as is thought essential for justice between the parties. Before judgement or decree, these accounts and reports are examined and considered by the court, from which an appeal or writ of error is generally allowed to a tribunal composed of other judges, whose office is to adjudge cases that have had the action of inferior tribunals. The points ruled in these cases, at law and in equity, are preserved in printed reports, and are important in establishing the construction of statutes and contracts, and the prin-

⁴⁶ *Report of the Secretary of the Treasury on the State of the Finances, 1855, pp. 18-24; 1856, pp. 38-41; 34 Cong. 1 sess., Congressional Globe, Vol. 25, Appendix, pp. 15-16; 34 Cong. 3 sess., same, Vol. 26, Appendix, pp. 15-16.*

ciples of the common law, the principles of equity, rules of evidence and practice for the guide and in restraint of courts in analogous cases.

The accountants in the Treasury make their stated accounts upon the evidence produced by the claimant or person required to account, who acts in person or by attorney. The accountant, under the authority of the Auditor, acts for the United States, in the ascertainment of all counter-demands or set-offs which the United States have against the party, and takes the necessary proof to establish the same, and to countervail the proof of the claimant or accounting party.

The first question for the decision of the accountant when a claim or account is presented, is, whether, under the acts of Congress establishing the auditorship to which he is attached, the case presented is under its jurisdiction, in whole or in part. The second, as to the sufficiency of the account returned under the law and regulations, the legality of the items claimed, and the sufficiency of the proof offered. The third is, what demands or set-offs the United States have against the claimant or person accounting, and the proof to sustain the same. [18] In the progress of his work, the accountant counsels with the chief of his division or with the Auditor.

When the account is stated, it should be accompanied by a written report, succinctly stating the items charged against the claimant or party accounting, and the credits allowed, referring to the law and regulations that govern them, and the proof that sustains the same. It should also exhibit the items disallowed, and state the reasons why disallowed; and then it should be examined by the head of the division and have the indorsement of his approval, and then be examined and adjudged by the Auditor, and, if approved, should be signed by him.

The Auditor has the right to recommit the account to the same or another accountant, with such directions as to the items of the account on the debit and credit side, and the law and evidence, as he deems requisite to the justice of the case.

The reference of the case to the accountant is the act of the Auditor, just as the references in cases at law and in equity are the acts of the courts. They are considered as made under the general rules in force in the office, but in some cases are referred with specific instructions. In all cases of extraneous proof—that is, proof not in some of the accounting offices of the Treasury—the Auditor should be consulted, and authorize the proof, before it is taken.

When the Auditor has finally acted upon the account, and affixed his signature to the same, the account, with all the original evidence, documents, arguments, and references, is passed to the Comptroller, who, by law, is vested with authority to reexamine and rejudge the same, in all particulars, not only upon the case as presented or made before the Auditor, but as the party, claimant, or person accounting, may make it before him, or as he sees proper to cause it to be made for the interest of the United States. The Comptroller, therefore, examines and adjudges the account, not solely upon the account and report made by the Auditor, and the evidence before him, but as the evidence presents the case at the time he decides it.

The practice in the Comptroller's office is, to refer the accounts and reports, &c., as received from the Auditor's office, to an accountant in the former for reexamination and report; and this reference is made under the general rules of the office, or with such special instructions as the Comptroller may choose to give. If the Comptroller's accountant finds the account and report of the Auditor correct in all particulars, he so reports to the Comptroller; and if he, on examination, approves, he does it by indorsement under his hand. The account is then closed, and forms the basis of a warrant upon the Treasury, if the balance be against the United States, or a call for payment, if the balance be against the claimant or person accounting.

In cases where the account of the Auditor is not approved, and in cases where additional evidence is taken, the accountant

of the Comptroller should restate the account, and make a succinct written report of the same character of the one the accountant of the Auditor should make; and the Comptroller, if he approves the account, as restated by his accountant, should attach his signature to the same. The account thus restated forms the basis of a warrant, or call for [19] payment, in the same way as if the Comptroller had approved the account as stated by the Auditor.

The Auditor is entitled to an independent judgment, and should exercise it in all cases; and the Comptroller is entitled to a like independent judgment, and should also exercise it; but the decision of the Comptroller, like that of all appellate tribunals, prevails over that of the Auditor. In cases where they differ, the Comptroller should have the account restated, in accordance with his judgment, as upon appeal, and upon the new state of facts as presented before him.

The practice grown up of late years, of the Auditor's changing his account so as to conform to the opinion of the Comptroller, is in violation of the principles of accounting established by Congress, and should be abandoned, and the practice made to conform to the intention of Congress, and the principles of accounting as established and originally practiced.

The decisions in the Auditors' and Comptrollers' offices are not preserved in printed reports as a guide, and in restraint of themselves and their successors, in analogous cases, but exist in tradition, or a sort of Treasury common-law in the memory of experts in the several offices. It is true, that some of the Comptrollers have kept a record of their decisions in cases of difficulty, and these have served as precedents in like cases, and cases involving like principles. The decisions of the Auditors and Comptrollers, and particularly those of the Comptrollers, if they existed in printed reports, would give more uniformity to the action of the Treasury. The Auditors and their accountants, and the Comptrollers and their accountants, are left to these unreported decisions, the traditions

of the Treasury law, and their own sense of what is right in the particular case. It is, therefore, not surprising that uniform action has not been had in the accounting officers of the Treasury, and that the departures from uniformity have been greater than those which usually take place in the decisions of courts of law and equity. Moreover, in the extension of the business of accounting, the examination of the accounts stated in the first instance, by the Auditor and then by the Comptroller, on appeal, has, in many cases, been admitted, the Auditor and Comptroller signing their names on the faith of the account stated by their respective accountants; thus opening the door and increasing the chances of departure from correct principles in the action of the Departments. In practice, the written report accompanying the account stated, and proving the ability of the accountant, has been abandoned, but has been recently restored in accounts stated for suit, under the authority of Letter No. 59, which accompanies this report. It would certainly be desirable to have each stated account accompanied by a succinct written report, referring to the law and the evidence under which the debits and credits have been allowed and disallowed, and each stated account and report examined and adjudged, first by the Auditor, and then by the Comptroller; and the principles of accounting at the Treasury, as established by law, fully and fairly carried out. The accounts stated of moneys paid into the Treasury now amount to over \$70,000,000 annually; and of the moneys paid out and expended, to [20] about the same sum; all of which is passed upon, in the first instance, in the offices of the six Auditors of the Treasury, and afterwards, as upon appeal, by either the First or Second Comptroller, or by the Commissioner of Customs. To constitute a good auditor and a good comptroller requires legal ability of a high order, a special knowledge of our fiscal and disbursement laws and regulations, coupled with unabating industry, unbending integrity, and promptitude of decision; and scarcely less can be required of the accountants in their offices. The auditors

and comptrollers, and the accountants under them, constitute the safeguard of the national Treasury, and have to withstand the whole army of claimants and their interested clamor. . . .⁴⁷

The system of accounting at the Treasury is easy of comprehension, and as well calculated to prevent frauds, correct errors, and secure a proper execution of the laws, as any that could be devised, and might be extended to all the operations of the Government, without inconvenience, and to the greater security of the national Treasury and national domain. There would seem to be no just reason why the fixed salaries of all the officers of Government should be passed upon by an Auditor, and then by a Comptroller, before a warrant can be issued for payment; and that the Commissioner of Pensions and the Commissioner of Public Lands should have the right to pass upon the evidence, and grant pensions out of the

“On the subject of the Comptroller, on which I feel much interested, I have made up my opinion, after a fuller examination of his duties than I had yet bestowed on it, that a certain degree of legal knowledge is the most essential qualification. As it is difficult to find any one man in whom the several requisites are united, it would be preferable to obtain a sound lawyer, or at least a man of perfectly sound judgment and possessed of legal information (who had at least read law), and who had only a general idea of accounts, than a perfect accountant without law knowledge. Not only the general nature of the duties of that office leads me to that conclusion, but it is also impressed with considerable force by the consideration that I am not a lawyer. The law questions which arise in the Treasury (exclusively of those relating to the settlement of accounts) are numerous: during the Comptroller's absence, nearly one-half of my time is occupied by questions directed to me by collectors and which I would refer to him if he was present, or directed to him and which his clerks refer to me during his absence. If we have a Comptroller who is not a lawyer, it will considerably increase my labor, or rather prevent its being applied in the most proper manner, and the business will not be so well done, as I will be compelled to decide on a much greater number of law questions.

“The other two important requisites for a Comptroller are that he should possess method and great industry: without the first the last would be of no avail, and to fill well his duties he cannot be too laborious. Another essential point is that he should write, if not with elegance, at least with precision and great facility, for his correspondence is very extensive, and consists principally of decisions, instructions, and explanations. I cannot write even a decent letter without great labor; and that is another reason why I desire that the Comptroller may be able to write himself; for the duties of the two offices are so blended in what relates to the collection of the impost, that a great part of the correspondence with collectors may fall either on the one or the other, as may be agreed on between them.”—October 26, 1802. Gallatin to Jefferson, in Gallatin, *Writings*, Vol. 1, pp. 103-04.

Treasury, and bounty land warrants for so much of the public domain, without subjecting their action upon the evidence and the law to the examination and revision of a Comptroller. It may be that this want of revision has been the cause of many of the frauds practiced in obtaining pensions and bounty lands. It is believed that the action of two departments should be required, as in the Treasury, in all cases where the national Treasury or public domain is to be reached or to be affected, and that no accounts, however, created, should escape the usual and customary examination and reexamination. [21]

* * * *

. . . It is believed the disbursement and emolument accounts could be rendered monthly with advantage to the business of the ports and the finances of the country, and monthly accounts might be advantageously required in all branches of the public service. All officers and disbursing agents are required to keep a book of accounts, and record in it all money and property received, and, all money and property disbursed, and take proper vouchers for the same, and disbursing officers of the Army to render monthly statements of their expenditures. The monthly account would be a [23] transcript of this book, showing the amount received, the amount disbursed, with the balance on hand for the succeeding month, and could be as easily rendered at the end of the month as at the end of the quarter, and as readily transmitted with the vouchers by mail, or otherwise, to the proper Department; and if the vouchers were taken in duplicate, and one set accompany the account and the other retained with the account book, there could be no difficulty in supplying a lost account or a voucher. Monthly accounts would be better for the disbursing officer or agent, as he would be compelled at the close of the month to close his cash and property account for the business of the succeeding month, and procure his vouchers when the disbursements were made; and should he make any improper disbursements, the proper Department

would be able at once to apply the correction before the error was extended. The disbursing officers would necessarily become better acquainted with the business confided to them, and in all respects better discharge the duties, whilst the adjustments would take less of the time of the accounting officers. The greatest difficulty encountered is with the accounts of disbursing officers and agents who have failed to render their accounts regularly as required by law and regulations, and to accompany the accounts with proper vouchers; and the greatest loss to the Treasury is in the insolvency of such disbursing officers and agents. The arrearages of nearly \$25,000,000 in the accounts of the offices of the six Auditors attest this. Authority should be given to require and enforce monthly accounts and settlements. It will take less labor and require less time to settle monthly than to settle quarterly accounts, give greater safety, and secure more economy in the disbursements. [24]

December 1, 1856

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... a system of laws, for [the] disbursement [of the public revenue] in accordance with the appropriations, and for accounting and settling for the same at the treasury, was also provided. These laws, except where the disbursement is confided to certain army officers, require from the disbursing officers bond and security, for the safe-keeping, faithful application and proper accounting for the public money, confided to their care. These laws also prohibit, under pain of felony for embezzlement, from depositing the public money in banks, or loaning, or the application of it to any private, or other use, than the public one, for which it is placed in their hands. They also require disbursing officers to pay out to the persons entitled, nothing but the gold and silver confided to them, and prohibit them, under like penalty, from taking, accepting, receiving, or transmitting to the accounting officers for credit any voucher, without having paid the full amount named in

the voucher. It is also made embezzlement to fail or refuse to account for the public money, and pay over the balance.

It is deemed essential to the honest and faithful application of money, by disbursing officers, and the correct accounting for the same, that all accounts of disbursements, with the proper vouchers, should be made at fixed and short intervals. The periods of accounting and settling with disbursing officers were fixed for the War and Navy Departments, and for some other branches of the service, quarter-yearly, and the same provision was made for accounting by collectors of the customs and receivers of public money, and for disbursing officers of the treasury, but with authority to the Secretary of the Treasury, to require accounts in his department, to be rendered as much oftener, as he might deem proper. Considering, as stated in my last report, that it was perfectly practicable, to have all disbursing officers of the treasury, render and settle their accounts monthly, the system of monthly accounts and monthly settlements, was adopted at the treasury, for all the accounts, to which the system could be applied, without a change of the existing laws. The result to be expected, from monthly accounts and monthly settlements, is fairly presented in the report of the Commissioner of Customs. The fact of but one defalcation, since its adoption, speaks more than volumes, in its favor. The system, so far, has been successful, and no doubt is entertained of its entire practicability, not only in the treasury, but in other branches of the public service, with much additional security for the faithful application of, and accounting for, the public money. It is true, each officer will have to make twelve instead of four accounts, and there will have to be twelve instead of four settlements; but the twelve accounts and twelve settlements will involve the taking and examination, of no greater number of vouchers, than four accounts and the four settlements, whilst the monthly accounts and settlements will, timely, impart to the officer, a knowledge of the payments, he is authorized to make, and the character of the vouchers he must produce, and

the necessity of paying no money without a proper voucher. The monthly accounts and monthly settlements will, at once, enable the superintending officers to see and know, how the duties are performed, and to displace incompetent and dishonest disbursing officers. [38] It may, at first, require a few more clerks, in the accounting offices; but after the system shall be in full operation, and the accounting and settling promptly enforced, it will take less time and less labor, than it did, under the system of quarterly accounts and quarterly settlements. Had monthly accounts and monthly settlements been regularly enforced, and all failing disbursing officers promptly dismissed, the large balances, now outstanding on the books of the treasury, could not have accumulated.

* * * *

All disbursing officers should be required to make deposite of the funds intrusted to them, with the treasurer, assistant treasurer, or designated depositories, and to check only in favor of those entitled, and to make monthly returns of the sums disbursed by them, with a statement of the balance on deposite, except in that class of cases, where the party is not convenient to a place of United States deposite. These depositories, however, should be established in all sections, where there is or shall be considerable public money collected, or to be disbursed. The regulations of the War, and most of the other departments, require monthly statements from disbursing officers, of the amount disbursed, although required only to render quarterly accounts to the treasury, for settlement. These monthly statements of disbursements, could readily be converted into monthly accounts, with proper vouchers for settlement at the treasury, and for the information of the supervising officers, and thus a correct and prompt system of accounting and settling, be established in all branches of the public service. The efficiency of the provisions of the independent treasury act, will never fully manifest itself, until the depositories are sufficiently diffused, so that collecting, receiving, and disbursing officers can deposite in their vaults,

and monthly accounting and settling at the treasury, is required and enforced. The cash system, in the disposal of the public lands, and in the collection of custom duties, has caused absolute certainty, in the payments to receivers and collectors. The system of daily deposits, where it can be done, and drafts and standing orders to deposite, as the amount accumulates, where there are no depositories at the place of reception, with monthly accounts and settlements, makes the receipts into the national treasury, almost certain. Why will not the deposite system, and monthly accounts and settlements, give the same certainty in its disbursement?

The system of selling the public lands on credit, and giving credit for the duties on imports, has yielded to the simple and better system [39] now in force, and quarterly accounts and settlements with the collectors of customs, has yielded to the better system of monthly accounts and settlements; and in the treasury, monthly accounts and settlements by disbursing officers, is taking the place of quarterly accounts and settlements. . . . The public money collected from the tax-payers, for the exigencies of the government, in all well regulated and well administered governments, should be safely kept and honestly applied to the objects, for which it was levied, and such a system of laws and accounting established, as to make it impossible for the officers intrusted, with its receipt and disbursement, to apply it to their own use, or allow their friends to have the use of it. A strict examination into the origin and history of the large balance, now outstanding at the treasury would make it manifest, that the public money was heretofore devoted to private use, and allowed to remain unaccounted for until, in many cases, the parties became insolvent, and in order to cover sums wasted and lost by private use, set up unfounded claims, for credits and services. This habit of applying the public money to private use, had become so established, as to be considered allowable, and no disgrace to the officer—so much so, that the offices were sought, for the use of the public money, more than, for the honor of the office

and its salary. The Independent Treasury act was intended to remove this practice, inculcate sound and honest principles, as to the use of the public money, and brand the delinquent officer with crime. To have this effect, the act must be rigorously enforced, and have the active vigilance of the supervising officers, with the aid of monthly accounts and settlements, and the prompt dismissal of all who violate the principle. In fact, no one is worthy to have or retain public office or situation, who does not acknowledge that principle of the Independent Treasury act, and give it practical effect, in all his official transactions. An agent or officer of the government cannot, without a sacrifice of principle, use the public money for his own purposes, nor allow others to use it, nor speculate upon the government, whose interest he is appointed and paid, to guard and protect. Heads of departments are entitled to the most certain means of ascertaining the conduct of persons, employed to receive or disburse public money, and it is believed none can be devised, that would prove more efficacious, than monthly accounts and settlements. [40]

In this connexion, attention is called to the various and complicated duties of the accounting officers of the treasury, who state and settle the annual accounts of receivers and collectors, to over \$73,000,000, and the annual accounts of claimants and disbursing agents, to more than \$72,000,000. This subject was referred to, in my last annual report, with a statement of the manner and principles of accounting, at the treasury, representing the high qualities required and essential to the proper discharge of the duties, confided to these treasury officers, and especially so, as to the chiefs of bureaus and heads of divisions. A further consideration of the subject, and its great importance, confirm me in the statements there made, that both wisdom and economy call for the soundest and ablest lawyers, of integrity and administrative qualities, that can be secured for those positions, . . . The persons competent to take these positions, are necessarily men in the meridian of life, of established character, and should possess

the high qualities indicated. . . . They are in the position of judges, whose duty it is to guard the interest of the treasury, without prejudice to the right of individuals, . . . They should be always in place, and know that the accountants and clerks are capable, and attentive to their duties; that all arrearages are brought up, the records and files in good order, and the current business promptly and correctly disposed of. They should also feel an active zeal and pride, in the proper discharge of the duties of their offices, and inspire like zeal and pride, in all officials under them. Such officers are essential to just and prompt settlements at the treasury, and the proper condition of that branch of the public service. The government cannot afford to appoint, or to retain men, in these offices, who do not possess these qualifications, or who fail to give their whole time, to the duties confided to their charge, or who are indifferent to the condition of their offices, and the manner in which the duties are discharged, or to the qualification, integrity and attention of their assistants. [41]

JAMES GUTHRIE, Secretary of the Treasury.

NO. 67

BUDGET ESTIMATES. REPORT (GUTHRIE),
1856⁴⁸

To Congress, December 1, 1856

* * * *

In making estimates to be submitted to Congress, for the annual expenditures, they present themselves in three classes.

In the first class, are the balances of unexpended appropriations, expected to be called for during the year.

In the second class, are the expenditures under existing standing indefinite appropriations. This includes the redemption and interest of the public debt, the expenses of collecting the public revenue, and some pensions and other items.

In the third, are all moneys necessary to comply with ex-

⁴⁸ *Report of the Secretary of the Treasury on the State of the Finances, 1856, pp. 9-10; 34 Cong. 3 sess., Congressional Globe, Vol. 26, Appendix, p. 7.*

isting treaties, and laws, including the expenses of Congress, the necessary public printing, and moneys due under treaty stipulations, the payment of the civil list, foreign ministers, consuls, and commercial agents, the expenses of the army and navy, Indian intercourse, the survey of the public lands, the expenses of the United States courts, maintaining lights in established light-houses, with a variety of other objects, provided for by law.

The several executive departments prepare estimates, for the branches of the public service, respectively, committed to their charge, with reference to expenditures, arising under existing laws, as in Class 3, and which they cannot discharge, out of existing or standing appropriations. In addition, The Secretaries estimate for such appropriations, as in their judgment, are required for their respective departments. This class embraces the estimates printed and sent to Congress, at the commencement of each session; but each Secretary sends, during the session, such additional estimates, as in his judgment, the exigency of the service under his charge requires.

There are other appropriations which the Secretary of the Treasury has to consider, in his report on the finances. These are appropriations by Congress, in addition to the existing and standing appropriations, and in addition to the appropriations, for compliance with treaties, and to pay demands arising under existing laws, and the additional appropriations estimated for by the respective departments, and include all appropriations for public and private claims, objects of internal improvement not estimated for, and all miscellaneous appropriations, originating with Congress during the session, although no specific sum is set down, in the estimates.

The receipts from customs fluctuate, with the increase or diminution of the imports of duty-paying goods, and the receipts from public lands, with increased or diminished sales; whilst the expenditures, to a very considerable extent, depend upon the action of Congress, and the delay in applying for, and settlement of, claims at the treasury.

The legislative power is responsible for all wasteful, ex-

travagant, and unnecessary expenditures, authorized by standing appropriations and required to comply with existing laws, as well as for all such as may, from time to time, be authorized; because with that power, rests the right, to lop off all such waste and extravagance, by a repeal or modification of the laws, or by a refusal to grant any such appropriations. The executive power is responsible, for a correct construction of existing laws, and an honest application of the funds placed by Congress, at its disposal, in the execution of the laws, and for the objects, for which the appropriations are made. The Execu- [9] tive has the right, to recommend the repeal or modification of laws, for the purpose of lopping off all waste, extravagant or unnecessary expenditures, and to recommend all such, as public interest may call for, within the limits of the constitution; but the legislature is not bound, by the recommendations, nor to await executive recommendation, as to a repeal or modification of laws, or as to appropriations, and has the right, by new enactments, to enforce the proper construction of the laws, and their economical administration. It is not necessary to inquire, whether the legislative power has the right to omit appropriations, necessary to pay the charges accruing under existing laws, but it is manifest, it would be better to repeal or modify the law, so as to make the expenditures conform to present views, rather than hazard the injustice and discredit, of failing to pay charges, accrued and accruing, under existing laws. Economy is a legislative as well as an administrative virtue, which it is easy to commend and prescribe rules for, but which it is difficult to observe, with an overflowing treasury and a strong outside pressure. The legislative and executive branches should act in harmony, and work to the same end. If the legislative branch fails, waste, extravagance and unnecessary expenditure, are the result. The executive branch is without the full preventive power; but if the executive branch fails, the legislature can restrain and correct its abuses. The first step in the right direction, is so to modify the revenue laws, that no more money shall be

collected from the people, than is required for an economical administration of the government, in fulfilment of all its obligations and duties, external and internal. The second, is the honest and faithful application of the moneys, to the legitimate purposes of the government. [10]

JAMES GUTHRIE, Secretary of the Treasury.

NO. 68

DEPOSITS OF DISBURSING OFFICERS. REPORTS
(COBB), 1857-58⁴⁹

To Congress, December 8, 1857

* * * *

By the act of March 3, 1857, [11 Stat. L., 249, sec. 1], amendatory of "An act to provide for the better organization of the treasury, . . ." [August 6, 1846, 9 Stat. L., 59], it was provided "that each and every disbursing officer or agent of the United States, having any money of the United States entrusted to him for disbursement, shall be, and he is hereby, required to deposit the same with the Treasurer of the United States, or with some one of the assistant treasurers or public depositaries, and draw for the same only in favor of the persons to whom payment is to be made in pursuance of law and instructions, except when payments are to be made in sums under twenty dollars, in which cases such disbursing agent may check in his own name, stating that it is to pay small claims."

The object of this provision of law was to protect the government from the improper use of the public funds in the hands of disbursing officers. It was the desire of the department to carry it out to the fullest extent that it could be done. An enforcement of its provisions according to its letter was impracticable. It would have required a considerable increase

⁴⁹ *Report of the Secretary of the Treasury on the State of the Finances, 1857*, pp. 24-25, 78-82; 1858, pp. 16-17; 35 Cong. 1 sess., *Congressional Globe*, Vol. 27; 35 Cong. 2 sess., same, Appendix, p. 13; Vol. 28, Pt. 2, Appendix, p. 12.

of the clerical force of different offices, for which no provision had been made by Congress, and in some of the departments a compliance with its requirements was impossible. Payments by the disbursing officers of the army and navy, as well as payments by a portion of such officers in the Interior Department, could not be made in the mode pointed out. Pursers in the navy settling with the officers and crew of a vessel in foreign ports; paymasters in the army, at remote points from any public depositary; disbursing agents charged with the payment of Indian annuities, could not discharge their duties if a literal compliance with this law had been required. Regarding the object of the law as wise and proper, and feeling bound [24] to enforce it to the utmost extent in my power, I caused circulars Nos. 2 and 3, appended to this report, to be issued to the various public depositaries and disbursing agents of this department, by which it will be seen that the object of the law has been carried out, and in the mode prescribed, as far as it was possible to do so. It is believed that the regulations thus adopted, will effectually secure the object which Congress had in view in the passage of the act of March 3, 1857, and I would recommend that the law be so amended as to conform to these regulations. At all events, some legislation is absolutely necessary on the subject, and I would ask the early attention of Congress to it. [25]

HOWELL COBB, Secretary of the Treasury.

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No. 2

Circular instructions to the Treasurer of the United States, the Assistant Treasurers of the United States, the treasurers of the mint and the branch mints charged by law with the duties of assistant treasurers, and the public depositaries designated under the 15th section of the act of 6th August, 1846.

Treasury Department,

May 27, 1857.

The act of Congress of 3d March, 1857, entitled an act to amend an act entitled "An act to provide for the better or-

ganization of the treasury, and for the collection, safe keeping, transfer, and disbursement of the public revenue," (chapter 114,) requires you to safely keep all moneys deposited by any disbursing officer or disbursing agent of the United States. Whenever such moneys shall be offered for deposit with you by such officer or agent, or shall be remitted to you for the credit of such officer or agent, you will receive it, and place the amount to the credit of such officer or agent on your books, subject to the checks of such officer or agent as hereinafter directed.

It is also provided by the act, that disbursing officers or agents shall draw for the amounts deposited with you only in favor of the persons to whom payment is to be made in pursuance of law and instructions, except when payments are to be made in sums under twenty dollars. Such instructions should be given as may enable this provision to be made practicable. If drafts can only be made payable to public creditors in person, according to its literal terms, the intention of the act would be defeated, since a very large proportion of the persons to whom payments are required to be made reside at such distances from public depositaries that they would refuse to accept drafts in payment, if compelled to present them in person. A small portion of the current expenses of the United States could be paid by disbursing officers or agents under a strict construction of this act.

Should you recognize drafts payable in the alternative—to the persons to whom payment is to be made, or their order—such form would cast upon the public depositaries the responsibility of verifying every endorsement upon drafts presented for payment, under the hazard of being compelled to pay the true owner out of their individual property, should they have paid the public money upon any forged endorsement of such draft. Disbursing officers' checks have been for several years past extensively employed as means of remittance from one section of the country to another. This use will not probably be lessened by increasing them, according to the obvious intention of this act, and the risk of forged

endorsements will of course be aggravated. This department cannot impose such hazard on depositaries.

The only secure and proper mode of enforcing this provision is accordingly to instruct you to decline the payment of the drafts or checks of disbursing officers or disbursing agents unless drawn in favor of persons whose identity is known to you, and presented for payment by them agreeably to the terms of the act, or such checks [78] as may be drawn in favor of some person or bearer, according to the form heretofore sanctioned by this department. Such checks as may be drawn by any disbursing officer or disbursing agent payable to himself or bearer, must either contain the statement that they were drawn to pay small claims, or a list or schedule of the claims to be paid by the proceeds of such checks must be received by you, corresponding in amount, before you will be authorized to pay such checks, unless the head of the department, under the orders of which any disbursing officer or disbursing agent is acting, shall expressly authorize the payment of the checks of such officer or agent, payable to himself or bearer, without such list or schedule; in which case you will file the authority and pay such checks.

Whenever any disbursing officer or disbursing agent shall die, resign, be superseded or removed, you will at once stop further payment of his drafts or checks upon you. Specific instructions will be given in such cases as to the payment of outstanding checks and the disposal of the balance deposited with you to the credit of such officer or agent.

Should any disbursing officer or disbursing agent having public money deposited with you to his credit request from you information as to the state of his deposit account, you will furnish him with such statement in detail, showing the sums received by you for his credit and the amounts paid by you on his drafts or checks since the last preceding statement. Such statements will be officially signed by you—the date when furnished will be entered on your books—and you are not required to furnish them to any such officer or agent more frequently than once a month.

The drafts or checks drawn on you by disbursing officers or disbursing agents will not be returned to them after payment, unless by the express direction of this department. Those of each officer or agent should be kept in a distinct file, together with such lists or schedules or other authority as may have been sent to authorize payment of those drawn in favor of themselves or bearer, so that, should they be required by the accounting officers in the adjustment of the accounts of such officer or agent, they may be accessible.

HOWELL COBB, Secretary of the Treasury.

P.S.—A copy of the instructions of this department to its disbursing officers and disbursing agents is herewith transmitted for your information.

No. 3

Circular instructions to the disbursing officers and disbursing agents employed under the direction of the Treasury Department.

Treasury Department,

May 27, 1857.

In compliance with the provisions of the act of Congress entitled an act to amend an act entitled "An act to provide for the better [79] organization of the treasury, and for the collection, safe keeping, transfer, and disbursement of the public revenue," approved March 3, 1857, (chapter 114,) you will deposit all public moneys advanced to you for disbursement, now in your hands, or which may hereafter be remitted to you, with the nearest or most convenient public depositary, to your credit in all cases, except such as shall come within the scope of the concluding paragraph of the present instructions. Public money so deposited to your credit will be paid out by such public depositary only upon your drafts or checks in favor of the persons to whom payment is to be made, with the three exceptions following:

1. A disbursing officer or disbursing agent is authorized to

draw checks, payable to himself or bearer, for such amounts as may be necessary to pay sums under twenty dollars, by stating in such checks that they are drawn to pay small claims.

2. A disbursing officer or disbursing agent charged with the payment of salaries or compensation of officers or other persons employed in the public service, whose salary or compensation is fixed and made payable at certain periods, may, two days before such period of payment arrives, draw checks, payable to himself or bearer, for a sufficient amount to pay such salaries or compensation, by placing with the public depository on whom such check is drawn a list or schedule, officially signed by such officer or agent, containing the names and sums payable to each person from the proceeds of such checks, and showing the amount thereof.

3. A disbursing officer or disbursing agent, whose payments are to be made at a distance from a public depository, may draw checks, payable to himself or bearer, for such amounts as shall be required to make such payments; provided, that before the presentation of any such check for payment, he shall cause the depository on whom it is drawn to be furnished with a list or schedule, officially signed by such officer or agent, stating in detail the salaries, wages, and claims to be paid by the proceeds of such check, with the names of the persons to whom they are payable, and the amount thereof. Any place will be regarded as distant from a public depository within this exception, where the latter cannot be reached without expense and delay.

All drafts or checks of disbursing officers or agents must be drawn payable specially to the person to whom payment is to be made, if he chooses to accept it in that form, or payable in the alternative to such person by name or bearer. Public depositories are not required to pay the drafts of disbursing officers or disbursing agents made payable to any person or his order.

Drafts and checks upon public depositories drawn by disbursing officers or disbursing agents will not be returned to

them after payment. They will be held by the depositary subject to the order of this department. Should a disbursing officer or disbursing agent require an official statement of his deposit account, it will be furnished on application to the depositary, but not more frequently than once a month.

No allowance will be made to any disbursing officer or disbursing agent of this department for any expenses charged for collecting the [80] money on drafts or checks, unless authority shall have been expressly given before incurring such expense. These drafts or checks will be payable on demand by public depositaries established at the principal points where the moneyed transactions of their respective regions are mainly concentrated. It is accordingly presumed that such drafts or checks can in all cases be readily exchanged for gold and silver coin. Any charge for collecting drafts or checks will therefore be disallowed on the adjustment of the accounts of the officers and agents of this department in all cases, unless an official report shall have been made by the officer or agent to the First Comptroller, or Commissioner of the Customs, according as the final decision on the accounts of such officer or agent belongs to either by law, stating in detail the facts which render such expense necessary, with its amount, and the answer of the Comptroller or Commissioner shall have been received authorizing such expense before it shall be incurred.

Collectors of the customs, and the surveyors acting as collectors, being also disbursing agents of the expenses of collecting the revenue, are required to make periodical estimates of the sums required from the treasury for immediate disbursement for that object, on which the Treasurer's drafts are remitted, usually on themselves, if they hold balances as collectors and their custom-houses are distant from any public depositary. Disbursing officers for the construction of public buildings are frequently furnished with the Treasurer's drafts on some collector in the neighborhood, to supply them with money for immediate disbursement on their estimates previ-

ously sent. In such cases the provisions of the act cannot be understood to require such officers or agents, on receiving money at a custom-house for immediate disbursement, to transport it to the public depositary, often hundreds of miles distant, merely for the purpose of carrying the same money back. To illustrate the practical effect of such literal construction of the act, it may be stated that the six eastern or New England States contain but one public depositary—the Assistant Treasurer at Boston—while there are thirty-four custom-houses, at each of which more or less revenue is collected. Congress cannot have intended that each of these thirty-four collectors, at the close of every month, should carry to Boston the money received on the Treasurer's draft on himself for the current expenses of collecting the revenue—more than three hundred miles distant from several important custom-houses in Maine—deposit it with the Assistant Treasurer to his credit as disbursing agent, and then draw the same money by check and carry it back for expenditure. The distance between a custom-house and the nearest public depositary is much greater in some other sections of the United States, though the cases are not so numerous.

In all cases, therefore, where disbursing officers or disbursing agents shall receive money for the Treasurer's drafts, remitted upon specific estimates from immediate expenditure, they will at once disburse the money for the purposes and objects estimated, without the delay and inconvenience of placing it in a public depositary, unless it be near at hand, in which case such deposit may be made. The current disbursements for expenses of collecting the revenue and the construction [81] of public buildings in charge of this department will accordingly be periodically made pursuant to estimates provided for by the Treasurer's drafts, as heretofore.

HOWELL COBB, Secretary of the Treasury.

P.S.—A copy of the instructions of this department to the public depositaries on this subject is herewith transmitted for your information. [82]

To Congress, December 6, 1858

* * * *

The attention of Congress is again called to the provisions of the act of March 3, 1857 [11 Stat. L., 249], on the subject of deposits by the disbursing agents of the government.

In my last report I stated in general terms that it was impracticable to execute the law according to its literal requirements, and the reasons were briefly set forth. The objects which the act sought to accomplish meet the entire approval of the department, and it has been carried out to the utmost extent that was practicable. A few illustrations will show the impossibility of executing the law as it now stands. By its provisions a purser in the navy would be required to deposit the funds placed in his hands for the payment of the officers and crew of a vessel, in one of the public depositories, and he could only draw it out by a draft in favor of the person to whom he desired to make payment. A vessel on a foreign station is absent not unfrequently for two and three years, and whilst thus absent the purser would have to pay the officers and men by drafts on a public depository in the United States. He would also have to pay all other expenses, which exceeded the sum of twenty dollars, by similar drafts in favor of the person to whom the payment was to be made. A disbursing agent in the Indian Department would be required to pay the Indians their annuities by similar drafts. The disbursing agents of the army would have to settle with the officers and men of the army, at their distant posts, in the same manner. A collector of the port of Eastport, in the State of Maine, would have to transport the funds with which he is to pay the employes of the government at his port to Boston or some other place where there is a public depository, and there give drafts on the public depository to each person to whom the payment is to be made. These cases illustrate the impossibility of executing the law as it now stands on the statute book. There are serious and almost insurmountable difficulties in the way of executing it, even in the immediate

neighborhood of a public depository. Take, for illustration, a case which can be brought within the personal observation of members of Congress. There are paid monthly in Washington city more than a thousand persons. This law requires that each of these persons should receive a draft from the disbursing agent who settles with him, and present it at the Treasurer's office. The time that would be occupied by the Treasurer in identifying the applicants, and the number of additional clerks which would be required to keep the necessary books, independent of the unusual responsibility which would be put upon the Treasurer of identifying so many persons, render the execution of the law, even in this case, impracticable. For all this additional trouble and difficulty there is no compensating advantage over the present mode of making such payments, which has been found by practice both safe and expedient. It can scarcely be necessary to point out all the difficulties which exist. Congress is again referred to the circular regulations which were adopted by the department on this subject, and the recommendation of amending the law, as suggested in my last report, is repeated. [17]

HOWELL COBB, Secretary of the Treasury.

NO. 69

SETTLEMENT OF ACCOUNTS. DEBATE, 1867-68⁶⁰

Senate, December 17, 1867

Mr. [WILLIAM P.] FESSENDEN [of Maine] . . .

* * * *

. . . There has been very great difficulty in the Departments for many years arising from this fact: we have provided in the Treasury Department a system of auditing claims and accounts of different descriptions. They have first to go through the hands of the proper auditor, as it is understood,

⁶⁰ 40 Cong. 2 sess., *Congressional Globe*, Vol. 39, Pt. 1, pp. 218-19; Pt. 2, pp. 1772-74. See Act of Mar. 30, 1868, 15 Stat. L., 54. See also No. 70.

and then to the Comptroller to decide upon the legality of the claim, and if agreed to by both those officers they are considered as settled. When those claims come from another Department—the difficulty principally has arisen in the quartermaster's department—they are to be paid necessarily out of the fund appropriated for meeting that particular kind of claim. If it is in the quartermaster's department it comes out of the fund appropriated for that purpose or for that department generally; and so of the others. Now it has been the custom in many cases after a claim has been audited, heard, gone through the hands of the Auditor first and the Comptroller afterward, and been finally adjusted by them, the proper auditing officers of the Treasury, for it to go back to the quartermaster's department, for instance, and for the Quartermaster General to undertake to say that he will not pay it, it is not right, or he will pay part of it, there is only so much due; and so he refuses to issue a requisition on the fund, or is willing, perhaps, to issue a requisition for as much as he says is due. It is ordinarily settled, after going through the hands of the accounting officers, by a clerk in the quartermaster's department, who fancies that it is not right, and then the Quartermaster General either sustains or refuses to sustain his decision.

That has been a matter of contest in the Departments for many years. The first difficulty that arose, I believe, was owing to an opinion [Dec. 4, 1829; 2 Op. 303] or an intimation given by Mr. Berrien while Attorney General to that effect. The matter was afterward considered very much at length by Mr. Hiland Hall, who was Second Comptroller, I think, for a time [1850-51], and he wrote a pamphlet on the subject,⁶¹ which I have read. I have several papers in my

⁶¹ *Opinion of the Second Comptroller of the Treasury, Hon. Hiland Hall, on a claim of Alexis Coquilard, assignee of Joseph Bertrand, for a debt against the Potawattomie Indians, involving questions in regard to the Jurisdiction of the Accounting and other officers of the Government, in the adjustment of public accounts.* Washington: Gideon & Co., Printers, 1851. 24 pp. Reprinted, 1 Dec. First Comp. 509-33 (1880).

hand, and among them a copy of that pamphlet. I am very clear in my own opinion that that construction is all wrong. When a claim, no matter upon what Department it bears or from what Department it comes, or on what fund it is chargeable, has gone through the hands of the accounting officers of the Treasury and been settled and adjusted by them, it is no longer in the power of the head of a bureau of another Department, or even of the head of another Department itself, having control of the money, to say of their own will that the thing has been settled wrong and that they will not pay it.

* * * *

Mr. [TIMOTHY O.] HOWE [of Wisconsin] . . .

The different Auditors are created by law for the purpose of examining the accounts of other disbursing officers of the Government. The Third Auditor, for instance, among other accounts, settles and adjusts the accounts of the quartermaster's department. As the Senator has remarked, a fund is appropriated by Congress to meet the exigencies of the quartermaster's department, and it is disbursed by the quartermasters. Their accounts are to be examined by the Auditor and settled by the Auditor. The Auditor is to see whether they disbursed the money in accordance with law or not. It seems to me that no account accruing in the quartermaster's department should be adjusted except one which a quartermaster has passed upon and approved and paid, so to speak, or adjusted at all events, and that the Auditor should act only as an appellate tribunal, so to speak, with a supervisory jurisdiction. Otherwise, it seems to me that every claimant has not only a double but a quadruple remedy on every claim he sets up. He may go to the quartermaster against whom his claim really exists, and if the quartermaster will pay it he gets his money; but if the quartermaster himself will not pay it he appeals to the Auditor, and gets an order on the quartermaster to pay it. If both these fail he may go to the Court of Claims and commence a suit upon his contract, and if that

fails him he may come to Congress, and he may take these remedies one after the other. He will have three any way. If the law is settled, as I think it should be that the Auditor should only pass upon accounts which the quartermaster has directed [218] to be paid, he may then, if he is injured by the quartermaster, go to the Court of Claims or come to Congress. It seems to me these three tribunals are enough; but I do not mean to argue the question now. I should really like if there is anything doubtful about the law to have it settled; and if this matter is to go to the Committee on Finance I will take occasion to say now that in reference to the claim pending before the Committee on Claims no action will be had until the law is settled.

Mr. FESSENDEN. I do not propose to go into this matter any further. I will only say that if the idea of my friend from Wisconsin is to prevail it will be a reversal of the action of the Government for the last fifty years in reference to accounts, and will introduce an entirely new system. This is a simple question. All these accounts go by law—there is no dispute about that—to the Auditor and the Comptroller. They must be examined by those officers before the money is paid out, for the reason that they examine the law particularly to see whether the amount is legally due. The question is simply whether there is a revising power or a mere power of refusal to pay in the other Departments because they are in possession of the money or are to make the requisition. That is the question to be considered. . . . [219]

* * * *

House of Representatives, March 9, 1868

* * * *

Mr. [WILLIAM] MUNGEN [of Ohio] . . . the fourth section of the act of March 3, 1817 [3 Stat. L., 366] provides fully as to the duties of the different Auditors of the Treasury. The act alluded to took the power from certain other officers theretofore provided for and put it all in the Treasury

Department. It provided for four additional officers and a Comptroller, and it was made the duty of those Auditors to certify as to the examination of the accounts submitted to them. They were then submitted to the Comptroller for his certificate, which was final and conclusive. But for some reason the different heads of the Department undertook to go behind their certificates. Some of the claims have been standing for thirty odd years, locked up by this misunderstanding between the heads of the Department, arising from a misinterpretation of the act of 1817. Senate bill No. 350 simply provides that when a claim has gone through the hands of the different Auditors and is certified by the Comptroller, the certificate shall be final unless some reason against it shall be suggested to the Comptroller. The Senate bill provides, if there is anything reasonable suggested, that the Comptroller may take that into consideration in making the final decision, but when he has taken that into consideration and has given his certificate, his decision shall be conclusive and there shall be an end of the presentation of the claim against the Government. [1772]

* * * *

Mr. [BENJAMIN F.] LOAN [of Missouri] . . .

There is a difference in the Departments as to the construction of a law, and all this bill does is to fix the construction. I will tell the gentleman my understanding of it, and I hope the bill will pass. If, for instance, a claim is passed by the quartermaster's department it goes from there to the Auditor's office; it is then passed from the Auditor's to the Comptroller's office, and the Comptroller passes upon it and decides what amount the claimant is entitled to. After the claim has passed through all these hands and been decided by all these officers it then goes back—where? To the quartermaster's department. For what? For a requisition on the Treasury Department for the amount of money they have all determined the claimant is entitled to. This bill only provides that

after having passed the quartermaster's department and the Auditor and the Comptroller it shall not have again to go through the same hands and pass through the same channels, but shall be paid without further delay. [1773]

* * * *

I do not want to see a class of cases that have gone from the quartermaster's or any other department to the Comptroller, and have received his approval, sent off somewhere else for the opinion of some other officer. I want the laws to provide that in all cases where the Comptroller and Auditor have passed upon a claim favorably the requisition shall be issued. That is but just; it deprives no one of his rights; it does not take any money improperly from the Treasury.

This is not an appropriation bill in any sense of the term; it is merely a bill settling a question between officers of law in reference to their decisions upon cases. That is all there is in it. It cannot do anybody any injustice; it is merely to give a proper construction to the law; to give it the same construction it used to have, and just as it should be now. [1773]

* * * *

. . . In pursuance of the law the Comptroller of the Treasury has had the final decision and control of these matters. But recently, when officers of the other Departments have had much of this work to do, they have undertaken to assume an authority not known to the law for the purpose of preventing money being paid out of the Treasury. In order to keep money in the Treasury, which is rightfully due, they have interposed unheard of and unwarranted objections.

Now, for the purpose of relieving the matter of the embarrassment thus caused, we are called upon to give a legislative construction to that law. Since 1817, when these accounts have been passed through the various Departments and certified to by the proper auditing officer of the Treasury,

and finally decided by the Comptroller, they have been sent back to the War, Navy, or other Department where they originated for the purpose of having requisitions drawn for the payment. When an account has thus passed the proper officers the party has a right to expect a requisition in pursuance of that judgment. Because if there is to be no end to this matter, if it can be started upon a new round among a new set of officers, all must see great injustice will be done.

Therefore this bill is brought forward, so that when an account has been thus passed upon and returned for the requisition to be drawn, but two things can be done, either to draw a requisition upon the Treasury for the amount thus certified to be due, or to send it back with any new matter which may have come to their knowledge, and which they hold to furnish a reason why the account should undergo revision. [1774]

NO. 70

SETTLEMENT OF ACCOUNTS. REPORT
(POLAND), 1869⁶³

To House of Representatives, February 16, 1869

Mr. [LUKE P.] POLAND [of Vermont], from the Committee on the Revision of the Laws, made the following report:

The Committee on the Revision of the Laws, to whom was referred a communication from the Secretary of War in relation to payments made by that department under the provisions of an act passed March 30, 1868 [15 Stat. L., 54], and suggesting that said act be repealed or modified, have had the same under consideration, and report thereon as follows:

By the act of March 3, 1817 [3 Stat. L., 366], the offices of accountants in the War and Navy Departments were abol-

⁶³ 40 Cong. 3 sess., H. rept. 26. 3 pp. Serial 1388. See also No. 69.

ished, and it was provided that thereafter "all claims and demands whatever by the United States or against them, and all accounts whatever in which the United States are concerned, either as debtors or creditors, shall be settled and adjusted in the Treasury Department."

This act provided for the appointment of an additional comptroller and four auditors, making, in all, two comptrollers and five auditors, and entire and complete jurisdiction over the settlement and adjustment of all the claims and demands above-mentioned was vested in these officers.

This system of settling public accounts has been in operation from 1817 to the present time.

The act provided for no appeal to, or revision by, the Secretary of the Treasury, or the head of any department in which the claim originated, and it is evident, from the language used, that the final decision by these officers was to be conclusive, except by a resort to Congress or the courts.

The committee are satisfied that it was the intent of the framers of the act of 1817 to establish a tribunal for the settlement and adjustment of accounts against the government that should be wholly independent of, and in no way subject to, control or revision by those departments or officers by whom the public expenditures and liabilities are incurred.

The special provisions of many subsequent acts show that such was the understanding of Congress. The leading principle upon which this system of accounting and adjustment was established appears to have been that all accounts, involving the expenditure and disbursement of public moneys, should be settled and adjusted by officers holding under appointments independent of the heads of departments, and who, themselves, had nothing to do with the disbursements. In short, they designed to prevent officers who made or directed the expenditure from having any voice or influence in judging of the legality or rightfulness of it, and such check was necessary to insure a judicious and honest expenditure of the public funds.

As a general rule, this interpretation of the act of 1817 has prevailed ever since its passage. We do not find that it has ever been questioned by anybody except the War Department. There has been an occasional restiveness in that department at being subjected to the decision of these accounting officers upon accounts arising in the Quartermaster General's office.

As early as 1823 the question was raised as to the conclusiveness of an adjudication by the accounting officers of the Treasury Department upon an account arising in the quartermasters' department, and the question was referred to Mr. Wirt, then Attorney General. The whole subject was fully and exhaustively considered by him in an elaborate opinion [1 Op. 624], and the conclusion reached that the adjudication of claims by the accounting officers of the treasury was final and conclusive, and binding upon all the executive departments of the government.

In several subsequent opinions [1 Op. 678; 2 Op. 8] of Mr. Wirt the same views were reiterated.

During the attorney-generalship of Mr. Berrien the same question was again started, whether the decision of the accounting officers was binding upon claims originating in the quartermasters' department.

Mr. Berrien [2 Op. 303] took a different view of the subject from Mr. Wirt, and held that such adjudications were not conclusive, but that they might be reopened and revised by the Secretary of War. Subsequent Attorneys General have had occasion to give opinions on the same subject.

The late Chief Justice Taney [2 Op. 508, 515] and Mr. Crittenden [5 Op. 630, 656] concurred in the views expressed by Mr. Wirt, while others took the same ground with Mr. Berrien.

The view of Mr. Berrien and those who have agreed with him were based mainly upon the relative rank and position of those accounting officers with the head of a department,

and the seeming incongruity that the head of a department should be bound by the decision of a subordinate, and especially a subordinate in another department. It was also urged that, as it was the duty of the head of the department to issue his warrant or requisition for the money found due, he must, therefore, have the power to examine and satisfy himself that the money is justly due, otherwise he is reduced to a mere machine. This line of argument seems to the committee wholly inconclusive and unsound. Congress may, by law, devolve such powers and duties as they choose upon public officers of any rank, and when they have done so, without giving either expressly or by implications a power of revision or control to another, their action is as conclusive upon those above as those below them in dignity of position. It is the command of the law, not the command of an inferior officer, which the superior is bound to obey. The decision of the most inferior magistrate, within his jurisdiction, is binding upon the highest officers and tribunals in the land, unless the law gives them power to revise and control his decision.

It appears to the committee that this assumption of power in the head of the war or any other department to set aside and change the findings of the accounting officers of the government, is at war with the whole principle upon which the system is based; that the allowance and settlement of the disbursement of all public funds should be vested wholly in a set of officers other and different from those who made the expenditure. If their allowances and settlements can be set aside and changed by the head of the department under whose direction the money was paid, or the claim accrued, then the whole system of checks to improper expenditure, which it was supposed had been established, falls to the ground.

Aside from this consideration, the committee believe that the just rights of the government itself, as well as the rights of claimants against the government, are much more likely to be preserved, by being subject to the examination and ad-

judication of experienced men, accustomed to examining accounts and weighing evidence, than they would be if subject to revisal and reversal by the action of subordinates in another department, selected with no view to qualifications of this character.

Notwithstanding the diversity of opinion above alluded to, as to the conclusive quality of the adjustments made by the Auditors and Comptrollers in the treasury, they were generally acquiesced in, and no very serious question of jurisdiction arose until within the last two or three years. The late war made the expenditures in the quartermasters' department many times greater than ever before, and of course as variable in circumstances as they were large in amount. It then began to be stoutly insisted in that department that claims arising thereunder should be settled in that department, and that they were not bound by the decisions of the accounting officers of the government. The number of cases involved in this controversy was so great that the matter was brought to the attention of Congress, and after a very full and careful consideration of the subject, it resulted in the passage of the act of March 30, 1868.

The committee do not regard that act as having added at all to the conclusiveness of the decisions made by the accounting officers of the treasury, beyond what it was under the act of 1817. The only substantial change made by that act was the power given to the head of a department, doubting the correctness of any balance certified to him by such officers, to return it for re-examination, with any evidence in his possession bearing upon the subject.

It is suggested in the letter of the Secretary that his department is embarrassed in asking for appropriations by reason of their want of knowledge of the amounts needed for the payment of claims upon it, if the amount is to be fixed by officers of another department. It is impossible for the committee to see much force in the suggestion. If the estimates

are made in advance of the settlement of the claims to this extent, they must be wholly uncertain, by whomsoever they are to be settled, unless the estimate is to furnish an arbitrary rule for settlement, which would be unjust. If the estimates are made after settlement, there is no uncertainty in either mode of settlement. But if it be true that under this mode of settlement the department has made under estimates, so that they are not in possession of funds for the payment of claims allowed, the hardship would seem to be upon the claimants, whose payments must be delayed until the department is in funds.

It is suggested by the Secretary in his letter, that in case of disagreement between the accounting officers in the Treasury and the War Department as to the allowance of a claim, the claimant might be sent to the Court of Claims for the balance, or the whole of his claim, as the case might be.

Section 7 of an act passed June 25, 1868 [15 Stat. L., 75, 76], seems to provide all that the Secretary desires in this behalf, by authorizing the head of any executive department, when any claim is made upon his department, and the amount in controversy exceeds \$3,000, and in other cases where the questions involved are important, to send such claimant to the Court of Claims.

In the judgment of the committee, the present system of public accounting, (which has worked so satisfactorily, with few interruptions, for more than half a century,) ought not to be disturbed, and that the act of March 30, 1868, which was designed to prevent such interruptions in the future, was just and wise, and that no necessity exists for its repeal or modification.⁵³

⁵³ Repealed and reenacted, July 31, 1894, 28 Stat. L., 162, 208, sec. 8.

NO. 71

EXPENDITURE ACCOUNTING PROCEDURE IN
THE WAR DEPARTMENT. REPORT
(WILLIAMS), 1873⁵⁴

To House of Representatives, March 3, 1873

Mr. WILLIAM WILLIAMS, of Indiana, from the Committee on Expenditures in the War Department, made the following report:

* * * *

In obedience to the resolution of the House, of December 12, 1871, directing this committee to report to the House, by bill or otherwise—

First. Whether the expenditures in said Department are justified by law.

Secondly. Whether claims, from time to time satisfied and discharged by said Department, are supported by sufficient vouchers establishing their justness both in character and amounts; whether such claims have been discharged out of funds appropriated therefor, and whether all moneys have been disbursed in conformity with appropriation laws. [1]

Thirdly. Whether any, and what, provisions are necessary to be adopted to provide more perfectly for the proper application of the public moneys, and to secure the Government from demands unjust in their character and extravagant in amount. [2]

* * * *

The committee further report that they have proceeded to investigate in their order, in so far as regards the War Department, the various subjects embodied in the resolution, and find that to properly perform the duty devolved upon them, they have been led into inquiry as to the method of procuring, disbursing, and accounting for the moneys placed

⁵⁴ 42 Cong. 3 sess., H. rept. 87. 26 pp. Serial 1576.

in charge of that Department; and in order to a full understanding of the subject, have deemed it advisable to give a somewhat detailed statement of the rules established by the War Department and the Treasury respecting the disbursement of, and accountability for, public moneys.

APPROPRIATION WARRANTS

When money is appropriated by Congress, an appropriation warrant is issued by the Secretary of the Treasury, according to a regular series on the books of his office. This warrant informs the Secretary of War that for certain purposes—say, pay of the Army, quartermaster's stores, subsistence supplies, &c.—Congress has appropriated a specific sum of money, and that certain heads of appropriations, described in detail, are credited with these amounts, and that they are subject to the requisition of the Secretary of War.

This appropriation warrant, before it reaches the Secretary of War, is sent first to the First Comptroller, by whom it is countersigned, and the appropriations entered on the books of his office; from there it goes to the Register of the Treasury, where the appropriations are taken up and the warrant registered; thence to the Second Comptroller; thence to the proper Auditor; thence to the War Department, and thence to the several bureaus of that Department, each office in its turn making proper entry of the items on its books, as every one of them must afterward act upon either requisitions or warrants drawn against the appropriations for the War Department, before money can be drawn out of the Treasury.

APPROPRIATIONS

The appropriations for the service of the War Department are borne on the books of the Second and Third Auditors, and are divided as follows: The Quartermaster's Department, Commissary Department, Engineer service, Signal and Meteorological service, Military Academy, refunding to States for war expenses, payment for lost horses, south-

ern claims, &c., to the Third Auditor; the Pay Department, recruiting service, Medical Department, ordnance and arsenal service, collecting, drilling, and organizing volunteers, freedmen's bounty affairs, &c., to the Second Auditor. There are also a number of War Department appropriations common to both Auditors, which are carried upon the books of either as the exigencies of the public service may require—such as appropriations for clothing of the Army, Army contingencies, &c.

METHOD OF DRAWING MONEY FROM THE TREASURY

The appropriations thus placed to the credit of the War Department are drawn out in this method:

The head of a Bureau sends a letter to the Secretary of War, requesting that he make a requisition on the Treasury in favor of a certain officer, for a specified amount, to be charged to an appropriation therein named, the officer receiving it to be held accountable for its proper use. [3]

REQUISITIONS FOR MONEY TO PAY CURRENT EXPENSES

The Secretary of War then makes a requisition over his signature on the Secretary of the Treasury for the amount. The course which this requisition takes, and the various checks to which it is subjected before the money is paid out, are worthy of a detailed notice. When the requisition leaves the War Office, it goes to the Second Comptroller of the Treasury, then to the proper Auditor, both of whom must sign it before it passes further, then to the warrant office or Treasury proper, where it is filed. There a warrant is issued, signed by the Secretary of the Treasury, from whose office it goes to the First Comptroller, where it is [4] entered and registered, and sent to the United States Treasurer, by whom a draft for the required amount is issued to the officer in whose favor the original requisition is drawn. There certainly seem to be ample checks in this process against fraudulent drawing of money by means of a requisition.

REQUISITIONS FOR MONEY IN PAYMENT OF CLAIMS

Requisitions issued by the Secretary of War, in payment of claims for services, stores or supplies furnished or used in the military service, pass through the same process at the Treasury as those in favor of the disbursing-officers, for funds to be used in the current business of the military service. The proper routine is this: The claim is filed in the Bureau of the War Department which received the property or services for which money is claimed; it is there investigated and reported upon to the Auditor, upon whose books the class of appropriations is carried. The Auditor examines it in connection with the facts and evidence accompanying it, and if he finds it correct, and a just demand against the Government, sends it, with a statement of an account and the evidence, to the Comptroller, in whose office it is reviewed and again passed upon. If the Comptroller approves the finding of the Auditor and Bureau officer, he signs the statement of account made by the Auditor, and certifies its correctness, returns it to the Auditor, who sends it to the Secretary of War for his requisition. After being entered, the Secretary makes his requisition upon the Treasury in like manner as in the case of requisition in favor of disbursing-officers, except that in claims the requisition is in favor of the claimant. Another routine is this: A claim resting among old papers in the Treasury is called up by application of a claimant or attorney. The Auditor reports and the Comptroller decides thereon. They sign, and send up to the Secretary of War a settlement-certificate, calling for a requisition to pay the amount allowed by them. This certificate is referred to the proper Bureau of the War Department for report upon the claim. Sometimes adverse reports from the Bureau officer in the case cause a disagreement, which seems to be decided by the act of March 30, 1868 [15 Stat. L., 54], in favor of the accounting-officers of the Treasury.

BALANCES OF APPROPRIATIONS REMAINING AT THE END OF A FISCAL YEAR—TO WHAT PURPOSES APPLICABLE

The fifth section of the act of July 12, 1870, (16 Stat., p. 251,) requires that "all balances of appropriations contained in the annual appropriation bills and made specifically for the service of any fiscal year, and remaining unexpended at the expiration of such fiscal year, shall only [4] be applied to the payment of expenses properly incurred during that year, or to the fulfillment of contracts properly made within that year; and such balances not needed for the said purposes shall be carried to the surplus fund: *Provided*, That this section shall not apply to appropriations known as permanent or indefinite appropriations."

INCONVENIENCE OF THE LAW IN REGARD TO BALANCES

Under this provision it becomes necessary that all estimates, requisitions, warrants, certificates of settlement, &c., should state upon their face the particular fiscal year to which the appropriations they carry belong. A claim which arose last year cannot be paid out of the current year's appropriations, but must be paid out of the appropriation for the fiscal year in which the liability accrued, although any previous year might leave to the credit of the appropriation applicable to its payment an ample balance. The majority of claims unsettled at the close of the war must, by the operation of this law, now be paid from appropriations made for the fiscal year in which the liability occurred, and if there does not happen to be any balance left for that year, the claim must go to Congress for a specific appropriation for its payment.

The old balances of the appropriations are continually fluctuating, and are now almost depleted. The War Department has thus far been able to meet all settlements against many of them, while some are entirely expended, but the period is not distant when all will be exhausted. A large amount of money was covered into the Treasury at the close of the last

fiscal year from these old balances of the War Department, which were of a class not much used in the settlement of disbursing officers' accounts or the payment of claims. They have gone into the general fund of the Treasury, and cannot again be used, except upon re-appropriation by Congress.

The provision of the fifth section of the act of July 12, 1870, above referred to, has caused much additional labor in the War Department, as, upon every requisition, upon every entry in the books of the office, upon every balance-sheet, the particular fiscal year has to be marked against every appropriation, and there are already, since the passage of the act, four separate accounts on the books of the War Office for each annual appropriation.

TRANSFER AND COUNTER REQUISITIONS

It is found that, in the settlement of the accounts of officers, use is made of what are technically known as transfer and counter requisitions. These draw upon appropriations as other requisitions do, but they take no money out of the Treasury. Their function is merely to adjust accounts of disbursing-officers, by debiting and crediting the proper appropriations. For example, an officer of the Quartermaster's Department during the war received large sums under certain heads of appropriations, *i.e.*, money appropriated for a specified purpose, and the exigencies of the service obliged him to expend the money for other objects than those for which it was appropriated. When his account comes to be examined and settled, he receives credit under the heads of appropriation which received the benefit of the expenditure, and is charged under the appropriation out of which the money was actually paid. Thus, if he had in his hands \$100,000 of the appropriation for barracks and quarters, and the exigencies of the service required him to spend it for transportation of troops or stores, he receives credit for [5] \$100,000 expended on account of army transportation, and is accountable for \$100,000 drawn from the appropriation

for barracks and quarters, and a transfer requisition for this amount is issued.

The officer having expended \$100,000 for army transportation out of appropriations for barracks and quarters, he must, of course, make his account for barracks and quarters good by the return to it of the money drawn from it. He has nothing to show for this expenditure but vouchers for army transportation. He had no money belonging to the appropriation for army transportation, but he has credit by his vouchers for the expenditure of \$100,000 out of it. At the same time he is debited with \$100,000 on account of barracks and quarters, for which he has no vouchers. On settlement, the accounting-officers give him credit, under the head of army transportation, for \$100,000, and they call for the issue of a transfer requisition in favor of the officer for \$100,000, which the appropriation apparently owes him. At the same time, without allowing him to actually receive the money, a counter requisition issues carrying the sum to his credit under the appropriation for barracks and quarters, from which he originally drew it. By this means the accounts of the officer with both appropriations are properly balanced and closed.

It is believed that, in military affairs, where emergency, from the very nature of things, is generally the rule, and not the exception, some such elastic system of transfer and settlement of accounts must always be permitted, else the sinews of war would often be wanting were an officer in the field not allowed, in these cases of emergency, to use the money placed in his hands for disbursement, adjusting both the appropriation and the officer's accounts.

ACCOUNTABILITY OF DISBURSING-OFFICERS

Having thus traced the money appropriated by Congress down to that period when a draft for any amount for which requisition is made is placed in the hands of the disbursing-officer, the committee believe that it will be well to go fur-

ther, and show the method of expenditure of the money by a disbursing-officer; what checks are placed upon him; what safeguards the Treasury and War Department have thrown around its safe-keeping and disbursement, and what accountability is required of the officer as to the money itself, the purposes for which he uses it, and the property which is purchased by it.

CHECKS UPON DISBURSING-OFFICERS

In the first place, no officer is authorized to disburse public moneys unless under bond. In some few special cases, where the exigencies of the service require it, at remote stations, exceptions to this rule have to be made. In all such, special security is required. These exceptions are so few, however, that it is for one purpose, to be applicable to another, and repayment made again at the Treasury, as is now done by means of these transfer and counter requisitions. The money drawn for one appropriation by the *transfer* is carried to the credit of some other appropriation by the *counter*; thus to be assumed that all officers who disburse public funds are placed under bonds.

BONDS REQUIRED

Under paragraph 989, of the Army Regulations, all officers of the Pay, Commissary, and Quartermaster's Departments, and military storekeepers, [6] shall, previous to their entering on the duties of their respective offices, give good and sufficient bond to the United States fully to account for all moneys and public property which they may receive. This regulation is strictly enforced.

ESTIMATES FOR FUNDS

When a bonded officer enters upon duty, and is directed by his commanding officer to disburse money for a certain purpose, or to make an estimate of the financial wants of the department of which he is the disbursing-officer, he sends an

estimate for the amount required for any period, as, for instance, a month, showing the object for which the money is required. This application is made to the head of the Bureau, who "shall take care that no more money than is actually needed is in the hands of the officer." (Paragraph 991, Army Regulations.) Under paragraph 1,008, of the same regulations, the "heads of Bureaus shall take care, by timely remittances, to obviate the necessity of any purchases on credit." If the officer's application is approved by the head of the Bureau, upon consideration of the objects to which the money is to be applied, he (the head of Bureau) honors the application by directing a transfer of the amount from one officer to another. If a transfer is impracticable, or cannot be made in accordance with Treasury regulations—which prohibit transfers from one depository to another—then the chief of the Bureau asks the Secretary of War to place so much money to the credit of the officer. In this application are specified the name and rank of the officer on account of whom, and the appropriation from which, the funds are to be drawn. The Secretary of War then makes requisition on the Treasury in the manner before mentioned.

SUCH MONEYS ARE PAID FROM TREASURY BY DRAFT

A draft for the money is issued on one of the many depositories designated for the use of officers of the War Department, in accordance with act of June 14, 1866 [14 Stat. L., 64].

DEPOSITORIES

These depositories are specially designated by the Secretary of the Treasury for the safe-keeping of public moneys intrusted to disbursing-officers. No money is allowed to be deposited in them in excess of the security which they have deposited in the Treasury. The depository is required to make to the Secretary of the Treasury weekly statements of cash balances of public funds to the credit of United States officers, and similar statements are made by the disbursing-officers to

the heads of Bureaus, who make consolidated statements to the Secretary of the Treasury. These statements come together for comparison at the Treasury.

CHECKS

But no satisfactory comparison can be made in the absence of a list of checks issued by each disbursing-officer; because the amount reported by the depository usually exceeds that reported by the officer, the difference being occasioned by floating or unrepresented checks. The committee are of the opinion that a Department order should be issued, that all officers or agents of the Government who are or shall be authorized to disburse public moneys shall render weekly or monthly schedules of [7] all checks issued by them, respectively, within the week or month immediately preceding the date of each schedule.

* * * *

RECEIPT OF DRAFT BY DISBURSING-OFFICER AND DISPOSITION MADE OF IT

When the draft is received by the disbursing-officer, he sends it, with his official signature, to the depository on which it is drawn and on which checks are to be drawn. Upon receipt of the draft and signature, the depository gives to the officer a receipt in special form, showing the amount consisting of _____ placed to his credit as _____, and subject only to his check in his official capacity. The officer's accountability commences as soon as the money is deposited. He then renders triplicate receipts for the remittance—one to the chief of the Bureau, one to the Auditor, and one to the Treasurer.

CHECKS

Checks issued by disbursing-officers are required to be in favor of the person to whom payment is to be made, or bearer, with a few exceptions, viz, to pay sums under \$20; to pay fixed salaries; to make payments [8] at a distance

from a depository, in which case he may withdraw the necessary amount by check in favor of himself or bearer. It is required that on the face or back of each check, the object or purpose to which the avails are to be applied must be stated, as, for instance, "pay," "salary," "pay-roll," &c. These checks pass into the Treasury and are examined there. Upon examination, if it appears that an officer has failed to comply with regulations, he is reported to the War Department for his failure, and is required by the Secretary of War to explain. When an officer pays by check he is required to note, on the voucher or receipt, the date, amount, and number of the check.

There are numerous other details in regard to the disbursement of public money which it would be tedious to enumerate—such as the contingencies that might arise upon the death of an officer, his resignation, his criminality, his carelessness, &c., or the appearance of checks that have floated for years over the country as a currency, or when a disbursing-officer is relieved from duty, or when his office is broken up, or he receives money as the proceeds of sale of public property, &c. In all these cases there issue from the depository which holds the funds, duplicate certificates of deposit, in order to transfer the money to the Treasury. The originals of these certificates are forwarded to the chief of that Bureau which controls the appropriation. The certificate is ordinarily accompanied with a report as to how the money accrued, and to what appropriation it belongs. The head of the Bureau makes a statement showing the appropriation to which the amount belongs, and incloses the certificate to the Secretary of War. If, upon examination, it is found that the designation given by the chief of Bureau is incorrect, the certificate is returned. A record of these certificates is kept in the War Department. If the certificates and statements are found correct, they are sent to the Secretary of the Treasury, with a letter giving a designation of the certificate, naming the appropriation and fiscal year to which the moneys pertain, and showing to whom and to what accounts credits are to be given. In the

Treasury Department, the amounts are entered upon an Auditor's books, and that officer transmits to the War Department a list made up of the items contained in these certificates, which are compared with the records in the War Department, and, if found correct, each item is attested. Upon this examination the Secretary of War signs a deposit-requisition. This, with the Auditor's list, is sent to the Second Comptroller, who signs the requisition, and thence to the proper Auditor, who also signs it; thence to the Secretary of the Treasury, who issues warrants to cover the money into the Treasury to the account of the Treasurer, and to the credit of the depositor, when proper, and to the credit of the appropriation when designated by the War Department. So very precise are the details in this regard, that an ordinary certificate of deposit is frequently six months old before the depositor gets credit for the amount, and the paper in this covering process must pass through the hands of some twenty-five employes of the Government.

ACCOUNTABILITY OF AND CHECKS UPON BUREAUS OF
THE WAR DEPARTMENT

In order to show the process of accountability in any particular Bureau of the Department, we will instance that of the Quartermaster's Department. Each quartermaster of a post or command makes monthly estimates showing the amount of money required, the articles to be purchased, and the supplies to be paid for during the ensuing month. [9] These estimates are submitted to the commanding officer, who, after inspection, if necessary, approves and forwards them to the chief quartermaster of the military department. The latter makes a consolidated statement for all such estimates, and forwards all the papers, with such recommendation as he thinks proper, to the department or division commander. The commander forwards the estimates or papers, with appropriate remarks, to the Quartermaster-General, who examines the application of the chief quartermaster. If

he approves it, he requests the Secretary of War to issue a requisition for the amount, to be placed in a depository, as heretofore noted. (See second heading.)

When the chief quartermaster receives official notice that the money is in the depository, subject to his official check, he remits to the several quartermasters the amounts due on their several estimates, taking their receipts therefor. The funds thus received by the post quartermaster cannot be expended by him without proper authority in writing. If it is necessary to purchase materials or hire laborers, he must have such authority. The approval of his commanding officer appears for every dollar, for which he is required to take a receipt or voucher. The latter, if for supplies, must set forth the articles purchased, number or quantity, the cost of each, and dates of purchase and payment; if for services or for services rendered, it must show the nature of service, dates of service, date of payment, and rate of pay. The written authority under which the expenditure was made must accompany each voucher, which must show the number, date, and amount of the check by which payment was made, and the name of the depository on which it was drawn.

At the end of every month each quartermaster is required to render to the Quartermaster-General a money account, showing how much money he has received during the month, and from what source; also what disbursements he has made; and he must file with such money account his receipts or vouchers for the money disbursed. This money account is critically examined in the Quartermaster-General's office, to ascertain if the officer has accounted for all the money he received; if the disbursements have been made upon proper authority; if they have been charged to the proper appropriations, and if all the calculations are correct. If no errors or irregularities are found, the account is forwarded to the Treasury Department for final settlement. If errors or irregularities are found, the officer is required to correct them,

and in forwarding his papers to the Third Auditor his attention is called to the errors or defects.

A quartermaster is also required to make, monthly, a report of persons or articles employed and hired, which must be approved by his commanding officer; and when, in the examination of the money accounts, a voucher for money paid for services is found, this report of persons is referred to, to ascertain if the employment has been approved by the commanding officer. If the service is found reported, a note is made against it that it has been paid, by whom, and on what voucher; then, if another account or voucher afterward comes in for the same service, the attempted fraud or double payment is detected at once. If services paid for are not borne on this report, the responsible officer is required to explain, and charged with the amount paid until he does so.

For all public property received, whether by purchase or otherwise, a quartermaster must make a quarterly return, showing all articles issued, expended, lost, destroyed, or sold. If he purchases property, and does not take it up on his property-return, he is charged with the money value of the property. For all that issued he must furnish receipts; [10] for all that expended the approval of his commanding officer; for that lost, evidence which clearly exonerates him; for that destroyed, orders of his commanding officer, or evidence that the destruction was unavoidable on his part; for that sold, he must file authority for the sale, and account for the money on his account-current, showing, by a receipt from the proper depository, that it has been turned in to the Treasury of the United States.

DISPOSITION OF UNSERVICEABLE ARTICLES

Unserviceable articles cannot be disposed of until they have been regularly inspected by an inspector, who recommends to the department commander the disposition to be made of them. The orders given by the department commander are

the authority under which the quartermaster disposes of the property, and he must file the orders with his proper return.

PROPERTY-RETURNS

Property-returns are critically examined at the offices of the Quartermaster-General, and at the Treasury Department, in the Auditors' and Comptrollers' Offices.

QUARTERMASTERS' FUNDS

Officers are charged at the Quartermaster-General's Office with all quartermasters' funds received by them, as ascertained by their receipts filed by other officers as vouchers for the money transferred, and they are held accountable for it until they relieve themselves by proper vouchers.

The same system of accountability, both for property and money, is required in all the bureaus of the War Department. The instance just given is but an illustration of what is required from every other bureau.

1. To the first question under the resolution, the committee can reply that all expenditures in the War Department, so far as their examinations have been made, are justified by law.

2. To the second question of the resolution, "whether claims from time to time satisfied and discharged by said Department, are supported by sufficient vouchers establishing their justness, both in character and amount; whether such claims have been discharged out of funds appropriated therefor, and whether all moneys have been disbursed in conformity with appropriation laws," the committee have to report, that it is found that all claims, so far as their examination has extended, and so far as the War Department is concerned, are supported by sufficient vouchers establishing their justness, both in character and amount, and are, as they believe, discharged out of the funds appropriated therefor, and that all moneys in that Department are disbursed in conformity with the laws.

It would be impossible for the committee to go into a detailed examination of the vouchers which accompany and support the accounts of disbursing-officers. This work is performed by the Bureau officers of the Department in the first place, and, after their examination, the process is repeated by both Auditors and Comptrollers. The vast number of these papers, the technicality of the work, the skilled knowledge of accounts, laws, and regulations, which is required in their examination, have been already pointed out; and it is believed that the examination [11] being made by so many officers, each a check upon the other, the work is now as well done as it is possible to do it.

SECURITY FOR THE PROPER APPLICATION OF PUBLIC MONEYS

3. In regard to the third question of the resolution, as to what provisions are necessary *for the more perfect application of the public moneys*, it is recommended, as a measure of security, that the act of March 30, 1868, be repealed.

JURISDICTION OF THE ACCOUNTING-OFFICERS OVER CLAIMS ARISING IN THE WAR DEPARTMENT

It is ascertained by the committee that there is a material disagreement between the officers of the War Department and the accounting-officers of the Treasury in regard to the settlement of a large class of claims over which the accounting-officers of the Treasury have exclusive jurisdiction.

The act of March 30, 1868, to amend the act of March 3, 1817 [3 Stat. L., 366], provides that said act "shall not be construed to authorize the heads of Departments to change or modify the balances that may be certified to them by the Commissioner of Customs or the Comptroller of the Treasury, but that such balances, when stated by the Auditor and properly certified by the Comptroller, as provided by that act, shall be taken and considered as final and conclusive upon the executive branch of the Government, and be subject to revision only by Congress or the proper courts: *Provided*,

That the head of the proper Department, before signing a warrant for any balance certified to him by a Comptroller, may submit to such Comptroller any facts in his judgment affecting the correctness of such balance, but the decision of the Comptroller thereon shall be final and conclusive, as hereinbefore provided."

Under this act the finding of the accounting-officers of the Treasury is made final and conclusive as to all claims which come before them, and, while allowing the head of a Department to submit any opinion or evidence touching its justness or correctness that may be afforded by his Department, yet the head of a Department has no power to alter or amend any balance that is certified by the Comptroller. The right of revision is in Congress alone. Under the operation of this law, the committee are informed that claims are sometimes, nay, often, paid, although adversely reported upon by the Secretary of War and the officers of his Department. Such settlements are always returned to the accounting-officers for review, but, upon the re-affirmation of their former decision, the Secretary is bound to issue his requisition upon the Treasury for payment, thus leaving the responsibility of payment entirely with the accounting-officers.

In some cases, however, under the seventh section of the act of June 25, 1868, (15 Stats., pp. 76, 77,) the heads of Departments are empowered to send any controverted claim, amount exceeding \$3,000, to the Court of Claims for adjudication.

Previous to the passage of the act of March 30, 1868, the theory which seems to have prevailed is well expressed in the following extract from an opinion of Attorney-General Crittenden on the jurisdiction of the accounting-officers of the Government. (5 Opin., p. 630.)

In the case of General Parker, Attorney-General Berrien said, (vol. 2, p. 303:)

"Thus far I should believe that the decision of the Second Comptroller was final, not [12] liable to question by any

other than the Secretary, acting under the authority of the President.

But the Secretary must possess this power, or Congress would not have placed him at the head of the Department of War, to be subjected to the control of a subordinate officer of the Treasury.

When the account has been settled and certified to the Secretary, he is then to issue his requisition for its amount, and, unless he is a mere machine, or liable to the control of his own or the subordinates of another Department, he must be entitled, before he does so, to review, and, if need be, to reverse the decision of the Comptroller.

If this were not so, in the case under consideration, a subordinate officer of the Treasury Department might regulate the military allowances of the Army, contrary to the will of the Secretary of War and the President of the United States.”

The act of March 30, 1868, has set aside this theory, and it has placed the sole control of all accounts and claims against the Government in the hands of the accounting-officers of the Treasury as the final judges of their legality and justness of their settlement. The War Department desires to some extent to separate the jurisdiction into two parts. Under the act of March 3, 1817, (3 Stats., page 366,) it is provided that all accounts and claims against the Government shall be settled and adjudicated by the accounting-officers of the Treasury.

In the opinion of the War Department, the distinction between accounts and claims should be more definitely settled by law. The term *account* is understood to apply in general to papers or records which fix personal responsibility for moneys or property intrusted to an individual. The term *claims* is understood to apply to written demands by individuals or communities for valuable consideration *overdue* to them for services rendered or supplies furnished. For instance, for services rendered, an employé presents his individual account showing the work, date, rate, and amount.

His account, if paid by the employer, becomes a part of the latter's accounts, and ultimately passes into the Treasury. If the employer has no authority or no funds, or refuses to pay the employé, then the moment after the money is *over-due*, and what was previously an *account* becomes a *claim*. It is believed that between claims and accounts there should be a wide distinction made.

The law of March 30, 1868, has given the settlement of claims entirely to the accounting-officers of the Treasury. The amounts that they certify as due on any particular claims are bound to be accepted by the War Department, and this although that Department, from the evidence before it, or on its files, deems the claim to be an unjust one, or the amount allowed too large. Claims are generally carefully examined in the War Department, under a regulation made by the Secretary of War, upon evidence filed in that Department, provided the claims are payable out of the appropriation for the War Department.

The Secretary of War, in these matters, under the operation of the law referred to, has no other course to pursue than to remonstrate, and then to submit. The committee are informed that claims are often paid, although adversely reported on by the War Department; but as this has been done in accordance with law, it cannot be said that the moneys have not been disbursed in conformity with law.

The committee concur in the following views. The Secretary of War, in a communication to the House of Representatives of January, 1869, remarked, in reference to this subject:

"I think safety in the allowance and payment of accounts and claims against the public Treasury would be secured, without injustice to claimants, harmony between the bureaus of the War Department and the accounting-officers of the Treasury would be promoted, and the Secretary of War would be relieved from the embarrassing position of being compelled to sign a requisition for public moneys not be-

lieved to be due, by the repealing of the act referred to, and the adoption of some such measure as this, viz:

“In cases where the accounting-officers of the Treasury admit a larger balance than the War Department deems to be correct, it shall be legal to issue a requisition for the lesser amount allowed, and the claimant may be referred to the Court of Claims; and in cases of disagreement between the head of the Department and the accounting-officers of the Treasury upon questions involving the construction of laws, the opinion of the Attorney-General shall be sought as to the proper construction to be given them, and his^d opinion shall be conclusive upon both the heads of Departments and the accounting-officers.”

APPLICATION OF PROCEEDS OF SALES OF PUBLIC PROPERTY

Under the act of May 8, 1872 [17 Stat. L., 61, 83, sec. 5], and the circular of the Treasury Department of May 15, 1872, all proceeds of sales of public property must be covered into the Treasury as miscellaneous receipts, and cannot be made available for use of the Department except under a new appropriation. The proceeds of property sold to other Departments or Bureaus are not excepted from this provision.

The supplies thus disposed of cannot, as heretofore, be replaced by purchases made with the funds derived from such sales, and the limited appropriations do not justify the Department in disposing of property without the means of replacing it.

The evil of this law is particularly shown in the Subsistence Department. Subsistence supplies being mainly articles of human food, are, as is well known to all, extremely perishable, and more or less are, from causes impossible to prevent, unavoidably lost by damage and decay, and must either be thrown away or sold, in order that the loss to the Government may be as little as possible. They are, when practicable, sold, and the proceeds, going into the Treasury as miscel-

laneous receipts, are diverted from the appropriation. Subsistence supplies are placed at a post to meet the wants of the garrison for a certain period, say six months; unforeseen necessities require the removal of the garrison to a distant point at the end of half that period; there then remains at the post a supply for three months; it is not required there, and if kept on hand will be lost by decay; if moved to the new station, its transportation alone may cost more than would be the cost of fresh supplies for the new station. A due regard for economy then requires that the supplies be sold at the old post, where they frequently bring their full cost. They are therefore sold, and the proceeds, going into the Treasury as "miscellaneous receipts," are diverted from the appropriation. Again, at many posts the necessities of the service require the presence of employés, who, from their remoteness from places at which they can procure subsistence for themselves and families, can obtain it only from the army supplies at the post. The Subsistence Department must therefore sell to them, and the proceeds, going into the Treasury as "miscellaneous receipts," are diverted from the appropriation.

At posts on the frontier it frequently occurs that emigrants, railroad and land-surveying parties, &c., through storms, hostile Indians, or other unavoidable contingencies, lose their supplies, and naturally hasten to the nearest military post, as to an oasis in the desert, as the only place at which they can purchase food to carry them to the settlements.

The Subsistence Department must sell to them or they will starve; common humanity demands such sales, and they are made, but the proceeds, going into the Treasury as "miscellaneous receipts," are diverted from the appropriation.

In the Indian country it frequently happens that unforeseen contingencies require for the best interests of the Government that temporary but immediate assistance in food be supplied to Indians, with the alternative that if not so supplied they will starve or steal. The Subsistence Department having the only supplies available at the time and place, [14]

they are issued, and their value charged to the Indian Department, to be paid for from its appropriation. But, when so paid for, the money, going into the Treasury as "miscellaneous receipts," is diverted from the appropriations for army subsistence. The supplies thus sold must be replaced to subsist the troops; consequently new stores must be purchased by the appropriation for army subsistence, but the stores sold, having been purchased by that appropriation, it follows that that appropriation is twice charged with their cost.

Attention is particularly invited to the effect of the law in the second case above mentioned—that of the movement of troops from one station to another. In such cases the law compels the adoption of one or two courses of action, either of which requires disbursements that, but for the law, could have been avoided. The appropriation for army subsistence is, of course, for the subsistence of the troops wherever they may be. It certainly is not wise that because a part of the money appropriated has been converted into stores for a part of the army at a certain place, and from the necessities of the service that part of the army is moved to another point, that such stores shall be moved to the new point at an unnecessarily increased cost, whereby reconverting the stores into money and transporting *it* only a large actual saving to the Government could be effected; nor is it just to the War Department that the appropriation shall a second time furnish money to feed this same part of the army, simply because the exigencies of the service required its station to be changed, for by such a course the cost of the army is made to appear much greater than it really is.

Could the money obtained from the sale of the stores be applied to the purchase of fresh stores, to replace those sold, the real expenditures of the Government would in nowise be increased, but the apparent expenditures would be lessened.

To make this matter clear, let us illustrate it by the following case:

Congress commands the Treasury to give \$10 to War Department to buy a barrel of flour to feed the army, and to give another \$10 to Interior Department to buy another barrel of flour to feed Indians.

The War Department gets its \$10, and with it buys a barrel of flour, but before it is actually needed, it finds the Indians starving for want of theirs. The War Department—to save their lives—lets them have its flour, and takes Interior Department's order for the other \$10 to purchase another barrel. Now, when the Treasury gives the War Department this other \$10, it cites the law, and thereupon says to it, You shall not buy another barrel, but you shall receipt for this \$10 to show I have paid it; then, you shall throw the identical \$10 into my "miscellaneous receipts," which are proceeds of "Government property," and which show collections made, and you shall never claim this \$10 again.

The results are plainly to be seen:

I. By the use of a certificate to represent Interior Department's \$10, that sum, in cash, could be managed to represent transactions which, if not based upon fiction, would require actually double that amount.

II. Congress commanded the allowance of *two* barrels of flour, but only *one* has been allowed.

III. *Two* barrels are charged for on the books of the Treasury as having been allowed and paid for, when, in fact, only one has been.

IV. The substance of the barrel represented by fiction is found in the miscellaneous receipts as an item of credit to the Treasury, while the army that has been deprived of that flour may starve for the want of the substance.

The system laid down by the law above referred to has a tendency [15] to mislead persons in looking at public matters of dollars and cents; it commences to operate by leading to confusion of public accounts, and if estimates and appropriations for the support of the Army are made upon economical grounds and true principles, then no army supplies

or rations "can be spared" to the Indians without being replaced during the fiscal year. On the other hand, if figures fixed as a *minimum* allowance for expenses of the Army admit such heavy drafts upon them for *unreasonable* Indian expenses, and if they do so without manifest injury to the Army, then the figures are not based upon good grounds and true principles.

The experience of the past six months has clearly demonstrated the evil results of the law in its application to the Army appropriations, and the consequent embarrassment to the service.

It is therefore recommended that so much of section 5 of the act of May 8, 1872, as applies to any property, funds, or appropriation under the control of the War Department be repealed.

It is also recommended that a law be passed to give to the Second Auditor the control and custody of the following claims and accounts: State War claims, (now filed with Third Auditor,) and vouchers and accounts now paid from the appropriation for collecting, drilling, and organizing volunteers.

* * * *

SIMPLIFICATION OF ACCOUNTS IN THE QUARTERMASTER'S DEPARTMENT

The simplification of the system of accounts now in operation in the Quartermaster's Department is advisable for the following reasons:

There are always seven, and this year nine, appropriations which are disbursed by the Quartermaster's Department, viz: regular supplies; incidental expenses; cavalry and artillery horses; barracks and quarters; transportation of the army; clothing and equipage; stores; erection and repairs of hospitals; and national cemeteries. Some quartermasters draw money from all of these appropriations; nearly all draw from four of them, to wit: for regular supplies; incidental

expenses; barracks and quarters, and transportation of the army.

Each officer doing duty in the Quartermaster's Department is required to make, monthly, an estimate of the funds required during the ensuing month, setting forth the exact number of men and animals for which he has to provide, the articles he requires, with the cost of each, and the persons and articles he must employ, with the rate of pay, and the total amount of money he requires from each appropriation. When he receives the funds for which he has asked, he must expend it for the purposes for which he asked it, and no other. Under the present law, (sec. [16] 2, act of February 12, 1868 [15 Stat. L., 35, 36],) an officer cannot use money appropriated for one purpose for any other. He cannot, even temporarily, use money appropriated for "barracks and quarters" for paying for transportation, &c. This often causes great embarrassment; for the exigencies of the service are constantly changing. An officer who makes an estimate of funds required for the ensuing month finds, when the money is received, that his wants are entirely different from what he expected they would be when he made the estimate. He asked, perhaps, for funds to erect temporary shelter for troops, and has received it; but, instead of going into quarters, the troops are on the move, and, instead of a sheltering-fund, he wants transportation-money, of which he has none on hand. As he cannot use the sheltering-funds he has on hand, great embarrassment ensues.

Again, the quartermaster of a post garrisoned by infantry, where there are from four to six public animals, asks and receives funds to supply their wants. Suddenly and unexpectedly the garrison is increased by the arrival of cavalry. Forage, horseshoes, horse-medicines, &c., are wanted at once. The quartermaster has no funds to buy them with, and does not know whether there are any such funds in the Treasury; hence he cannot buy for cash, and dare not buy for credit, as the law forbids any expenditure beyond the appropriation.

As the fiscal year draws to a close, and some of the appropriations are entirely drawn out of the Treasury, some of the officers of the Quartermaster's Department will have expended all of the funds in their hands belonging to such appropriations, while others will have a surplus; this necessitates transfers from one class of officers to another, often far apart and with infrequent means of communication. As the year draws still nearer to a close, the number of such transfers increases, until all the accounts are paid or the appropriations are exhausted. Great delays in the payment of accounts frequently occur under the present system, which tends to increase the expenses of the Department and oppress the creditors of the Government.

The same showing applies not only to portions of the Army, but to it as a whole, as is shown by the present condition of the appropriations for this and the last fiscal years, during which the present system of accounts has been in operation. During the last fiscal year the expenses for regular supplies of the Quartermaster's Department and for stores were greater than was anticipated, and notwithstanding the most earnest efforts to prevent the necessity for it, those appropriations were exceeded. This year the expenses on account of clothing, stores, and barracks and quarters have been considerably greater than was anticipated when the estimate was made, and, as a consequence, the Department has now no funds for clothing the Army for the remainder of the year, or for the purchase of stores. The appropriations for barracks and quarters, and incidental expenses, will soon be exhausted.

The present system of making estimates, upon which the appropriations are based, is one of long standing in the Quartermaster's Department; it is one that it is not thought best to change, as it is doubtless well for a Department to send to Congress as detailed an estimate as possible.

In 1836 there were four appropriations for the Quartermaster's Department, viz, for clothing, various expenses, allowances to officers for transportation of their baggage, and

for transportation of troops. In 1837 the number of appropriations was increased by Congress to six, viz, clothing, regular supplies, barracks and quarters, transportation of troops, and incidental expenses. In 1848 the number of appropriations [17] was increased by Congress to seven, a separate item being made for cavalry and artillery horses, which had previously been included in the appropriation for incidental expenses. But never, until July, 1870, were officers required to keep separate accounts with each appropriation. Officers in the field estimated for such amount of funds as they supposed they should want. The money was drawn from the Treasury and sent to them in a lump, and they used it without regard to, in fact did not know, the appropriation from which it was drawn. As long as the money held out, they paid all proper expenses. When their accounts were rendered to the Quartermaster-General and the accounting-officers of the Treasury Department, they were analyzed, and the amounts chargeable against the several appropriations noted on the vouchers, and entered on the books at the Treasury. It is true, that, under such a system of disbursement, some appropriations might have been overdrawn, but as the President then had power to transfer from one appropriation to another in the same Department, the deficiency in one was made good by the surplus of another, so that no law was violated, the wants of the service were well supplied, and the total expenditures did not exceed the amount appropriated.

The power of the President to transfer from one appropriation to another, conferred by the act of March 3, 1809 [2 Stat. L., 535], was taken away by the act of February 12, 1868, and the Quartermaster's Department cannot return to the old system of disbursing without some authority of law.

Some relief from the present condition of affairs is demanded by the necessities of the service. The Department is now bound to disburse its money in strict conformity to appropriations based on estimates made ten months before the year during which the money to be expended begins. If the

Army was a stationary force, its expenses could be calculated beforehand in detail with reasonable certainty, but such is not the case.

The "bill to simplify the accounts of disbursing-officers," copy herewith, has been drawn with the view of preventing the embarrassment which results from carrying out the law of February 12, 1868.

The necessity of keeping, whenever possible, in the hands of each disbursing-officer, or subject to his draft, a considerable balance of each and every appropriation which he is likely to use, instead of a general balance applicable to all, increases the amount of money lying idle, locked up in the depositories, and subject to draft by disbursing-officers, and thus increases the remittances to them and lowers the balances in the Treasury available for remittance to the posts where actually needed.

A Bill to Simplify the Accounts of Disbursing-Officers

... That the disbursing-officers of the Quartermaster's Department shall not be required to keep separate and distinct accounts with each branch of the appropriations for the annual service of the Quartermaster's Department, but shall render consolidated accounts, including all such moneys for which they are accountable at any time, and may use money remitted to them in general accordance with the appropriations from which it has been drawn, and in strict accordance with the restrictions and orders of those set in authority over them. But when their accounts for disbursements are received at the War Department and at the Treasury for settlement, the appropriation to which each item of expenditure is chargeable shall be indicated by the accounting-officers, and the adjustment of appropriation balances shall be made in the Treasury in accordance with the custom of the Treasury and of the War Department before the passage of the act of July 12, 1870. [18]

NO. 72

BOOKS AND ACCOUNTS OF THE TREASURY
DEPARTMENT. REPORT (SHERMAN),
1876⁵⁵

To Senate, June 6, 1876

Mr. [JOHN] SHERMAN [of Ohio], from the Committee on Finance, submitted the following Report:

The Committee on Finance, pursuant to instructions of the Senate by its resolution of the 24th of January last, "that the Committee on Finance be instructed to investigate the books and accounts of the Treasury Department, particularly with reference to discrepancies and alterations in amounts and figures that have been made in them, especially in the annual statements of the expenditures of the Government, revenue collected, and the public debt contained in said reports; and if any such discrepancies and alterations be found to exist, to report the same and the extent and nature thereof, the years wherein they occur, by what authority made, if any, the reasons that induced them, and to report generally such other and further information bearing upon the subject as to them may seem best, and that said committee have power to send for persons and papers," have given the subject as careful attention as their official duties permitted.

The substance of the information received by them is embodied in the following letters and statements hereto annexed and made a part of this report. The references in these statements to the various documents referred to, and especially to the annual reports of the Secretary of the Treasury on the state of the finances, made it necessary to examine all these statements, but they are too voluminous to embody in this report.

Your committee think it would best answer the purpose of the inquiry to state in general terms the result of their investigation.

⁵⁵ 44 Cong. 1 sess., S. rept. 371. 37 pp. Serial 1668.

The primary object in the organization of the Treasury Department is to secure the safe custody and legal disbursement of all the public money. A secondary object, and yet a very important one, is to secure an accurate accountability and full public statement of all receipts and expenditures by the Government. These are separate and distinct questions, the first referring to the actual custody and disbursements; the second to the proper accounts of such receipts and expenditures. Both objects are intended to be secured by the Constitution in the seventh clause of section 9, article 1, that "no money shall be drawn from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time."

By the several acts organizing the Treasury Department, it was intended to secure the safe keeping and custody of the public money, and a full statement and account of all receipts and expenditures. All money was to be covered into the Treasury; and all claims and demands whatever by the United States, or against them, and all accounts whatever in which the United States are concerned, either as debtor or creditor, were to be settled and adjusted in the Treasury Department.

When money is covered into the Treasury it is under the safeguard of the Constitution and the law. It cannot be disbursed without an appropriation by Congress; and when the appropriation is made it can only be paid out when an organized corps of accounting-officers shall concur, first, that the appropriation has been made; second, that the expenditure is within the meaning and intent of the law; third, that the amount is justly due, as shown by the voucher. Then it can be paid out by the Treasurer, and then alone can he be credited for the payment. When the payment is made the transaction is registered not only by the Treasurer himself, but by the officers specially designated to register and keep an account "of all receipts and payments by the Treasurer of the United States."

So far as the safe keeping and custody of public money covered into the Treasury is concerned, it would be difficult to point out a better mode than is provided for by existing law. Every safeguard that has been suggested has been furnished. No law can prevent the neglect or violation of their public duties by Comptrollers, Auditors, or Registers; but the guards and checks upon such misconduct are as perfect as human ingenuity could devise.

When money is covered into the Treasury it can only be paid out on a warrant of the Secretary of the Treasury, countersigned by the Comptroller and registered by the Register; which warrant is based either, first, on a proper requisition in favor of a disbursing-officer; or, second, in payment of a claim duly audited by the accounting-officers. Each of these officers performs duties independent of the other, and the signature of each is requisite to authorize and attest payments of public money. This mode, in force since the organization of the Government, is very satisfactory.

Money is covered into the Treasury by a warrant, based upon a certificate of deposit,) countersigned by the Comptroller and registered by the Register, as in case of a pay-warrant. As stated before, moneys covered into the Treasury cannot be again taken out, except through an appropriation; and even moneys erroneously covered in, as in case of customs or internal revenue, can only be recovered through an appropriation, which, in the two cases mentioned, is authorized by law; but an account has to be stated against the appropriation, as in the case of expenditures; so that by *no process* can receipts covered into the Treasury be diminished, but the expenditure is increased to the extent of the erroneous payments. In the case of moneys refunded as excess of deposits made in the customs service, the whole amount of the receipts is charged as received into the Treasury, and the amount refunded is charged to an appropriation. These are not actually and properly expenditures, yet, under the inflexible system which is controlled by the Constitution itself, every payment

from the Treasury must be made through an appropriation.

One of the most troublesome propositions before the Treasury Department is to make the expenditures of a certain fund or the accounts of a particular transaction conform to the direction of the law. The system of accounts must, then, be so universal as to be able to accommodate itself to any particular case that may arise. The act of 1836 [5 Stat. L., 52, 55, sec. 13] directed that more than \$28,000,000 surplus revenues be deposited with the States. It would have been much more convenient for the Department to have charged off from the accounts these amounts of money to each of these States with which it was deposited; but the law directed that the money should remain on deposit with the States; and hence to this day that amount of money in the public accounts is included in the account of "cash in the Treasury," although the probable intention was that it should not be repaid.

UNAVAILABLES

All money in the Treasury, wherever it may be deposited or placed for disbursement or custody, is charged to the Treasurer of the United States. It is obvious, however, that this money may be lost without fault on the part of the Treasurer, by robbery, accident, defalcation of a subordinate officer, misconduct of depositaries having it in charge, or otherwise. Still, under the law, the Treasurer is responsible, and is charged with these sums. Such a deficit would in the accounts of a firm be a simple, plain entry in the profit and loss account by crediting cash and debiting the defaulter. But from the fact before stated that money cannot be taken from the Treasury except by an appropriation, this course could not be pursued. An account called "unavailables" was created, which was charged with the amounts, and the Treasurer credited in his general account through the statement of an account by the accounting-officers. This method of relieving the Treasurer is, your committee are informed, a practice which has grown up, and is not authorized by law, and for

some years past has been prohibited by the Comptroller, and has been discontinued. It is plain that the Treasurer should be relieved from this responsibility, and that Congress should in some proper way provide by law for the dropping of these unavailable funds, by authorizing a credit to the Treasurer, and a corresponding charge against the defaulting officer, who fails to pay the money on demand. [3]

* * * *

These explanations will appear more intelligible by reference to the following scheme of accounts of the Treasury Department from 1861 to 1870, which comprises the years in which the alleged discrepancies occurred, and a comparison of which will show the perfect harmony of the public accounts. [4]

* * * *

First is the general account, to which *all* receipts are credited. The proper debit of this account is the appropriation warrants in aggregate.

The next is that of the individual appropriation accounts, which by law the Secretary is directed to carry to the credit of particular accounts. All pay-warrants are charged to their appropriate appropriations and credited to the Treasurer in his general account when paid. If unpaid at the end of the year, they are credited to an account of outstanding warrants. When warrants outstanding from a former year are paid, they are credited to the Treasurer and charged to the outstanding account. The Treasurer is also charged with all receipt-warrants paying money into the Treasury. When an appropriation has any balance remaining undrawn for the time limited by law to which the appropriation is available, a "surplus-fund" warrant is issued charging the appropriation account and crediting the general fund.

As there is no way by which money can be taken out of the Treasury except through an appropriation, the only way the Treasurer can receive credit for moneys for which he is re-

sponsible which have been lost through the defalcation of depositaries, or by which such defaulting officers can be personally charged on the books of the Department, is through the medium of an account designated "unavailables," to which all unavailable funds are charged whenever the Treasurer receives credit for them. If any amounts are afterward recovered on this account, the "unavailable" account is credited and the Treasurer charged.

An inspection of these accounts will show that the expenditures of the Government may be stated from either the appropriation account or the Treasurer's general account of receipts and expenditures, the difference being that the Treasurer's account will only show warrants *paid*, while the appropriation account will show all warrants *issued*. The harmony, then, between these two accounts, will always be complete when the outstanding warrants are taken into account.

For the years 1862, '63, '64, and '65 the receipts and expenditures of the Government were published in the finance reports, excluding the trust-funds. This was done in accordance with the custom referred to, which had obtained since 1842, and which was changed to the present system in 1866. (See Finance Report, 1865, p. 2.)

The Register of the Treasury, since the commencement of the Government, has pursued the system of stating the expenditures of the Government by the Treasurer's account, (warrants paid;) but as this account cannot be settled in time to be included in the finance report, the expenditures, as shown by the appropriation account, (warrants issued,) are used for the time being; but as soon as the Treasurer's account is settled, the correct amount by warrants paid is substituted in the published tables. During the war the settlement of the Treasurer's account was so far in arrears that the change from warrants issued to warrants paid was not made from 1862 until 1869, when the changes in the years 1862 to 1866, inclusive, were effected. [8]

NO. 73

UNSATISFACTORY METHODS OF ACCOUNTING
IN THE TREASURY DEPARTMENT.REPORT (FOSTER), 1892⁵⁶*To Congress, December 5, 1892*

* * * *

The desirability, if indeed it be not a necessity, of a change in the methods of disbursing public moneys, and the examination, adjudication, and settlement of public accounts, has long been manifest, not only to the officers of the Treasury Department charged with, and responsible for, the official working of those methods, but to many committees of Congress, standing and select, which have inquired into, and reported upon, such methods.

There is now a triplicate system of examination of public accounts, which has no counterpart in any other Government, whether European or in the several States of the Union. It is not only vexatious in respect to details, but wrong in respect to system. Beyond that, however, is the fact that it is highly expensive, without compensating results to the Government, while, in spite of the examination by three different offices and "sets" of clerks, accounts and claims are occasionally improperly adjusted or allowed.

The whole duty of control and audit appertaining to the public expenditure should be under the administrative direction of a Comptroller General or Chief Comptroller of the Treasury, within whose bureau a board of audit might be created for the determination of *quasi*-judicial questions arising in the examination, statement, and settlement of accounts, if that mode of procedure should be regarded with favor.

Standing and select committees of Congress have, from time to time, been instructed to inquire into the defects of departmental methods, and have made many valuable re-

⁵⁶ *Report of the Secretary of the Treasury on the State of the Finances, 1892*, pp. lxxviii-lxxix. See also Nos. 74, 75.

ports thereon, recommending or suggesting various changes, many of which have been enacted into law by Congress, with amendments recommended by various Secretaries of the Treasury.

Commissions or committees, composed of officers and clerks of the Treasury Department, have, from time to time, been appointed to examine into the methods of the Department, and have recommended changes which have been adopted in whole or part as "Treasury Regulations."

But these investigations and recommendations, valuable as they were, have fallen far short of meeting the requirements of the situation. In the nature of things, it is impossible for committees of Congress, with other duties and obligations as to committee and department work pressing upon its members, to give their entire time to a study of this great problem, and the same is true as to a commission composed of officers and clerks in the Treasury Department. They have their own current work to perform, most of it important (its members being [78] selected on account of their ability and efficiency), which cannot be neglected, postponed, or transferred; and then, trained and accustomed as they are to existing methods, it is but natural to suppose that they would be slow to recommend radical changes therein. For this reason, it is believed that a non-partisan commission, similar in its organization to the Interstate Commerce Commission, but limited to a period of, say, three years' duration (which can be extended temporarily, if necessary), organized exclusively for the purpose of examining into existing methods of business and work in the several Executive Departments, more especially as to the disbursement of public money and the examination, adjudication, and settlement of public accounts, with the view of either establishing simpler and more accurate, as well as economical methods, or providing for a consolidation of the accounting offices of the Treasury Department, thus accomplishing a considerable reduction in the number of employés and a resulting reduction of expenditure for

salaries, (thereby promoting the efficiency and general good of the public service) is highly desirable, and the subject is earnestly commended to the consideration of the President and Congress. [79]

CHARLES FOSTER, *Secretary of the Treasury.*

NO. 74

METHODS OF ACCOUNTING IN THE TREASURY
DEPARTMENT. REPORT (COCK-
RELL), 1894⁵⁷

To Senate, April 2, 1894

Mr. [FRANCIS M.] COCKRELL [of Missouri], from the Joint Commission of Congress to Inquire into the Status of Laws Organizing the Executive Departments, submitted the following report:

The Joint Commission of Congress to Inquire into the Status of Laws Organizing the Executive Departments, to whom was referred the bill (S. 1831) to improve the methods of accounting in the Treasury Department, and for other purposes, having considered the same, report it back herewith and recommend its passage.

The bill in general provides for a reorganization of the present accounting system of the Treasury Department. It has been examined and is approved by the Secretary of the Treasury in a letter submitted herewith.

The system was originally devised and projected on the organization of the Government, with special reference to the adjudication of claims, which then constituted the preponderating part of accounts, and for the business of the Government as it then existed, when there was no preliminary examination of accounts by administrative or disbursing officers. It appears to have been well adapted for the purpose for which it was designed.

⁵⁷ 53 Cong. 2 sess., S. rept. 293. 35 pp. Serial 3148. See Act of July 31, 1894, 28 Stat. L., 162, 205. See also Nos. 73, 75.

The Treasury Department then contained a Secretary, Comptroller, Auditor, Treasurer, and Register. Of these the only officers to which were assigned accounting were the Comptroller and the Auditor. The Secretary superintended the business of the Department, including the collection of revenue, and granted warrants countersigned by the Comptroller for the payment of money, but no authority was given him to adjust or decide upon accounts. The Treasurer was himself an accountable officer and had no authority to pass on the accounts of others. The Register had no authority over either payments or settlements, but simply kept the books of account and registered the settlements and payments made. The heads of the Executive Departments did not first pass upon accounts, and there was no general system of disbursing by disbursing officers as now.

This plan seemed well enough adapted to the transaction of the comparatively small business of the Government as then conducted. There was but a single revision of the accounts instead of practically two as now, and no unnecessary delay was occasioned in the dispatch of the public business.

The advisability of having a Register to simply keep the books and preserve the accounts may be doubted, as that function could have been performed as well either by the Secretary or the Comptroller. The value of the function of the Register seems to have been doubted, when, in establishing the Second, Third, and Fourth auditors in 1817 [3 Stat. L., 366], they were authorized to keep their own books and preserve their accounts.

If, under the immense business that now takes place in the Government, the same simplicity of details could be followed as was originally intended, no reorganization of the Department might be necessary. If all demands on the Government could be presented direct to the Auditors, and they could be passed upon and put in shape for payment and be revised only once, then paid, and the books of account for all kept in one department, the original plan might work prop-

erly for the present business; but this is impracticable, as the expenditures of the Government have become so great that it has been found necessary to make payments under the heads of the various Executive Departments.

To facilitate such business the act of January 31, 1823 [3 Stat. L., 723], was passed, allowing advances to be made to disbursing officers. Other changes, also, hereinafter referred to, have become necessary. The Government has now become such a vast machine that [1] its requirements are very carefully provided for by Congress. The appropriations are made with minute detail, and it only remains to see that the money which is appropriated for the various Departments is paid out according to the intentions of Congress.

The accounts now, in most cases, have three and sometimes four examinations; that of the disbursing officer, as to 90 per cent of the business; that of the Executive Department, that of the Auditor, and that of the Comptroller—the examinations by the Executive Department not having existed when the present system was originally established, and that by disbursing agents to a comparatively small extent. This triple and in many cases quadruple examination—two more examinations than existed originally—causes great delay, and it is questionable whether the examinations are not more loosely conducted than if there was more responsibility placed upon one of the examinations. The object of having the two examinations by the Auditor and Comptroller is to detect and prevent frauds; but in studying the matter carefully it is questionable whether these double examinations have fulfilled the expectations of their authors, and especially whether they subserved any good purpose after the preliminary administrative examination was added.

In this connection the following paragraphs from a report made to Congress in 1842, by a “select committee on retrenchment,” are pertinent:⁵⁸

* * * *

⁵⁸ See No. 63.

“The changes which have been made in the accounting system as originally established show that this system has proved inadequate as the business of the country has increased, and that experience has demonstrated so many examinations unnecessary. First, in the establishment of the General Land Office in 1812 [2 Stat. L., 716] (which was done under the direction and control of Albert Gallatin, one of the greatest Secretaries of the Treasury this country has ever had) and in the establishment of the Interior Department in 1849 the accounts of the General Land Office were by law authorized to be audited and settled in the administrative office, and to pass from there directly to the Comptroller for his decision. Secondly, in the establishment of the Auditor for the Post-Office Department in 1836 [5 Stat. L., 80, 81], his audit was made final and conclusive and not subject to revision except upon an appeal to the Comptroller.”

These cases are in line with the system provided for by this bill, and show the necessity of giving greater facility and expedition in the settlement of accounts, in order to protect the Government. The report to the House in 1842, quoted above says further:

* * * *

“It is clear that the present mode of settling accounts does not answer the demands of public justice or economy; and it is also clear that the divided responsibility does not protect the Government.”

The aim of the present bill is to place greater responsibility upon the Auditors who are now engaged in auditing accounts; to hold them responsible not only for the settlement of accounts and claims that come to them, but also make them responsible for the advancing of money to disbursing officers, their responsibility in the latter case being that they shall disapprove such requisitions for said officers if they have not complied with the law in the rendering of their accounts.

It is the intention of this bill to lessen the number of agents who now share the responsibility for the auditing of accounts,

and to concentrate it where it will be felt and where abuses can be at once detected.

In view of the fact that 90 per cent of the expenditures of Government now pass through disbursing officers who are under bond and take especial care to pay out [2] money only for purposes clearly authorized by law—who, indeed, are authorized to obtain the decisions of the Comptroller as to the construction of statutes before making payments—and who, therefore, primarily satisfy themselves of the correctness of the accounts; and in further view of the fact that the administrative officers also examine and approve these accounts coming under their control before they go to the Auditor, which examination was unknown when the original system of settlement of accounts by an Auditor and revision by a Comptroller was established, it would seem to be entirely unnecessary to have these accounts pass through any further revision as to mere mathematical computations under well-settled laws after the proper Auditor has examined them and ascertained and stated the balances. This bill, therefore, makes this audit final, except as to decisions involving new constructions of statutes, subject to appeal by the claimant, or by the Comptroller, head of a department, or the Secretary of the Treasury on behalf of the Government. Thus all the time now required in the Comptroller's Office to repeat the useless revision of mere mathematical computations is saved.

To guard against the possibility of collusion in the settlement of the few classes of claims which have not had a previous examination and approval by an administrative officer, the Auditor is required to submit such claims to two clerks to examine independently, and a favorable report is required from both to settle the same.

Above the six Auditors is placed one Comptroller, with his assistant, to revise the few settlements appealed from the Auditor, but mainly to determine finally the construction of statutes either by revision on the Auditor's report of decisions, or on appeal.

The advantage of having one Comptroller to stand in the same relation to the Auditors as an appellate court to inferior courts, instead of two or (with the Commissioner of Customs) three, as now, to make final decisions as to construction of statutes, is so clear that it requires no argument. As it is now statutes sometimes receive contradictory constructions by the different Comptrollers. Under the system proposed there will be uniform constructions of statutes in the accounting branch of the Government, and the fact that one officer is charged with this judicial duty, and relieved from mere mathematical computations, will be likely to lead to more satisfactory results.

When it is borne in mind that all the material changes in revising accounts by the Comptroller arise from the fact that sometimes the latter officer modifies the Auditor's decisions as to the construction of statutes, it will be seen that the system of accounting proposed by this bill secures revision at the only point where it can possibly subserve the public interests, and dispenses with it in the great body of accounts where nothing but mathematical computations are concerned, and where revision is useless for security and the cause of great delay in the settlement of accounts.

To still further promote expedition in the transaction of public business and increase the security of the Government through a more speedy settlement of the accounts of officials, disbursing and other officers charged with the custody of public money are required to make prompt returns under such provisions as are likely to make the requirement effective.

In addition to simplifying, unifying, and expediting the settlement of public accounts, it is estimated that the bill will effect a reduction of the force in the accounting branches of the Government and result in an annual saving of about \$200,000, and at the same time better protect the public interests.

The following synopsis of the several sections of the bill will more fully explain the proposed plan of accounting:

Section 1 of the bill provides a new nomenclature for the Auditors. The present numbers indicate nothing; and the names as given them in section 1 will indicate the accounts which they audit, and should be a great advantage to anyone having any business with accounts or claims.

Section 2 of the act abolishes the offices of Second Comptroller, Deputy Second Comptroller, and Deputy First Comptroller of the Treasury, and constitutes the First Comptroller as Comptroller of the Treasury, with all the duties and responsibilities and powers that are now appertaining to the First and Second Comptrollers of the Treasury: This will, concentrate in one head all the legal direction in the settlement of accounts, and will prevent the conflict and confusion which arises from the fact of having two Comptrollers with the same powers. Much advantage will be gained by having one head to the accounting branch.

This section also provides for an Assistant Comptroller and a chief clerk, who shall perform such duties as may be prescribed by the Comptroller of the Treasury. [3]

Section 3 of the bill provides that the Comptroller of the Treasury shall, under the direction of the Secretary of the Treasury, prescribe the forms of keeping and rendering accounts. The present law gives this power to the Secretary of the Treasury, and in some cases to the Comptroller. This section makes all such orders uniform. The same section also provides for the supervision of the Comptroller of the Treasury over the making of returns for fees from consuls and consular agents. These returns are now made under the Secretary of State, and, being accounting, the returns should be made as prescribed by the Comptroller.

Section 4 amends section 271 of the Revised Statutes so as to bring it into conformity with the proposed system without changing the authority vested in the Comptroller.

Section 5 defines the accounts which the various Auditors of the Treasury shall receive and examine. This section is intended to cover all accounts which are now rendered, or any

which shall hereafter arise, it being intended that the accounts from the various Executive Departments shall go to the Auditor designated for that Department.

Five of these Auditors have each of them a department over whose accounts they shall have supervision. The remaining Auditor is called the Auditor for the State and other Departments, whose duty is to receive and examine all accounts of salaries and incidental expenses of the offices of the Secretary of State, the Attorney-General, and the Secretary of Agriculture, and all accounts relating to independent commissions and boards not under an Executive Department. The jurisdiction of the Auditor for the Post-Office Department is not changed, except that he shall hereafter audit, in addition to what he now audits, the accounts of salaries and incidental expenses of the office of Postmaster-General, which are now audited by the Fifth Auditor through an accidental omission in the law establishing this office.

When the Auditor for the Post-Office Department was established, in 1836, the accounts of the Post-Office Department were then audited by the Fifth Auditor; and in giving the jurisdiction of the Sixth Auditor over the post-office accounts they omitted to give him jurisdiction over the accounts for salaries and incidental expenses of the Post-Office Department, leaving such accounts with the Fifth Auditor. The same power of the Comptroller is extended over the Sixth Auditor as he will have over the others; that is, he can call up any account at any time for revision.

Section 6 provides that the settlement of accounts shall be final and conclusive upon the Executive branch of the Government, except upon an appeal, which appeal can be taken by the person whose account is being settled, by the head of the Executive Department or independent establishment to which the account belongs, or by the Comptroller of the Treasury, within a year. Upon such an appeal being taken, the Comptroller is to audit and settle such account, and his decision shall be final and conclusive upon the executive

branch of the Government. It also provides that the Secretary of the Treasury may, in his judgment, suspend payment and direct the reëxamination of any account, which reëxamination may be had of an account examined by an Auditor when it has not been appealed, or after its examination by the Comptroller when the account has been appealed. This is to provide against any possible accidents of passing an account improperly by reason of not having knowledge of certain facts which might become known after an account had been passed.

This section also provides that an Auditor in passing an account, having occasion to pass upon a construction of a statute which has not already been construed, or in changing the construction of a statute which has already been passed upon, shall send his decision upon such original construction or change of construction to the Comptroller of the Treasury. This clause is intended to provide the opportunity of presenting to the Comptroller, for his decision, all matters of a legal nature or matters of importance, it being the intention of this statute that the audit of the Comptroller, which is now practically the only audit which is had, shall be moved back to the Auditors, they to be clothed with responsibility; and that over them there shall be this jurisdiction of the Comptroller and this provision for an appeal.

The same section also provides that disbursing officers or heads of the Executive Departments may obtain the decision of the Comptroller upon any question involving a payment to be made by them, which will bind the Auditors and the Comptroller in passing upon the account containing such disbursement. This is intended as a measure of relief for disbursing officers, and also to allow the Executive Departments to know what the action of the Comptroller will be before an expense is incurred by them. [4]

Section 7 provides that any laws of the Revised Statutes in force relating to an Auditor of the Treasury may apply to the Auditors as constituted in this bill,

Section 8 provides that all the books of the Government shall be kept in one office, and that office under the direction of the Secretary of the Treasury. The division which is given direction of these books is now the Division of Warrants, Estimates, and Appropriations. They have now the ledger accounts of all appropriations, and also the accounts of the public debt, and bonded railroad companies.

This section provides that the books of account, or personal ledgers, now kept in the Register's Office, and those kept in the offices of the Second, Third, and Fourth Auditors, shall be removed to this division. This will give uniformity in the direction of these personal and general accounts, and will allow the rendering of statements under one head, and that head the Secretary of the Treasury. This should prevent the confusion and conflict in the statements which now exists.

Section 9 provides that every requisition for the advance of money, before being acted upon by the Secretary of the Treasury, shall be sent to the proper Auditor for his action, as required by section 10.

Section 10 provides that the Auditor shall withhold his approval unless the accounts are forwarded to the Department at Washington within the time specified, and shall be forwarded by the administrative department to the Auditor within another specified time. It is impossible to make any regulations or rules which will compel the prompt rendering of accounts. It is necessary to make a stringent law. Section 3622 of the Revised Statutes prescribes that accounts shall be rendered within a certain time, but it is not complied with.

Sections 9 and 10 of this act will do more for the protection of the Government than a dozen reëxaminations of accounts. Section 9 also provides that warrants signed by the Secretary of the Treasury shall be countersigned by the Comptroller of the Treasury, and that they shall be accompanied either by the Auditor's certificate of the settlement of an account or by a requisition asking for an advance of money; and provides

further that this certificate or requisition shall go to the Treasurer, and from him be sent to the proper Auditor, with the date and amount of the draft issued indorsed thereon.

This completes the circle. The Auditor audits the account. It then passes from the hands of the bookkeeping division to the Secretary of the Treasury, and through the Comptroller's Office to the Treasurer, and then comes back to the Auditor with the amount and date of the payment noted. It is evidence to him that the proper amount has been paid as audited, in the case of a settlement; or that an advance has been made in accordance with the requisition. In the settlement of accounts, the Auditor will get from the bookkeeper a statement of the officer's account. He will then have on hand in his own office the requisition asking for the advance, which will be a check upon the bookkeeper.

Section 11 provides that the accounts of all district attorneys, marshals, etc., shall be sent to the Department of Justice before going to the Auditor. These are very unsatisfactory accounts, and it seems wise to have the Attorney-General or his assistants to supervise them before they reach the Auditor. Section 368 of the Revised Statutes now provides that the Attorney-General shall supervise them, but as he does not have the accounts, nor, in fact, ever see them, as by the present law they are sent direct to the Auditor, it is very questionable as to what extent his supervision can go.

Section 11 will give him the power of having proper supervision over these accounts as the law now contemplates. The same section also provides that the judges shall be paid monthly by the disbursing officer of the Department of Justice. It is proposed that this shall be done with a pay roll properly certified. This will save a great many separate statements going through the accounting officer to the Treasury, and will be a more prompt means of paying the judges.

Section 12 provides that claims which come direct to the Auditors from the claimants shall be examined by two divisions in the Auditor's office to which they go. This will pro-

vide against any possible opportunity for collusion or carelessness. These claims are not very numerous in class, and this provision can be very readily carried out.

Section 13 provides that the Secretary of the Treasury shall render to Congress on the first day of the regular session each year an annual combined statement of the receipts and expenditures of all public money, to include those of the Post-Office Department. There is a statement similar to this rendered informally by a division of the Secretary's Office. This statement is of more use to Congress than any other which [5] is rendered, and it is proposed to make this a regular report and include the Post-Office Department.

Section 14 relates to the payment of an outstanding liability, and simply amends the statutes so as to provide that the certificate in such case shall be signed by the Secretary of the Treasury instead of the Register of the Treasury, for the reason that this act transfers the records to the division of bookkeeping and warrants.

Section 15 provides for the certification of books and proceedings which may be required in any suit at law.

Section 16 provides that all contracts relating to the payment or advance of money shall be deposited promptly in the offices of the Auditors of the Treasury. Such contracts are now filed with the Comptrollers. The Auditors have now to borrow contracts from the Comptrollers when they have occasion to use them in settling accounts. It is proposed by this section that they shall be filed where they are needed.

Section 17 provides for the settlement of accounts which may be in the offices of the Comptrollers on the first day of July, 1894, when this law is intended to go into effect.

The bill (H.R. 5750) reported by this commission and passed by the House abolishes the Commissioner of Customs, and provides a proper check or audit on the customs receipts. This bill provides proper protection for the Government in all other of its accounts.

So much inconvenience and delay have arisen from the

existing accounting system that various attempts have been made to simplify and make more efficient the accounting department of the Government, and to this end reports have been made to Congress showing the necessity which has appeared for such improvements. We quote as follows:

Report of Levi Woodbury, Secretary of the Treasury, made to the Senate December 8, 1831, . . .⁵⁹

* * * *

Document No. 71, which is a report made by P. G. Washington to the Twenty-fourth Congress, second session, January 6, 1837, entitled "An inquiry into the practicability of simplifying the system of public accounts," contains the following:⁶⁰

It is evident that some simplification of the present methods is necessary. The business of the Government has become so vast that already the public business is greatly delayed, and unless the system is simplified at an early date congestion is bound [6] to occur. The system proposed by this bill seems to meet the requirements of the situation better than any plan which has heretofore been proposed, and can be more readily put into operation.

The report of the experts, showing the details necessary to carry out the proposed arrangement, is attached hereto as an appendix. [7]

* * * *

APPENDIX

* * * *

The present system is an outgrowth of that established by the act of September 2, 1789 [1 Stat. L., 65], which created an Auditor, a Comptroller, a Treasurer, and a Register within the Treasury Department. In the beginning of the operations of the Government, the business of the accounting branch consisted of the examination and settlement of claims.

⁵⁹ See No. 58.

⁶⁰ See No. 57.

These claims were presented in person or forwarded to the Auditor, who considered all the evidence and facts in the case, drew up a settlement, and forwarded it to the Comptroller for his decision.

This system was not found adequate for the settlement of the business of the War and Navy Departments. The act of May 8, 1792 [1 Stat. L., 279], created an accountant for the War Department, and the act of July 16, 1798 [1 Stat. L., 610], created an accountant for the Navy Department. The accounts of expenditures on account of these Departments were settled by them.

The act of April 29, 1816 [3 Stat. L., 322], supplementary to the act of May 8, 1792, created an additional accountant for the War Department.

On the occasions of the said acts of 1792 and 1798, the disbursements of the Treasurer for the appropriations of the War and Navy Departments, were required to be made, not by warrants of the Secretary of the Treasury countersigned by the Comptroller of the Treasury, as previously done in pursuance of the requisitions of those departments, according to the act of 1789, but by warrants of the Secretaries of War and Navy, countersigned by their respective accountants, who were, nevertheless, partially held in check, by being required to report their settlements, from time to time, for the revision and approval of the officers of the Treasury.

The act of March 3, 1817 [3 Stat. L., 366], restored all settlements of accounts to the Treasury Department, and abolished the offices of accountants of the War and accountant of the Navy Departments, and created, the Second, Third, Fourth, and Fifth Auditors, and the Second Comptroller; the Second and Third Auditors to audit the accounts of the War Department, and the Fourth Auditor to audit the accounts of the Navy Department; the accounts of these three Auditors to be reviewed or revised by the Second Comptroller; the Fifth Auditor to have the accounts of the State Department,

Post-Office Department, and Indian Affairs, to be revised by the First Comptroller.

The act of April 25, 1812 [2 Stat. L., 716, 717], created the General Land Office in the Department of the Treasury, the head of said office to be styled "Commissioner of the General Land Office." Section 9 of said act provides—

"That all returns relative to public lands, heretofore directed to be made to the Secretary of the Treasury, shall hereafter be made to the said Commissioner, who shall have power to audit and settle all public accounts relative to the public lands; *Provided*, That it shall be the duty of the said Commissioner, upon the settlement of any such account, to certify the balance, and transmit the account with the vouchers and certificate to the Comptroller of the Treasury for his examination and decision thereon." [9]

The act of March 3, 1849 [9 Stat. L., 395], provides—

"That the Secretary of the Interior shall perform all the duties in relation to the General Land Office, of supervision and appeal, now discharged by the Secretary of the Treasury; and the said Secretary of the Interior shall sign all requisitions for the advance or payment of money out of the Treasury on estimates or accounts approved or certified by the Commissioner of the General Land Office, subject to the same control now exercised by the First Comptroller of the Treasury."

The act of July 2, 1836 [5 Stat. L., 80, 81], created the "Auditor of the Treasury for the Post-Office Department" (commonly called the Sixth Auditor), whose duty it is to audit and settle all accounts arising in the Post-Office Department, or relative thereto, and certify the balances arising thereon to the Postmaster-General, with the provision of an appeal to the First Comptroller.

Thus we have a system consisting of six Auditors, and . . . of two Comptrollers and a Register. The settlements of the First and Fifth Auditors are reexamined and reviewed by the First Comptroller; the settlements of the Second, Third, and

Fourth Auditor are reexamined and reviewed by the Second Comptroller. The settlements of the Sixth Auditor are not reviewed by any Comptroller, except upon an appeal, when they are reviewed by the First Comptroller. The Commissioner of the General Land Office acts as the Auditor for the land accounts, and settlements are reexamined and revised by the First Comptroller.

The present system is one of confusion, delay, and vexation, and we have failed to find anyone who has ever had any transactions with the Government, either as a claimant, as an officer of the Government, or on behalf of either, who has not just cause for complaint from the manner in which the Government audits accounts. It is the result of additions to the original system, patchwork, as it were, and is incongruous and complicated.

The creation, in 1812, of the General Land Office, an administrative bureau in the Treasury Department, with power to audit and settle accounts of land transactions, subject only to the examination and revision of the Comptroller, and the requirement that only one examination of these accounts should be made in the Treasury Department after the removal of the administrative jurisdiction to the Interior Department in 1849, and the creation of the Auditor for the Post Office Department in 1836, making his settlement of an account final except upon an appeal, are the only changes in the accounting system which are progressive in their character.

The accounting department was established, as previously stated, to govern the audit of claims. The system of expenditures since that time has undergone a complete change.

The act of January 31, 1823 [3 Stat. L., 723], (section 3648 R.S.) entitled "An act concerning the disbursement of public money," after making a general prohibition of advances of public money to contractors, agents, etc., provided—

"That it shall be lawful, under the special direction of the President of the United States, to make such advances to the disbursing officers of the Government as may be necessary to

the faithful and prompt discharge of their respective duties, etc.”

The system of disbursing money by the Government at present is that, after the appropriation for the expenditure is made, the money, for the most part, advanced to the disbursing agents of the various Executive Departments, to be expended according to law; and the disbursing agent exercises as much care and as much effort to keep within the law as was probably exercised originally by the Auditor; the disbursing agent makes up his account covering his expenditures, and this account in most cases is revised in a Bureau in the Executive Department under which the disbursing agent acts. The account is then sent to the proper Auditor for settlement under the Treasury Department accounting system, which system is so inoperative that it is found necessary to make advances to disbursing agents although there may be very large balances against them on the books of the Auditors or the Register of the Treasury. [10]

* * * *

The same state of affairs exists in the offices of the Second and Fourth Auditors and the Register of the Treasury. The balances against the officers on the books of the Second and Fourth Auditors and the Register aggregate many millions, as they are accounts of paymasters and Indian agents and others, representing large advances. The settlements of the larger of these accounts are very much in arrears.

Advances are continually made to these officers, irrespective of the large balances charged against them. Thus the safeguards or checks upon the disbursing officers rest almost entirely with the heads of the Executive Departments under which the disbursements are made, and the work of the Auditors has, therefore, become only a technical examination of accounts long after payments have taken place, and the Auditors are not a factor in the active business of the Government.

The Auditors and Comptrollers have a large force of clerks to go over these accounts, in some cases years after the

disbursements have been made, and an immense amount of time and labor is taken in establishing small differences, due for the most part to technical errors. The Auditors can not, on account of the unwieldy system that prevails and the time required to handle these accounts by the double detailed examination, be a proper check upon the disbursing officers.

The time elapsing from the date of rendering until the final settlement of the accounts passing through the several Auditors' offices is as follows:

First Auditor's Office, from two to six months.

Second Auditor's Office, from six months to two years.

Third Auditor's Office, from nine to seventeen months.

Fourth Auditor's Office, from five months to one year.

Fifth Auditor's Office, from three to six months.

Commissioner of the General Land Office, from three to four months.

These figures represent an average of the various classes of accounts, and many, of course, are delayed a much longer period. There are scarcely any accounts finally settled within a reasonable period, while for some of the officers who have gone out of service, as, for instance, Indian agents, it is as much as five years before the accounts are settled, and during all this time the vouchers and papers lie in one or another of the offices of the Treasury or administrative departments.

In order to determine the condition of a disbursing officer's account, assuming that the auditor examined it promptly, it would then have to go to one of the Comptrollers, and the Auditor would lose all control of it; the Comptroller would then have jurisdiction of the account and could take it up when he saw fit. The clerk in his department would ignore all the decisions or work of the Auditor, making his own findings, which, being confirmed by the Comptroller, would make the decisions thereon final and conclusive, and the result or settlement would then be entered upon the disbursing officer's account; thus the result of the audit is the finding of

the Comptroller alone, and is in no way dependent upon any work done in the Auditor's office.

It would seem to be consistent with good business principles and a means of protection to the interests of the Government, if the Auditors were some check upon the disbursing officers who are expending vast sums of the public money; and if it were required that the accounts of disbursing officers should reach the Auditor within a specified time after the close of the period covered by the accounts, and that they should be audited within another specified period; and that the result of this examination or accounting should be known before further advances are made to the said disbursing officer. It would take less time and less labor to audit the accounts promptly than it takes now under the present cumbrous and antiquated system. In order to be able to audit these accounts promptly, thereby securing a close and efficient check over the disbursing officer, the second and unnecessary examination by the Comptroller must be stopped; and the audit of the Auditor should be final and conclusive upon the Executive branch of the Government, except in case of an appeal, when a revision of the account should be made by the Comptroller.

Under present conditions, with the vast expenditures by the Government, it would be impossible to construct an active and efficient accounting department in which the accounts would have to be revised by two different Auditors or Comptrollers. The double detailed examination in the Treasury Department is unnecessary, as the administrative officers keep as close a supervision over, and make as careful an examination of, their expenditures as was originally done by the Auditor at the foundation of the Government. [11]

* * * *

Most of these claims are passed upon, as shown, by an administrative officer before they reach the auditors. In the case of those not so passed upon the number of classes are few, and the Auditor for the Government's protection should have

such claims passed through two divisions of his office, making the joint action of both divisions necessary to complete the audit. The claims for back pay and bounty are an example of those requiring a joint double audit.

From a careful examination of a vast number of these back pay and bounty claims it was ascertained that the Second Comptroller's revision in most cases established only differences of opinion.

In the case of judicial accounts they should be sent to the Department of Justice and be examined before going to the Auditor. This would give the Attorney-General's Department a more efficient mode of supervising these very unsatisfactory accounts. The most of them are, in accordance with the statutes, on the fee plan. Those from marshals exhibit a variety of methods for computing the various items in their accounts, and there exist different opinions as to the law relating thereto, which causes constant difficulty in making the settlements, not only as between the marshal and the Auditor, but as between the Auditor and the Comptroller.

While nearly every account is changed by reason of the corrections and differences of opinion, there is, in the aggregate, nothing involved intrinsically to the Government, for, after all the changes have been made, the allowances about offset the previous disallowances.

This plan would facilitate, with equal protection to the Government, the audit of judicial accounts, but it would not obviate the difficulties which exist in consequence of the laws relating to the compensation of these officers. It is very desirable for the interests of the Government as well as of the said officers that these laws should be simplified.

The Register of the Treasury is generally known as the "official bookkeeper of the United States," but such designation is not warranted, as the books for all *personal accounts* audited by the Second, Third, Fourth, and Sixth Auditors are kept in their respective offices, and the Register has no record of these accounts. In order to make a complete and

satisfactory exhibit of the financial affairs of the Government, all accounts should be brought together in one office, which office making this true and complete showing should be that of the Secretary of the Treasury. The Secretary of the Treasury is the head of the finance department of the Government, and it is his duty to digest, prepare, and lay before Congress at the beginning of every session a *report* on the subject of finance, including estimates of public *revenue* and *expenditures* and plans for improving and increasing the revenue from time to time for the purpose of giving information to Congress in adopting modes of raising the money requisite to meet the public expenditures.

It would seem, therefore, proper to place under his immediate superintendence or direction all of the general books of the Government, holding him responsible for the statements as to the receipts and expenditures and financial operations of the Government.

The law requires, and should continue to require, the signature of the Secretary of the Treasury upon all warrants for money advanced or expended out of, and upon all warrants for the covering of the revenue into, the general Treasury. This makes it necessary for him to be aware of the status of the accounts for which he signs warrants. He should continue to receive from his own office the information which he now receives as to appropriations, etc., and should also have knowledge and supervision of all public accounts. To provide for this, the Division of Warrants, Estimates and Appropriations, which he now has to give him the required information, should be enlarged to take in the personal ledgers which are now kept in the offices of the Register of the Treasury and of the Second, Third, and Fourth Auditors, to be called the Division of Bookkeeping and Warrants.

The one exception to the plan of bringing all accounts together in one office under one supervision is that of the Sixth Auditor of the Treasury, or Auditor for the Post-Office Department. The post-office funds are kept separate from those

of the general Treasury and are drawn upon by warrants of the Postmaster-General, countersigned by the Sixth Auditor of the Treasury; and it therefore would seem advisable (at the present time) not to bring these accounts into the same office as that of the other accounts of the Government, as the funds are not under the control of the Secretary of the Treasury; but the total receipts and expenditures should be reported to the Secretary of the Treasury quarterly, to be incorporated into the general reports. [14]

Combining the books under one head, and that head the Secretary of the Treasury, would afford that officer facilities for making complete aggregate statements of the financial operations of all the Departments of the Government; and such statements should be made for given periods by the Secretary of the Treasury, from time to time, and be known as the official and authentic statements; and he should render to Congress, at the beginning of each regular session, a combined statement of receipts and expenditures, including those of the postal service; and he should cause the accounts of all receipts and expenditures to be so kept as to enable him to give to Congress, on the call of either House thereof, a statement of the details of all receipts and expenditures for any period, by months, quarters, or years. And, further, it should be required that other Departments of the Government should use the figures quoted by the Secretary of the Treasury, when making official detailed statements relating to the financial affairs of the respective Departments. It is confusing and misleading to render two statements of the same thing, for the same period, by two offices, which show different results. [15]

* * * *

It is recommended by this report that:

The office of Second Comptroller be abolished, thus concentrating in one head—the Comptroller of the Treasury—all decisions, legal or otherwise, relating to the accounting branch; and obviating the conflict of opinions that occasionally occur as between the officers acting finally upon the accounts,

and the consequent confusion and dissatisfaction that exists on the part of those having accounts to be settled, by reason of having opposing current decisions relating to transactions of the same or similar character.

There be six auditors in the Treasury Department to audit the accounts of the Government, whose audit shall be final and conclusive upon the Executive branch of the Government, except in the case of an appeal by the claimant, or one whose account is being settled, or by the Executive Department under whose jurisdiction the claim or account comes, or by the Comptroller; and in case of such an appeal being taken the account shall be re-examined or revised by the Comptroller of the Treasury, and upon such revision by him, his decision shall be final and conclusive upon the Executive branch of the Government; and any differences found by him in such revision shall be forwarded to the Auditor who made the examination, to have an account for such differences stated.

In new decisions involving the construction of a statute and in all cases of doubt on the part of an Auditor as to the law in the case, it should be provided that the Auditor shall refer to the Comptroller for his decision, which decision shall govern the Auditor in auditing the account.

The manner of proceedings in issuing warrants for payments shall be as follows: After receiving from any of the auditors a certificate of a balance the chief of the division of bookkeeping and warrants shall enter the same upon his books and return it to the Auditor except in case where payment is to be made, in which case he shall deliver it, together with a warrant, unsigned, to the Secretary of the Treasury. The Secretary after signing the warrant, shall send the certificate and warrant to the Comptroller, who, after countersigning the latter, shall send the warrant and certificate to the Treasurer for draft to issue, and the Treasurer, after indorsing the date of such draft upon the certificate, shall return it to the Auditor from whom it came, to be by him filed. Warrants, as at present, shall be retained by the Treasurer and transmitted to-

gether with his accounts to the Auditor of the Treasury for the Department of the Treasury, except covering-in warrants, which shall be sent by him at once to the proper Auditor. This course may be arrested in order that there may be a revision of the accounts or for other reasons arising out of the powers and duties of any of the officers concerned. The laws concerning warrants issued by the Postmaster-General are not intended to be in any way changed.

The method of procedure in covering money into the Treasury in proper cases shall be as follows: Lists of receipts of moneys to be covered into the Treasury shall be transmitted to the chief of the division of bookkeeping and warrants, who shall prepare [16] warrants, shall debit the Treasurer and credit the proper accounts, and give notice of such action to the administrative officers concerned. The list and warrant shall then, in each case, be sent to the Secretary of the Treasury for signature of the warrant, to the Comptroller for countersignature and credit, and to the Treasurer for checking against the reports of depositories and receipt. The list shall be filed by the Treasurer as now, and the warrant sent to the proper Auditor to be filed by the proper account.

The method of procedure in advancing money in proper cases shall be as follows: Upon receipt at the Department of the Treasury, a requisition for an advance of money shall be transmitted to the chief of the division of bookkeeping and warrants, who shall note thereon the condition of the accounts of the officer for whom the advance is requested, and send the requisition to the proper Auditor for his approval or disapproval, according to the condition of the officer's accounts. If approved, the requisition shall be sent to the chief of the division of bookkeeping and warrants, who shall prepare a warrant and debit the amount thereof to the officer for whom the advance is to be made. The warrant, unsigned, shall go to the Secretary, together with the requisition, and he, after signing the warrant, shall send both to the Comptroller for his countersignature to the warrant, after affixing which he

shall send the warrant and requisition to the Treasurer for a draft to be issued, and the requisition, with the date of such draft indorsed thereon, shall be sent by the Treasurer to the Auditor to be filed with the proper officer's accounts.

It should be provided that disbursing officers may apply for, and the Comptroller shall render his decision, upon any question involving a payment to be made by them, which decision, when rendered by the Comptroller, shall govern the Auditor and the Comptroller in passing upon the account containing said disbursement.

The accounts of the different Executive Departments go to various auditors; those for the War Department being audited by the First, Second, and Third auditors; those of the Interior Department going to all of the auditors except the Sixth, and are reviewed by both of the comptrollers, and the land accounts from the Interior Department do not go to any Auditor, but are sent direct to the First Comptroller. The Post-Office accounts are audited and finally settled by the Sixth Auditor and do not go to a Comptroller except upon an appeal. It is often difficult to determine just where accounts should be settled. In some instances it has been necessary to get the opinion of the Attorney-General as to which Auditor should handle the accounts. To avoid this confusion, it is recommended that the titles of the six auditors shall be distinctive as to the accounts over which they shall have supervision, as follows:

Auditor of the Treasury for the Department of the Treasury.

Auditor of the Treasury for the Department of War.

Auditor of the Treasury for the Department of the Interior.

Auditor of the Treasury for the Department of the Navy.

Auditor of the Treasury for the Departments of State, Justice, and Agricultural, Legislative and Miscellaneous Establishments.

Auditor of the Treasury for the Post-Office Department.

They shall be known as follows:

- Auditor for Treasury Department.
- Auditor for War Department.
- Auditor for Interior Department.
- Auditor for Navy Department.
- Auditor for State and other Departments.
- Auditor for Post-Office Department. [17]

* * * *

The proposed change will cause a prompt settlement of all officers' accounts, with an appeal from the decision of the Auditor, whereby a review or revision of the account can be had by the Comptroller. This will do much towards removing the irritation and friction that is known to exist between the officers connected with the administrative departments of the Government and the Government's accounting officers; and this prompt settlement will be a greater protection to the Government in all respects than can possibly be had under the present arrangement.

The proposed system, besides providing for a prompt and efficient check upon disbursing officers' accounts and advances to them, will also expedite the settlement of claims without in any way destroying the efficiency of the check now had. The dispensing with the countersignature of warrants by the Register will facilitate the business and take away no necessary check, as the countersignature of the First Comptroller upon warrants of the Secretary of the Treasury, which countersignature is based upon information as to appropriations kept in the ledgers in his office, upon information contained in the settlements of accounts made by the Auditors, or upon information contained in the requisition asking for an advance, affords as much protection as is now afforded by the countersignature of the Register, and the delay and circumlocution made necessary by the present law in the office of the latter will be avoided.

The recommendations as to the Government's books of account will afford the Secretary of the Treasury the oppor-

tunity of rendering correct and authentic reports as to the financial operations and condition of the Government. Such reports can be based upon information taken from books of account which are up to date and which can be balanced and proved. This improvement alone will be of incalculable advantage to Congress, the Executive Departments, and to the people.

Statutory provisions are necessary, in order to carry into effect the recommendations contained herein. [35]

J. W. REINHART,
C. W. HASKINS,
E. W. SELLS,
Experts.

NO. 75

IMPROVING METHODS OF ACCOUNTING IN
THE TREASURY DEPARTMENT.DEBATE, 1894⁶¹*House of Representatives, March 8, 1894*

Mr. [JAMES D.] RICHARDSON of Tennessee. I now call up the bill (H. R. 5750) to improve the methods of accounting in the Treasury Department, and for other purposes, reported by the Joint Com- [2733] mission to examine into the Executive Departments. [2734]

* * * *

Mr. [HENRY M.] BAKER⁶² of New Hampshire. Mr. Speaker, I think this is a matter of altogether too much importance to be passed simply on the reading of this report. I would like to have this committee explain why they propose to change the entire system of accounting which has prevailed from the foundation of the Government to the present

⁶¹ *Congressional Record*, Vol. 26, Pt. 3, pp. 2733-44; Pt. 5, pp. 4335-54; Pt. 8, pp. 7470-87. See Act of July 31, 1894, 28 Stat. L., 162, 205. See also Nos. 73, 74.

⁶² Clerk in the Treasury (Third Auditor's Office) and War Departments between 1864 and 1874.

moment. The system was established by Hamilton, and has been going on in the manner which now obtains with slight changes ever since. As I understand it, this bill proposes to do away with the final examination of all the accounts and accounting relating to the business of disbursements in the collection of revenues from customs, and also in connection with the income from customs, amounting to something like \$200,000,000 per year; and it seems to me that that should be proceeded with with the utmost caution and care.

* * * *

Now, I find in this report, on page 3, that it is said that the accounts have been reviewed, and that the Marine Hospital Service accounts are reviewed by the office of the Supervising Surgeon-General. There is a vast difference, Mr. Speaker, between a review and an accounting. One simply relates to the question of the several expenditures, and the other relates to whether the several expenditures have been authorized by the administrative branch of the Treasury Department, and correctly made and accounted for. There is nothing more than that done in the Marine Hospital division, and nothing more in relation to the light-houses, in the office of the Light-House Commission. Nothing more in relation to all the other accounts mentioned in this report. Then this question of the authorization by the several divisions is not only considered by the accounting officers, but also the question whether those authorizations are in accordance with law, whether they have been practically carried on in accordance with the law, and whether they are in accord with the appropriations which have been made by Congress.

Now, this is true in relation to all the disbursements for the payment of the expenses of collecting the revenues from customs, amounting to \$6,000,000 per year. It is said in this report that these disbursements are authorized by the Secretary of the Treasury. It is true they are authorized; but there is a vast difference between the authorization of an expenditure of \$6,000,000 and an accounting for that expenditure

when disbursed. That accounting for disbursements never goes to the Secretary of the Treasury. It does not now and never has. Secondly, when it comes to the First Auditor, with the proper vouchers, if this bill passes, there is only one examination of an expenditure of this Government amounting to about \$7,000,000 a year.

* * * *

. . . Therefore if this bill should pass we would come to this condition of affairs, that all of these revenues, amounting to \$200,000,000 per annum, and a direct expenditure of about \$7,000,000 a year, will have no examination by any officer of the Government excepting the one provided for in the office of the First Auditor; a complete change of the entire auditing system of the Government which has prevailed, as I [2736] said before, from the days of Hamilton, and which never has been proposed to be changed until this moment by any Congress or by any person that I have knowledge of. But I notice that it is stated in the report that it is proposed to require certain added facilities to be furnished to the First Auditor. If there are any such, why does not the committee require those facilities to be furnished to the Auditor now? Why not let the First Auditor and the Commissioner of Customs have equal facilities for this examination? The report is absolutely in error in the closing part of the last paragraph, where it says that the Commissioner of Customs has no original papers wherewith to determine the accuracy of the collector's accounts.

That is not true. The Commissioner of Customs has every identical paper that the First Auditor has, or ever had, ever since the office of Commissioner of Customs was established by the act of 1846, when the very bureau which it is now proposed to destroy was established on the recommendation of the then Democratic Secretary of the Treasury, Robert J. Walker, because the Comptroller had not the time to devote to these matters and they were deemed of sufficient importance to require the establishment of an independent bureau.

Consequently, I say, Mr. Speaker, the report is, so far at least, in absolute error, because the Commissioner does have every paper upon which the First Auditor passes or has ever passed.

* * * *

Now, what is the purpose of this bill? It simply destroys two offices and possibly half a dozen clerks. Your own report does not claim more than that. Now, is it worth while for such an end to change the whole system of the auditing and settlement of customs accounts, diminishing the chances for the protection of the Government in that respect and increasing in like proportion the possibility of fraud and mistake? I know from personal experience that the number of changes between the Auditor's account and the Commissioner's account are not small; and I know that the findings of the Auditor are very frequently reversed by the Commissioner of Customs. That has always been the case.

The committee may be right in one regard—when they say that the administrative functions of the Commissioner of Customs have been principally taken from him by the Secretary of the Treasury and that the name "Commissioner of Customs" is now a misnomer, that he might more properly be called "Third Comptroller of the Treasury" in view of the functions which he now performs. But the fact that there is a misnomer in the title of this officer does not furnish a reason why the functions which he performs should be destroyed. I say, while the Commissioner of Customs under the present law is simply an accounting officer, let us continue him as such, just as we do the Second Comptroller of the Treasury.

Mr. RICHARDSON of Tennessee. Will the gentleman state what duty the Commissioner of Customs performs beyond that of revising the customs accounts which have previously been examined by the First Auditor of the Treasury? Can the gentleman name a single function that he performs beyond that? If so, I would like him to do so.

Mr. BAKER of New Hampshire. The Commissioner of Cus-

toms performs exactly the same function in relation to the accounts of the collection and disbursement of the customs revenue that the Second Comptroller does in relation to the Army and Navy accounts, and exactly the function which the First Comptroller does in relation to the judiciary accounts and accounts of internal revenue. He is in that respect accurately and completely described as "Third Comptroller of the Treasury," his function in that respect having been authorized since the First and Second Comptrollers were created. I submit that there is just as much justification for the abolition of the Second Comptroller as for the abolition of the Commissioner of Customs. [2737]

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Mr. [JOSEPH G.] CANNON of Illinois. I understand that much time has been spent upon this bill. I want to say that, with my experience and limited knowledge of the methods of Government accounting, that with the small consideration that has been given to this bill, I do not know, so far as my judgment is concerned, whether the bill is apt or not. I do not believe there is a dozen men on the floor of this House who do know.

Many of us, in fact the most of us, are not familiar with the method of accounting, or the settlement of accounts in the Treasury Department. It is a general understanding that there is a system of checks supposed to be useful, and there is a general understanding among others that in nine cases out of ten the accounts that pass the Auditor pass the Comptroller, it may be ninety-nine out of one hundred, without substantial change; and the change made by the checks in the hundredth case and the presence of the knowledge to all of the accounting officers that there is a supervision of accounts and a system of checks, I am not prepared to say, is without its proper use.

Now, it does seem to me to be plain that when a check is to be dispensed with as to a certain class of these accounts, namely those under what is called the Third Comptroller, namely the Commissioner of Customs, the commission says

that they seek to supply that change in the law by giving the First Comptroller jurisdiction in all cases involving construction of statutes, to construe the same.

Mr. [ALEXANDER M.] DOCKERY [of Missouri]. And he has jurisdiction upon appeals.

Mr. CANNON of Illinois. And then upon appeals he has jurisdiction. Now, after all who appeals? Let us look at that practice just a moment. Of course, if an individual thinks that in having his accounts settled he is discriminated against, and he is not pleased, it is true he appeals. That does not protect the Government. So that there is no system that I can see, in the hasty examination of this bill, that makes it the duty of any officer having the supervision of all this business to determine when the appeal should be taken, unless it is made by the First Auditor.

Mr. DOCKERY. The First Comptroller.

Mr. CANNON of Illinois. But the First Auditor would not take an appeal because he is pleased with the settlement of the account. The First Comptroller can not take an appeal unless in a case of great scandal, an exceptional case, because he has no force that has access to those accounts from day to day and month to month to bring it to his attention. [2739]

* * * *

Now, Mr. Speaker, I want the attention of the gentleman from Tennessee, and I especially want the attention of the gentleman from Indiana . . . while I call attention for a moment to the method of settlement of accounts of the Post-Office Department. It was my lot as a member of the Committee on the Post-Office and Post-Roads in the Forty-third, if I recollect right, the Forty-fourth, Forty-fifth, and the Forty-sixth Congresses, to make an investigation touching the expenditures in the Post-Office Department, and the auditing of that great class of accounts aggregating now some \$80,000,000 a year by the Sixth Auditor, and it is proper that I should state that as to the postal accounts there is no Comptroller.

There is only the Sixth Auditor. Unlike all other accounts, practically these accounts do not go to a comptroller, so that that means to have dishonesty and maladministration in the Post-Office Department a man would only have to collude with one auditor, and that is the Sixth Auditor. In the other Departments there would have to be collusion between the Department making the expenditure, between the auditor who audited the accounts, and between an independent and separate division, namely the Comptroller. In the Post-Office Department the same system pertains that you say shall pertain in the settlement of customs accounts.

I want to say here that for a series of years the Sixth Auditor of the Treasury practically, as shown by this investigation, did not perform his function. He was under the domination of the Post-Office Department. I am not going to accuse anybody of dishonesty; but you must recollect that in a Government like our . . . , with its great bureaus, it is impossible for the head of any Department to understand everything about each part.

These investigations did show that as to transportation accounts and to postal accounts, that month after month and year after year were passed by the Post-Office Department, under the Sixth Auditor, and that frauds mountain high passed with impunity, rank maladministration, in many instances rank dishonesty, that showed collusion between clerks, or a head of a division in the Post-Office Department and between a clerk or a head of a division in the Sixth Auditor's Office, and the Treasury was looted by misconstruction of law and misstatements of accounts.

At that time it was seriously proposed as a remedy for this condition that, as to postal accounts, there should be a comptroller provided, as there was for other governmental accounts. That was not done. If it had been done, in my judgment that additional check would have prevented these scandals and misconstructions of law. So, when it is proposed to do away with a check by a scheme that is only partial, I

at least want to inquire about it before I commit myself to it, because reading between the lines of this discussion and of this bill and report, I think I see that from this joint commission, from week to week, or from month to month, there are to come other radical changes.

Now, if we are to have a radical change of the system of accounts in the Treasury Department, abolishing the Comptroller's Office in whole or in part, it seems to me that it might have been better to have given us the whole scheme and called attention to it, and let us understand fully, after thorough investigation, what we are asked to do. I have no purpose to serve in talking as I have talked about this report. I am not prepared to stand here and say that it is not wise; but, Mr. Speaker, in the light of what little experience I have had, I am not prepared to stand here and say that it is wise. I do not know. I think that after being discussed by the gentleman from Missouri . . . and the gentleman from Tennessee . . ., as it has been discussed by the gentleman from New Hampshire . . . and by the gentleman from Maine . . ., after we have had the light upon it that they are able to give us in an hour or two of discussion, and that discussion goes into the RECORD, this legislation had better go over for a day or two until members shall have had an opportunity to take note of the discussion and to consider the provisions of the bill, so that when we make this radical departure, if we do make it, it may be done wisely.

Mr. Speaker, I am not much disposed to insist that a thing is good simply because it is old. There are many abuses that have come down through the centuries, which, if I had almighty power, I would abolish; but I would not touch a system that has evolved through a century, or even through a generation, until I had fully investigated and discovered what the abuse was and found just the dividing line where the lifeblood ceases to circulate and the useless appendage that has evolved begins. There I would apply the knife, but that can not be done without great care. And now, having

made that remark, I want to say that I have no doubt that there might be reforms made in the accounting offices; but I repeat, when I apply the knife I want to know that when it severs the body to which it is applied no lifeblood is to flow. In other words, we should take care that in seeking to correct abuses we do not beget abuses in the way of loose administration and loose accounting. [2740]

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Mr. DOCKERY. . . . Now, I want to reply to a suggestion made by the gentleman from Illinois . . . , which, in my judgment, with all due respect to the opposition to this bill, is the only suggestion made that is really worthy of consideration. That is as to the danger of fraud.

I challenge the attention of the House to the history of the past; and speaking as a result of an examination which I have caused to be made, I assert that of all the great frauds that have been perpetrated on the Government, not one has been discovered by any Comptroller. Why? For the reason that the Comptroller must pass an account that comes in proper form, unless by accident or through suggestion of parties, who know of fraud, that fact is called to his attention. The result as shown by the history of past frauds is that the Comptrollers have passed fraudulent accounts; and through no fault of theirs.

Now, take the first defalcation to which I shall call attention, that of the defaulter Burnside, a disbursing clerk of the Post-Office Department, who was short in his accounts \$30,000, as the result of making no return, or only a partial return, of moneys received between 1875 and 1884, from the sale of waste paper and old material of the office. The fault in this defalcation arose entirely from the old system with reference to the sale of these materials. He sold waste paper, old boxes, etc., and failed to report the amounts realized from these sales. Since that defalcation the Department has taken action so that no such fraud can occur again, as the books of the superintendent and financial clerk are inspected once a

week and his accounts are passed upon with reasonable promptness by the Fifth Auditor and the First Comptroller. It is through the weekly inspection of the administrative office and not the auditing that such irregularities are now prevented. Fraudulent vouchers can not be detected by any number of revisions by accounting officers.

Now, coming to the star-route frauds, which have been referred to by the gentleman from Illinois . . . , there the fraud was solely administrative. The accounting officers of the Government had nothing to do with those frauds, and were not in anywise responsible for them: I have in my hand a brief history of those cases—

* * * *

Mr. CANNON of Illinois. My friend says that the trouble in connection with the star-route frauds was "administrative." Those frauds arose in the construction of the law; the law was construed from time to time by one of the bureaus in the Department to fit the occasion; and that construction could not have been available for the purpose for which it was used unless it had passed muster in the office of the Sixth Auditor. The trouble was that there was a complete agreement between the two bureaus.

* * * *

The fraud that the gentleman speaks of happened while Gen. Brady was Second Assistant Postmaster-General. It was only one of many, and was much smaller than others which grew up during that period of reconstruction, when the attention of the country was directed to the settlement of war issues and not toward its administrative service. During a course of years—in the Forty-third, the Forty-fourth, the Forty-fifth, and, if I recollect correctly, the Forty-sixth Congress—the Post-Office Committee made investigation; and a state of affairs which was absolutely alarming, showing collusion between the accounting office and the office that spent the money, was developed. Perhaps it might have been possible to broad-

en the conspiracy, if it had been necessary, so as to take in a Comptroller; but if those accounts had been required to pass under the scrutiny of a Comptroller, the fraud would have been much more difficult. The trouble, in other words, was that the auditing did not audit.

Mr. DOCKERY. Now, let me call the attention of the gentleman to the memorandum which I have caused to be prepared, because the gentleman and I have had conversation about this very question, and I am anxious that this bill should meet his approval, valuing highly as I do his judgment upon all matters of business.

Mr. CANNON of Illinois. Well, I never saw your bill.

Mr. DOCKERY. The gentleman will allow me to say that I have made a memorandum which states the case better than I could state it offhand. Here is the history which I have prepared:

Under the plea of expediting the mail service in the Western States and Territories, as allowed by section No. 3961 of the Revised Statutes, all the star-route frauds were perpetrated.

* * * *

If a contract was made to deliver mail once a week at a place 121 miles distant from a certain railroad point within fifty-four hours from the time of leaving that point, for \$1,188 per annum; then if the Postmaster-General, in response to the petitions of the patrons and others (such as the hired-men of the contractor) on that route, should order a delivery twice a week, the contractor would receive twice the contract price, or \$2,376. But then, if these same petitioners should show a pressing need for quick service, such as reducing the time from fifty-four hours, to twenty-six hours, the additional extra compensation would be about \$5,346. By changing from weekly to daily trips, and by increasing the speed of the delivery, the compensation of the contractors was increased in some cases from \$6,000 per annum to \$150,000.

The trouble, it will be seen, was in the administrative branch of the Post-Office Department, not in the auditing office.

In about four months after July 1, 1878, the cost of the Western service had increased over \$1,500,000 per annum. Celerity and additional celerity was easily obtained, as the first contract was usually made on the basis of speed of from two to four miles per hour. Herein lay the chance for fraud that was so well taken advantage of.

Now as to the investigation referred to by the gentleman from Illinois, and of which he was the moving spirit, what was the remedy in the light of that discovery? I do not think there was any suggestion that the system of accounting was imperfect; but Congress, under the leadership, I think, of the gentleman from Illinois, went directly to the source of the evil by changing the then existing law and enacting the law of April 7, 1880 (21 Stat., 72), which provided that additional compensation for expediting the mail service should not exceed 50 per cent of the original contract price. And that is the law now. Under that law, passed as the result of the labors of the gentleman from Illinois, it is impossible now to repeat the frauds on a large scale which occurred prior to 1880.

Mr. RICHARDSON of Tennessee. No system of accounting would have prevented the difficulty.

Mr. DOCKERY. Certainly not. [2741]

* * * *

Mr. CANNON of Illinois. Speaking now as to that investigation, and as to many others covering the service for a period of years, commencing in 1865, my judgment was then, and is now, that the law as construed from time to time by the head of the division, or the head of the office—I am not now throwing mud at anybody, I do not desire to do so, because some of the men are dead—the law, in my judgment, was misconstrued; and that misconstruction of the law, in my judgment, could not have obtained if there had been a Comp-

troller of the Treasury passing on these accounts with power to say: "The law does not authorize this."

But the weakness of the system was in the construction of the law. The Sixth Auditor's Office audited the accounts and there came the collusion. If there had then been in operation as there is now a Comptroller's Office, and the functions of that office had applied to the action of the Post-Office Department and the Auditor, there would have been one additional check. That check does not exist as to postal accounts but does exist as to customs accounts. The thread of my discourse leads to the question whether or not it is safe to take away the existing check. That is all.

Mr. DOCKERY. In reply to the gentleman from Illinois, I will say that Congress seems to have recognized that the trouble in regard to these frauds lay with the administrative branch of the service, and hence the enactment of the law of April 7, 1880.

Mr. CANNON of Illinois. Certainly.

Mr. DOCKERY. Now, let me say further, in the line of the gentleman's suggestion, if he is correct, that if the provisions embraced in the pending bill had been at that time the law governing the Sixth Auditor's Office those frauds might not have occurred. Why? Because this bill requires the First Auditor to report forthwith to the Comptroller every decision involving the construction of a statute. That defect in the law, so far as the Sixth Auditor's Office is concerned, will be remedied, I think, by the action of this commission.

Mr. CANNON of Illinois. Now, if the gentleman will allow me a word, because by this hand-to-hand discussion we get at the merits of the proposition—

Mr. DOCKERY. Certainly.

Mr. CANNON of Illinois. The gentleman says that this bill requires the Sixth Auditor's Office to report every question that involves the construction of a law—

Mr. DOCKERY. No; I say that is the principle of this bill, and should be applied to the Sixth Auditor's Office.

Mr. CANNON of Illinois. As I understand the gentleman, under the operation of such a provision the Auditor would be required to report to the Comptroller every legal decision involving the construction of a statute. Now, suppose that there should exist collusion between the Auditor's Office, with its army of clerks, and the Post-Office Department, what check have you on the Auditor? If all the accounts were required to pass through the office of a comptroller, then that office, the First or Second Comptroller's, whichever it may be, would, with its force, be a daily check; but as it is now it would depend (I am supposing this case for the sake of the argument) upon a dishonest Sixth Auditor on whom we have no check to certify a construction of the statute to the Comptroller.

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Mr. CANNON of Illinois. I want to say further that I am not supposing the Sixth Auditor would be dishonest; but that law is best which affords a check, whether he is honest or dishonest.

* * * *

Mr. DOCKERY. . . . Now I want to go on with a further statement and refer to other frauds that have occurred in the history of the Government, showing that the Comptrollers have had nothing to do in protecting the Government.

The House will remember, because it is a recent occurrence, the noted "horse-claim frauds." Those frauds passed through the claims division of the Third Auditor's Office, in 1886 and 1887, by an extensive system of forgery on the part of the chief of that division. They went from the Third Auditor's Office to the Second Comptroller, and were approved by the Second Comptroller, and properly so, because

the papers were regular on their face and the Second Comptroller had no knowledge that he was approving \$60,000 worth of fraudulent claims. He approved them because there was nothing to show that they were irregular; and but for the failure of the urgent deficiency bill at that session this forgery would have been successful, and the chief, Mr. Harvey, would have gotten the entire \$60,000; but as it was Mr. Harvey secured only \$12,000 of the amount. The revision of the Comptroller did not prevent the frauds nor assist in their detection. That discovery was made in the Third Auditor's Office. [2742]

Now, then, Disbursing Clerk Ewing, in the Department of Justice, was short in his accounts, largely due to over advances, and the fault, if any, lay between the Department of Justice and the First Comptroller.

The Howgate frauds, amounting to \$170,000, were approved by the Second Comptroller, and properly so, because they were forged vouchers, and the Comptroller had no knowledge that he was approving \$170,000 worth of fraudulent accounts. By the merest accident was that fraud discovered, owing to the knowledge of an outside party of the habits of Capt. Howgate, which led him to suspect that something might be wrong in his accounts. Here the revision of the Comptroller was unavailing.

The fraudulent accounts in the Coast and Geodetic Survey, under Prof. Hilgard, were approved by the First Comptroller; and so it is with all the noted frauds upon the Government within the last few years. The Comptrollers have not protected the Government against them, or assisted in their detection, for the obvious reason that they are but auditors and must pass all vouchers in proper form.

Mr. Chairman, disbursing officers, who give bonds to the Government and who must know the law, disburse 92 per cent of the money audited by this bureau. These accounts are made up by the disbursing officer. Then they are reviewed by the administrative office, the additions and subtractions

made. They then go to the Auditor's Office, where they are audited. The commission and the Secretary of the Treasury hold that the review, so far as the mere matter of computations is concerned, is ample and complete, when in the first place an independent administrative office makes up and states the account, and when in the second place an equally independent officer, the Auditor, audits the account. But to make assurance doubly sure, and to protect the Government in all its rights as to questions of law, this bill further provides that the First Auditor shall forthwith report to the First Comptroller all legal decisions, and the First Comptroller shall approve, disapprove, or modify the decision and report his action thereon.

Gentlemen, the checks of this bill are ample and complete. It only seeks to dispense with unnecessary work and improve business methods; and I want to say to this House that after three months of consideration by the Treasury officials and by the members of the joint commission, we heartily indorse the measure; and if the gentleman from Illinois . . . wants to put this matter over for further consideration, I say to him that if it requires the time that the commission has occupied the bill will not be ready for consideration before the end of the session. The bill assures, as I have stated, accuracy, economy, and dispatch.

Mr. CANNON of Illinois. I have not that knowledge, as I before stated, touching these and other accounting matters that would enable me to rise in my place and say that this bill is vicious.

Mr. DOCKERY. I want to say right there that I know the gentleman from Illinois . . . wants to do right about these matters. I am satisfied of that, and I am sure that if he had given the attention to this bill that we have given in the last two or three months it would receive his cordial approval.

Mr. CANNON of Illinois. Very possibly; it might be so. Let me say to the gentleman, right in that line, only one word.

* * * *

The gentleman has well said that by the aid of experts, and I know there are experts, and I have no doubt very good ones, that have been working upon this and kindred subjects in connection with the commission of which he is a member. Now, he says that they have given it the closest kind of attention for the last three months.

Mr. DOCKERY. I do not mean to say that we have spent the whole time upon it.

Mr. CANNON of Illinois. No doubt the experts have, and the commission has given it at least much close attention. Beyond the fact that I knew they were making this investigation, and that with probably ten minutes' conversation with my friend from Missouri and an hour's conversation with one of the experts, who called upon me, I have given it no consideration. I do not apprehend the membership of this House has.

Mr. DOCKERY. And they can not do it.

Mr. CANNON of Illinois. And the gentleman asks us now, in two hours' time, to enact this legislation by the House that has occupied him and the commission and the experts so much time in making the investigation. My only suggestion was, and still is, not to defeat this bill, but merely as a suggestion, which the gentleman can take or not as he chooses, to let this morning's discussion go into the RECORD, and let it lay open, as it is privileged; let it lie over two, three, or four days, so as to enable us to know black from white, so that we may understand it and turn it over in our minds, so that we may get an interchange of views in discussion and then take it up and dispose of it. Now, I only make that as a suggestion. I do not know whether it is a wise one or not, but it seems to me that the gentleman ought to consider it.

* * * *

Mr. BAKER of New Hampshire. . . . Mr. Speaker, the whole system of accounting and the manner in which the customs revenue is now settled in the Treasury Department has been somewhat inaccurately stated, as I apprehend. The gen-

lemen seem to assert that this bill gives some few additional safeguards to the Treasury. On the contrary, I assert that it does not give one solitary atom or one iota of additional safeguard to the Treasury, but that it takes away some of the existing safeguards. Their principal point, and the only one which they have been able to state with any kind of force in this argument, is that contained in section 5, which I will read:

“SEC. 5. That it shall be the duty of collectors of customs and other officers of customs to transmit with their accounts, to the officers charged with the settlement of their accounts, all such papers, records, or copies thereof relating to their transactions as officers of customs as the Secretary of the Treasury may direct.”

This they submit to be in the line of new legislation, and affording additional safeguards to the Treasury Department. If the gentleman from Tennessee will refer to the existing statutes, section 248 of the Revised Statutes, he will find this:

“SEC. 248. The Secretary of the Treasury shall, from time to time, digest and prepare plans for the improvement and management of the revenue and for the support of the public credit, shall superintend the collection of the revenue; shall, from time to time, prescribe the forms of keeping and rendering all public accounts and making returns.”

Therefore, this section 5 is not in any particular an addition to existing law. It is at most nothing but a repetition of existing law; and strike this section 5 out of the bill and there is [2743] nothing left from the beginning to the end except that it destroys one accounting in the Treasury Department which, as I said in my preceding remarks, has stood the test of a century's experience. Not one line is there of additional safeguard thrown around such accounting by this bill; but if the gentleman thinks section 5 provides any new safeguard, I will join with him in adding that to existing law.

The gentleman from Missouri . . . has given us quite a dissertation in regard to the frauds which have taken place here-

tofore in certain departments of the Government. I certainly fail to see how any reference he gave us is an argument in favor of abolishing some of the existing safeguards, and if, as he says, the Comptroller passed these frauds, then the legislation which should be adopted is such legislation as will provide an additional chance to detect frauds, and not to take away from the Government the opportunities which now exist of detecting them.

But in reference solely to past frauds, I wish to remind the gentleman that there is now in existing law statutes giving exactly the same right of appeal to the First Comptroller from the accounting of the Sixth Auditor of the Treasury, or Auditor for the Post-Office Department, as that officer is now designated, as they propose to give from the accounting of the First Auditor to the same First Comptroller. It is found in section 270 of the Revised Statutes, and is as follows:

“SEC. 270. Whenever the Postmaster-General or any person whose accounts have been settled by the Sixth Auditor is dissatisfied with the settlement made by the Auditor, he may, within twelve months, appeal to the First Comptroller, whose decision shall be conclusive.”

That is almost identical with what is proposed in this bill. One thing more in regard to this bill. Who, under it, is entitled to make the appeal? The individual who is aggrieved. But we are not legislating for that individual, except so far as to preserve all the rights of the citizen; we are legislating for the good of the Government as such, and for the correct keeping of its accounts. Who, then, can make the appeal in behalf of the Government under this proposed bill? No one except the First Auditor, from whom the appeal lies, because no one else will have knowledge sufficient upon which to base it. Consequently, the right of appeal granted in this bill is just as valuable as and no more valuable than the right of appeal given by section 270 of the Revised Statutes. Now, I would like to ask the gentlemen of the commission a question, if

they see fit to answer it. Is it intended to follow this bill by other bills which shall abolish either the First or the Second Comptroller, or any of their functions?

Mr. RICHARDSON of Tennessee. I do not know of any bill myself to abolish the First Comptroller.

Mr. BAKER of New Hampshire. Or the Second Comptroller?

Mr. RICHARDSON of Tennessee. I do not know of any such bill.

Mr. BAKER of New Hampshire. Is it the intention to follow this bill by a bill which will abolish the naval officers in the custom houses?

Mr. RICHARDSON of Tennessee. That proposition has never been acted upon by the commission. It has been considered in connection with other matters, but no action has been taken.

Mr. BAKER of New Hampshire. If one of the accountings in the Treasury Department is to be abolished, certainly there can be no justification for the abolition of the naval officers. If, however, this commission had brought in a bill abolishing the naval officers in the principal ports, and requiring that the original papers which pass from the collectors to the naval officers should be transmitted to the First Auditor, and that the accounts should be there settled and then pass to the Comptroller, whether his title be comptroller or commissioner, I think they would have struck something of value and would have saved vastly more than the paltry \$30,000 which they claim will be saved by the passage of this bill.

But this bill relates not solely to matters directly under the control of the customs officers in connection with the collection, or disbursements for the collection, of customs revenue. As the report itself shows, these officers pass upon all expenditures for the Marine Hospital Service, for the Light-House Service, for the Life Saving Service, for the shipping commissioner, for the Commissioner of Immigration, for the Revenue-Cutter Service, for Chinese exclusion, for the prevention and

detection of fraud, and for the fees of legal officers of the Government in customs civil suits; making an array of accounts certainly worthy the attention of a reviewing office in the Treasury Department.

It has been asserted that there are but slight changes in the accounts which come from the First Auditor to the Commissioner of Customs. Unquestionably at times the changes are slight; but at other times they involve vastly more than the amount which this bill can possibly save; and, always and everywhere, the fact that there is an officer to review another officer's findings and decisions, and to pass upon the clerical work of his office, makes the office which is reviewed by a superior more and more careful and the clerks in it vastly more attentive to duty. That would all be done away with by this proposed legislation. What, then, do we find as the real condition and purpose of this bill? I can not see that there is anything of value in it except a saving of \$30,000 to the Government, and that saving is vastly less than the loss which will speedily follow the enactment of this bill, because we shall have removed one of the safeguards which now surround the collection and the expenditure of Government money.

There is nothing to be gained by making an inroad into the established system of the Treasury Department. Certainly there can be no object on the part of a member of the minority standing here to maintain the existing system in a Department which is not under the control of his own party, except the object of maintaining that which he believes to be approved by experience and wise laws. I have no desire to make or to oppose any change in any of these relations on account of any party feature or party purpose, but I do believe that this is a step in the wrong direction, and I have been assured by those who know from practical personal experience that the legislation which we passed here the other day at the instance of this joint commission is not such legislation as those in the Sixth

Auditor's Office who are fully acquainted with all the facts and circumstances which it affects approve.

* * * *

So, Mr. Speaker, we are asked by this commission, upon an investigation which they admit has been very brief by themselves personally and upon the report of a few of the hired experts who feel bound to show that they are earning their salaries, and who, as a rule, are persons who have had no practical experience in these matters—upon such a basis we are asked by this commission to change that which has been approved by experience all along, and which the commission themselves admit must weaken, and can not strengthen, the service, and such a proposition meets my hearty disapproval.

* * * *

Mr. RICHARDSON of Tennessee. The gentleman from New Hampshire occupied the floor nearly an hour, and I take it that he has given us the information which he possesses on this subject. I was about to say, sir, that this measure has been very carefully considered by the joint commission, which is nonpartisan in its character. The bill has been pending some three months in the hands of the commission. It has been considered by the Secretary of the Treasury and by his able assistants, and they agree unanimously and fully with the commission in approving its provisions. The gentleman from Iowa . . . , who addressed the House a short time ago, has had large experience with the accounting in the Treasury Department, and he thinks with us that the bill is exactly what we need. I shall not take up further time by going into details, . . . [2744]

House of Representatives, May 2, 1894

Mr. [NELSON] DINGLEY [of Maine]. . . . This is a bill as its title indicates, to simplify, unify, and expedite the accounting or auditing work of the Government. While it does

reduce expenditures to the extent perhaps of \$200,000 per annum, yet that is not what the commission which unanimously reported the bill have had more especially in view.

The great object had in view in the framing of this bill is to expedite the accounting operations of the Government. It is [4335] well known by gentlemen who are familiar with this work that in progress of time, in consequence of the immense increase of business in the Government, there has been a great congestion in the auditing work of the Government. On an average the settlements of accounts of the Government are from four months to two years in arrears, and in some cases, in the settlement of accounts of disbursing officers, even five years.

It must be obvious to any gentleman who understands the workings of the Government that such a delay in the settlement of accounts not only causes great inconvenience to the public and great difficulty in the transaction of the business of the Government, but is also a source of grave danger, especially in the accounts of disbursing officers. A large part of the defalcations that have occurred during the progress of this Government—and they have not been numerous in view of the multitude of transactions—have been of disbursing officers whose accounts have not been promptly settled.

At the foundation of the Government a century ago it made little difference how complex the system of auditing might be, because the number of transactions to be attended to were comparatively small. But in progress of time it has been found necessary in order to secure the transaction of the business of the Government to expedite the work of the settlement of accounts. For example, in 1836 [5 Stat. L., 80] so congested had become the accounts of the Post-Office Department that a complete change was made in the system. The Sixth Auditor was created for the auditing of the accounts of the Post-Office Department. These accounts to-day under that system that was then established are under the Sixth Auditor, who is charged with the auditing of all the quarterly

accounts for the 75,000 postmasters in this country. The business is now practically up to date. That is, the accounts of one quarter are practically settled before the completion of the second quarter.

This is under the act of 1836, under which the Sixth Auditor is given the final audit of the quarterly accounts of the Post-Office Department. There exists a right of appeal to the Comptroller, and with this right of appeal, since 1836, this business of the largest Department of the Government has gone on successfully with the exception of the money-order accounts, where a complex system has brought about a congestion of business there; and the result of this, and to remedy this evil, the joint commission, before reporting this bill, several months ago reported a simpler system for settling money-order accounts of the Post-Office, and it is evident from what has already been inaugurated it will in due time bring the money-order accounts of the Post-Office Department up in the same complete order that the quarterly accounts of postmasters are brought up.

In the progress of the business of this country and the development of the large mass of accounts to be settled, it has been found necessary from time to time to depart from the original system that was established at the foundation of the Government in 1789. In 1789 [1 Stat. L., 65] there was established in the Treasury Department an Auditor for the statement of claims and accounts, and a Comptroller for their final settlement. Two examinations of accounts in the Treasury Department were established by the original system, but within three years Secretary Hamilton discovered that there were difficulties in the way which, in the increase of business, compelled the making of some provisions for an examination of accounts in the several Executive Departments by which the expenditures were made. Hence in 1792 [1 Stat. L., 279] the original system was modified, and there was established in the War Department an accounting officer with complete authority to audit accounts in that Department; and in 1798 [1

Stat. L., 610] another such officer was established in the Navy Department. But this was found not to work satisfactorily, and in 1817 [3 Stat. L., 366] the five Auditors were established.

In 1812 [2 Stat. L., 716], in establishing the Land Office it was found important to have the land accounts of that Bureau stated and settled primarily by the Commissioner of the General Land Office. Hence the original system was varied in that direction; and in 1836 the original system was changed in the Post-Office Department, as I have already suggested.

From this brief recital gentlemen will see that the remark sometimes made that the existing system of accounting was established at the foundation of the Government and has worked well up to the present time has no basis in fact. The original system established in 1789 was changed in 1792, in 1798, in 1812, in 1817, in 1836, and again in 1849 [9 Stat. L., 395]. More than forty years ago it became evident that some radical change must be sooner or later made, and it was found necessary that the several Executive Departments, in the growth of business, should first examine and approve their own accounts, because the expenditures were made under their direction, and it was found desirable that they should examine the expenditures that had been made, to see whether they were in accordance with what they supposed to be their authority, and also whether they were in accordance with the directions of the Department. Hence it has become necessary, in the course of the development of the business of the Government, to have first the several heads of the Executive Departments, or some officer representing him, examine and approve the accounts of that Department before they go to the Auditor of the Treasury Department.

Thus a series of patchwork was built up by changes made from time to time until in 1836,⁶³ nearly sixty years ago, there began to be such a congestion in the public business that the Secretary of the Treasury, pursuant to a resolution of

⁶³ 1834. See No. 58.

Congress, made an investigation of the subject and suggested certain changes in order to expedite the work of accounting. In 1842⁶⁴ Congress again directed an inquiry by a committee, and that committee reported the necessity of some important modifications in the system. But it has been found impossible through the work of any committee of Senators and Representatives, obliged to attend all the other business of the House and of the Senate, to perfect such a system as was required to properly expedite the work of accounting.

In 1892,⁶⁵ so serious had become the difficulties and delays in the auditing of accounts that Secretary Foster called attention in his annual report to the situation, and made recommendations which led to the appointment of the commission which has reported this bill, with authority on their part to employ expert accountants to thoroughly investigate the matter, present the facts to the commission and make suggestions, in order that the members of the commission, attending to their other work in Congress, might have an opportunity to carefully consider the suggestions that might be made, and to improve upon them in conference with the various officials connected with the accounting work of the Government, and, after more than six months of labor, this bill has been submitted as embodying a plan of overcoming the growing congestion of business in the accounting branch of the administration of the Government.

This bill proposes to adopt in part the system that has been in operation since 1836 in the Post-Office Department, whereby the Sixth Auditor audits the quarterly accounts of the 75,000 postmasters of the country, making a final audit except where there is an appeal to the Comptroller of the Treasury. That system has been in operation in the Post-Office Department for fifty-eight years with success, so far as the quarterly accounts of Postmasters are affected, notwithstanding these accounts comprise more settlements than

⁶⁴ See No. 63.

⁶⁵ See No. 73.

any other branch of the Government. The plan proposes, in substance, to consolidate the three Comptrollers of the Treasury into one, making the Comptroller of the Treasury practically the court of appeal as to the construction of statutes under which expenditures are made, thus securing uniformity instead of the conflicting constructions inevitable with three separate Comptrollers.

The same protection and the same opportunities of appeal continue that have existed under the Government from the foundation, but only those accounts on which a question arises of the construction of a statute—a question of a new construction proposed by the Auditor or a new statute requiring an original construction—will go to the Comptroller, except either by an appeal on the part of the person interested in the settlement of the account, by request of the Comptroller, or by request of the head of the Department of the Government affected.

Now, there can be no doubt but what the system that is here proposed will expedite the settlement of accounts in the Treasury Department. It will expedite it in the first place because the third examination which is now made will be dispensed with. There will be only two examinations under the plan as proposed, that by the Executive Department and that by the Auditor. It is proposed to dispense with the examination of accounts by the Comptroller which now exists, except where there is a question of the construction of the statute under which the expenditure has been made, or on appeal. It has been suggested that possibly this plan may not protect the Government as well as it is protected by the present system. I believe it will in nowise in any case impair the protection now given the Government, but that on the contrary it will strengthen the protection. That it will expedite the accounting is obvious. It will take away at least one-third of the delay that now occurs by dispensing with the third examination. But it will do more than that. By locating the responsibility for

delay as the working of this bill must locate it, there will be a pressure upon those officers to keep up with their work.

The plan contemplated in this bill is to secure the settlement of all monthly accounts in the succeeding month, and all quarterly accounts in the succeeding quarter; and it is so arranged, with one step pushing upon another, that this must be accomplished; and the provisions of the bill, reaching first those making the expenditures, secondly the Executive Departments, and thirdly the Auditor, are all designed to secure prompt work and responsibility.

Now, as to the question of the protection of the Government, [4336] for that is really the only objection that amounts to anything that has been urged against this measure. The objections that have been made to this plan have ignored the fact that whereas there were only two examinations of accounts under the system of accounting adopted at the foundation of the Government, now there are three; and in the case of disbursing officers even four. We have first, the examination by the proper officer of the Executive Department which authorizes the expenditure; second, the examination by the Auditor; and third, the examination by the Comptroller.

Now, as to all questions of mere mathematical computation—for that is what nineteen-twentieths of these accounts are—a simple question of multiplication, addition, and subtraction and comparison of vouchers; an examination of the accounts by the Executive Department that authorizes the expenditure and also by the Auditor ought to end the accounting work. There is not the slightest necessity of having a third examination of such accounts by the Comptroller to protect the Government.

We have examined the accounts very carefully to see if anything has been accomplished by having the simple work of mathematical computations revised a third time by the Comptroller; and after having compared the figures of the Auditors and the Comptrollers, we find there have been no

important changes so far as mere mathematical computations are concerned, no ultimate changes that amount to anything, because the work of multiplication, addition, subtraction, and comparison of vouchers by the Executive Departments and by the Auditor are simple, and secure the only double and divided responsibility that is required. Statements have been made and published of alleged important savings in such a revision of accounts by the Comptroller, but it has been found that in nearly every case the accounts changed or suspended in one quarter have been allowed in subsequent quarters.

But when the question of construction of a statute comes up—and that is really the only point where difficulty or danger can arise—when new constructions of statutes authorizing expenditure, or changed constructions are made, then the plan proposed provides that the Government shall be protected to the utmost possible extent as it is now, and that in those cases all new constructions of statutes and all changes of construction shall be immediately reported by the Auditor to the Comptroller, and that all accounts which relate to the same shall be suspended until the Comptroller shall either approve, disapprove, or modify the decision of the Auditor.

But as the number of accounts depending on new construction of statutes is comparatively small, almost all of the accounts involving only mathematical computation, the great body of the business will move along under the plan proposed; and instead of gentlemen who are acquainted with the Treasury Department complaining justly about the “red tape” that there exists—the “red tape” that is almost entirely in this accounting branch—when this change shall have been made there must be greater promptitude in the settlement of accounts, and the same security will be obtained as now wherever there is security needed. Indeed, there will be an increased security as to the 90 per cent of the expenditures of the Government disbursed by disbursing officers. Nearly all of the losses by the Government have been those which, as I have already said, grew out of defalcations by disbursing

officers. These officers give a bond; but advances are made to such officers, indeed must be made under the present system, when their accounts have not been settled. In most cases of defalcations by disbursing officers, if their accounts had been promptly settled the Secretary of the Treasury would not have authorized advances. This plan improves the security of the Government by compelling a prompt audit of all accounts, and then by requiring that in case of advances the requisition for advance shall be sent to the Auditor, and by him approved after looking at the account of the disbursing officer before the advance is made. Thus the danger of losses by the Government in that direction will be greatly lessened.

To briefly sum up the proposed plan: This bill proposes to abolish the Second and Third Comptrollers; to retain but one Comptroller, to make him and his deputy the court of appeal, so to speak, to finally determine for the accounting branch of the Government all questions of construction of statutes affecting expenditures, and to revise such accounts as may be carried up to him on appeal. All other work of revising accounts by the Comptrollers is dispensed with, thus reducing by this step more than one-third the time now required in auditing of accounts.

The six Auditors are made final accounting officers except as to the final construction of statutes and in appeal cases; and they are required to certify all settlements of accounts not only to the division of bookkeeping and warrants in the Secretary's office, but also to the Comptroller and the head of the Department affected, either of whom may ask for a revision of any account. All accounts before going to the proper Auditor must first be examined and approved by the head of the Department which made or authorized the expenditures. This secures two separate and independent examinations of accounts.

To further expedite the settlement of accounts, the bill requires that the officer who expends or receives the revenue to present his monthly or quarterly account to the Department,

and the Department which examines the accounts to transmit the same to the proper Auditor within a certain number of days, the object being to complete the audit in the month or quarter following the expenditure.

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The CHAIRMAN. The gentleman from New Hampshire . . . is recognized to control one hour in opposition to the bill.

Mr. BAKER of New Hampshire. Mr. Chairman, one hundred and thirteen years ago Congress, acting under the old Confederation, passed an ordinance for regulating the Treasury and adjusting the public accounts. That ordinance went into effect December [September] 20, 1781,⁶⁶ and by its terms discontinued all previous arrangements made by the confederation for the government of its finances. It was an ordinance providing "for the more effectual execution of the business of the Treasury and the settlement of the public accounts." It provided that officers should be appointed as follows: superintendent of finance, his assistant, secretary, and clerks; a comptroller; a treasurer; a register; auditor and clerks.

This, in substance, was the beginning of the present system of accounting in the Treasury Department of this Government. It for the first time arranged for the appointment of a Comptroller and for an Auditor, as well as for the proper clerks, and provided that the Auditor should perform the following functions:

"The Auditors, the number of whom shall be fixed by the Superintendent of Finance, shall be appointed by Congress. After an account shall be examined by the clerk, in the manner hereinafter directed, it shall be delivered to the Auditor, who shall hear the party and the clerk, and determine upon the objections, and being satisfied that the account is properly adjusted, shall pass it as audited, and transmit it to the Comptroller."

And the duties of the Comptroller were:

⁶⁶ See No. 9.

“The Comptroller shall be appointed by Congress with general authority to investigate and superintend the settlement of public accounts, and all subordinate officers concerned therein; and it shall be his immediate duty to see that the public accounts are expeditiously and properly adjusted, and accurately and safely kept.”

Under that ordinance the accounts of the Confederation were audited. After the National Government was organized one of its very first bills was for the establishment of the Treasury Department. The act of September 2, 1789 [1 Stat. L., 65], provides that—

“There shall be a Department of the Treasury in which shall be the following officers, namely, a Secretary of the Treasury, to be deemed the head of the Department, a Comptroller, an Auditor, a Treasurer, a Register, and an Assistant to the Secretary, which Assistant shall be appointed by said Secretary.”

So you see that in the beginning of this Government the present organization was established and the duties of these several officers were clearly defined by statute, the duties of the Auditor being as follows:

“It shall be the duty of the Auditor to receive all public accounts, and after examination to certify the balance and transmit the accounts, with the vouchers and certificates, to the Comptroller for his decision thereon.”

The duties of the Comptroller were in part enumerated as follows:

“It shall be the duty of the Comptroller to superintend the adjustment and [4337] preservation of the public accounts, to examine all accounts settled by the Auditor, and to certify the balances arising thereon to the Register.”

Other duties assigned to this official do not relate specifically to the adjustment of accounts and I will omit them in this statement.

The Register's duties were:

“To keep the accounts of the receipts and expenditures of

the public money and of all debts of the United States; to receive from the Comptroller the accounts which shall have been finally adjusted, and to preserve such accounts with their vouchers and certificates, etc.”

That statute, it will be seen, provided for the Hamiltonian system of adjusting accounts. It was full and complete within itself, and if it had been adhered to and supplemented by the addition of the requisite number of officers to keep pace with the growing business of the Government, there would have been no trouble in the adjustment of the accounts of the United States.

It was very simple in itself. For no matter where the expenditure was made, no matter by whose authority, whoever made the expenditure of the public money, having received the money for that purpose, or whoever, being duly authorized, collected moneys for the use of the United States, must render an account pursuant to these statutes to the Auditor of the Treasury Department, and that Auditor, passing on the several vouchers, made a statement of the account and transmitted it to the Comptroller for final adjudication and revision. When that was done and the balance due the United States, or due the disbursing officer—when the result was finally obtained—it was duly certified and the vouchers sent to the Register of the Treasury, to be filed and preserved in his office. There could be no more simple organization than that. It was clear, clean, and precise; and so long as the examination of accounts remained in that order there was no trouble.

If it had been adhered to, all of the settled accounts and all of the essential bookkeeping of the Treasury Department could have been found in one bureau to this day. The Register was the official bookkeeper of the United States and the official custodian of all the files of the Government.

But some of the other heads of Departments felt anxious that they should have a little more authority than they had under this act, and consequently, by the act of May 8, 1792,

accountants were appointed in the War Department, the War Department at that time controlling both the war and navy disbursements.

There was the beginning of all the trouble that has arisen in the examination, certification, and keeping of Government accounts. There came up at once divided authority. There came up what the committee calls administrative examination, and by that administrative examination there was an interference between the direction of expenditure and the accounting for the expenditure when made.

I shall show before I conclude, I trust, that the highest authorities in this Government upon this question have uniformly held that the authority which authorizes expenditure should not be the authority to adjudicate it. But even here, under this act of May 8, 1792 [1 Stat. L., 279], there was no thought of abolishing the Comptroller, although there was an examination of the War Department accounts in the War Department before they were sent to the Auditor; the change being that there was this administrative examination of one class of accounts, and one class of accounts only, before they went to the Auditor, all the accounts having gone primarily to the Auditor under the preceding act.

The next change came by the act of March 3, 1795 [1 Stat. L., 441, sec. 2], and that act provides as follows:

“That in cases where accounts shall be rendered with the Auditor of the Treasury within the time limited in the notifications aforesaid, he shall immediately proceed to liquidate the credits to be passed for said accounts and report the same to the Comptroller, with a particular list of any claims which have been disallowed by him, and that the Comptroller of the Treasury immediately proceed to the examination of the credits allowed by the Auditor, and if the same be approved by him, that he cause credit therefor to be passed on the public books.”

Here was simply a further authorization of power in the Auditor and in the Comptroller, and made under a limit of

time; because for the first time in the history of the Government, delays had arisen owing to this very administrative examination in the War Department. And this act was passed for the purpose of giving the Auditor and the Comptroller authority to hurry up matters in the War Department. Under the act of July 16, 1798 [1 Stat. L., 610], there was authorized in the Department of the Navy an officer, to be an accountant of the Navy, and the same trouble then arose in the Department of Navy—which had been constituted meanwhile—that I have already stated existed in the office of the Secretary of War.

In consequence of that delay, coming in exactly the same way, it became necessary to vest in the Comptroller still greater authority in relation to the settlement of accounts and the collection of balances which might be found due to the United States.

By section 2 of the act of March 3, 1809 [2 Stat. L., 535], it is provided:

“That it shall be the duty of the Comptroller of the Treasury, in every case where in his opinion further delays would be injurious to the United States, and he is hereby authorized to direct the Auditor of the Treasury and the accountants of the War and Navy Departments at any time forthwith to audit and settle any particular account which the said officers may be respectively authorized to audit and settle, and to report such settlement for his revision and final decision.”

These delays had become so great under this administrative examination in the War and Navy Departments that Congress was compelled to take definite action giving the Comptroller the authority to direct those accountants.

Now, up to date these were all the changes that had come into the statutes in relation to public accounts; and all the trouble which had arisen came simply and solely from what this committee now recommends should be adopted in all the Departments, namely, an administrative adjudication. But the trouble through that administrative adjudication had grown so great that the Senate of the United States, by a

resolution of April 20, 1816, directed the Secretaries of the different Departments to bring in a report at the beginning of the next session of Congress. That report⁶⁷ is signed by James Monroe, William H. Crawford, George Graham, acting Secretary of War, and B. W. Crowninshield. At that time James Madison was President of the United States and Henry Clay was Speaker of the House of Representatives. In this report, after these several Secretaries had discussed the advantages of the Treasury system and the accounting in the War and Navy Departments, pointing out the strong points of both; they say:

“Whatever diversity of opinion may exist upon this subject it is believed that there can be none upon the propriety of either returning to the principle upon which the Departments were originally organized, of referring the settlement of all public accounts immediately to the Treasury Department, or of finally settling the accounts of the War and Navy Departments without the intervention of the accounting officers of the Treasury. The former—”

That is, the Treasury system—

“has the recommendation of unity and simplicity in theory, and it is believed that no serious inconvenience will result from it in practice. The latter would insure the prompt and final settlement of the accounts of the several Departments, but might possibly lead to the establishment of different principles in the settlement of the public accounts in the respective Departments. Under judicious regulations it is believed that the prompt and final settlement of the public accounts may be as effectually secured by the former as by the latter modification.”

Remember, gentlemen, that that was the recommendation of the Secretaries of the Departments in 1816, after they had had eighteen years of experience of administrative functions. The committee go on to say:

“In contemplation of the law the Comptroller of the Treasury revises all the accounts of the Government, for the pur-

⁶⁷ See No. 36.

pose of correcting the errors both of fact and of law which may have been committed by the accounting officers, to whom their settlement is, in the first instance, committed.

* * * * *

“When the office of the Comptroller was created and the duties of that officer prescribed, the Auditor of the Treasury was the only accounting officer whose acts he had to revise. At present, he has to revise the settlements made by three accounting officers; and, according to the plan which it is the duty of the undersigned to propose in order to insure the annual settlement of the public accounts there will be five accounting officers whose acts are to be revised. From this view of the subject the appointment of an additional Comptroller appears to be indispensable.”

* * * *

As I was about to say, this commission, consisting of these several secretaries, having considered for nine months this proposition, was unanimously of the opinion not that the Comptroller should be dispensed with, but that an additional Comptroller should be appointed, and in the summing up of their report they say:

“In conformity with these preliminary observations, the undersigned respectfully propose that it is expedient—
[4338]

* * * * *

“That the primary and final settlement of all accounts . . . be made in the Treasury Department—”

Note the language—

“Second. That the primary and final settlement of all accounts . . . be made in the Treasury Department, and that the organization of that Department be modified so as to authorize the appointment of—

1. Four additional Auditors.
2. One additional Comptroller.
3. One Solicitor.

4. That the Mint establishment be placed under the direction of the Treasury Department.”

Then they go on and define what shall be the specific duties of these several Auditors. Their recommendations were carried into law by the act of March 3, 1817 [3 Stat. L., 366], and this act particularly defines the duties of the Auditors, so that the objection that was made in the report of this committee is incomprehensible; that we can not determine the functions of the several Auditors is entirely incorrect, because they are specifically defined by statute.

Then the commission go on still further and emphasize what they have said, in conclusion, in this way:

“With this organization of the Departments the check contemplated by the revision of the Comptroller will be as effectual as it can be made. Money will then be paid in all the Departments upon the settlement of an Auditor, only after it has been revised and approved by a Comptroller.”

And in order to assist the Comptroller in the more efficient performance of all his functions, he was authorized by the act of May 15, 1820 [3 Stat. L., 592], to issue warrants of distress for the collection of any balances which might be due the Government. By the act of March 3, 1817, the office of accountants in the War and Navy Departments was abolished, and the appointment of an additional Comptroller and four Auditors was authorized. It was evidently the intent of the framers of the act of 1817 to establish a tribunal for the settlement and adjustment of accounts against the Government that should be wholly independent of the control and revision of the Departments by which the public expenditures and liabilities were incurred. That is, they provided that the original system, in all its clearness and simplicity, should be again the policy and purpose of the Government.

It surely is an anomaly that after this lapse of time the reasons which influenced that committee to recommend the establishment of the office known as the Second Comptroller are practically the reasons which this commission urge for its

abolition. The one is plain and clear; the other, I must confess, seems to me to lack merit in almost every particular.

* * * *

Mr. [WILLIAM J.] TALBERT of South Carolina. Do you not think the plan proposed by this commission will unify and simplify to a greater extent the fiscal affairs of the Government by putting them in one office, and attending to the business more directly than has been done under the old plan? That is, that the plan of disbursing the money will be more completely unified and simplified?

Mr. BAKER of New Hampshire. No, sir; the only way the fiscal affairs of the Government (that is, the examination and settlement of the accounts of the Government) can be made uniform, clear, simple, and precise, is by putting them in the first instance, as nearly all the public men of the country have heretofore recommended, where all of them can be directly examined and settled, and when finally adjusted under an officer with whom all the bookkeeping and all the files of the Department can be intrusted; and that was the original Hamiltonian system, which vested such functions as was provided by the report of the committee from which I have read extracts and under the act of 1817 in the Auditors and Comptrollers of the Treasury Department, where they continued up to 1867 [14 Stat. L., 571] substantially.

Mr. TALBERT of South Carolina. My idea was that the matter had become so complicated as the Government had grown, that the object of the commission was to more completely unify the fiscal affairs of the Government.

Mr. BAKER of New Hampshire. The proper way to have a simplified and unified system would seem to be to abolish what is known as the administrative audits, which are continued by this committee. If they had commenced at this end instead of the other they certainly would have been in line with the policy of the Government in all of its previous transactions, except where a Department here and there has gouged

in, so to speak, and taken to itself authority, and then I think they would have had my support.

* * * *

Mr. [WILLIAM P.] HEPBURN [of Iowa]. I want to ask the gentleman from New Hampshire whether he is not creating an erroneous impression by the manner in which he was discussing the Register of the Treasury as that officer affects the accuracy of accounts. As I understand the matter, the Register simply records what the others have done; he has no revisional power whatever and no corrective power. He simply keeps the records of what the others have done, so that he adds nothing in the way of securing accuracy or certainty in the settlement of accounts.

Mr. BAKER of New Hampshire. I have not in any of my remarks stated that which the remarks of the gentleman would seem to imply. In no form or manner have I said or implied that the Register of the Treasury has anything to do with the examination of accounts. I simply state that it is the proper function of the Register when the accounts have been finally examined and are sent to him with the statement, that from the statement he keeps the books of accounts of the Government, that he is its official bookkeeper, and that he is the proper custodian of the files.

That is under the old system. But under the act of 1817 when these new Auditors were authorized, the Second, Third, and Fourth Auditors were authorized to keep their own books and their own files. The other Auditors kept their files with the Register as before, and he kept their books. That is, all the military and naval affairs of the Government had one system of bookkeeping and one system of file-keeping, while the civil functions of the Government had another system. That was the first separation from the Register's Office of the files of the Government which had heretofore been kept with him. And right at this point, Mr. Chairman, perhaps I might as well argue in relation to what this bill provides so that the matter may be consecutive in its presentation. If this

bill should become a law then the files will be taken away from the Register, and each of the Auditors will become his own file-keeper, and a division in the office of the Secretary of the Treasury will become the official bookkeeper of the Government instead of the Register. Now, what would be the result of that? The result would be that if one wished to follow up a series of accounts he would find that from the beginning of the Government up to 1817 he would have to examine the books and the files of the Register's Office.

If it was a military or a naval account, from 1817 to the passage of the proposed act he would find it in the office of the Third Auditor, or the Second or the Fourth Auditor, or with the Register if it was a civil account. And from the time that this bill becomes the law he would have to go for a civil account to the files rooms of the several Auditors, and the accounts would be scattered in all those several bureaus. Now, to my apprehension the proper way of disposing of the book-keeping and the files of the Treasury Department would be this: To make the Register the official bookkeeper of the whole Department, and the custodian of the files of stated and settled accounts for a period of five years in the Department buildings, and then at the end of that period, year by year, transfer all accounts more than five years old to the hall of records, for the building of which a bill is pending in this House. The hall of records should be under the control of the Register. Then there would be unity in all the files of the Government, and if he kept the books there would be unity in all the national financial records.

After the passage of the act of 1817 there was substantially no change until the establishment of an Auditor for the Post-Office Department, and then for the first time came into the system the anomaly which this commission proposes to make universal, viz, that there shall be but one examination of accounts. Attached to that bill there was a provision that any person feeling aggrieved could appeal to the First Comptroller within a period of twelve months. That system has

been incorporated in this bill. Let us pause here for a moment to consider whether or not this modification which was brought into our system of accounting has worked well in the affairs of the Government. If it has worked well, it is perhaps worth while to try it in a general way, at least for the time being.

* * * *

Mr. DOCKERY. I do not know that I understand the gentleman correctly, but I understood him to say that this bill repealed the provision of law which gives the Postmaster-General the right of appeal from the decision of the Sixth Auditor.

Mr. BAKER of New Hampshire. If you will examine your bill, you will find that that provision of law is specifically repealed.

Mr. DOCKERY. Certainly; but a general provision is incorporated in the bill which gives to the head of any Department the right to secure within twelve months a revision of the Auditor's decision. The gentleman perhaps overlooked that feature of the bill.

Mr. [GEORGE W.] RAY [of New York]. Does it give the claimant the same right?

Mr. DOCKERY. Yes. It gives the right to the head of the [4339] Department, to the claimant, to the Comptroller, and to the Secretary of the Treasury.

Mr. BAKER of New Hampshire. I will come to that question of appeal later. Meanwhile I propose to consider briefly whether this method of having a single examination has worked well in practice. It was stated by the gentleman from Maine who preceded me . . . that the accounts in the Post-Office Department were substantially up to date, but he finally made an exception of the money-order accounts.

Mr. DOCKERY. The money-order accounts are more than two years in arrears.

Mr. BAKER of New Hampshire. It was my good fortune to call upon the Sixth Auditor a little while ago to ask whether the balance which a deposed postmaster claimed was due him

could not be remitted to him. The balance on his post-office account was admitted, amounting to several hundred dollars.

I said, "Why not remit it to him at once?" The reply was, "But we do not know how his money-order account is." "How long will it be before the money-order account can be settled?" I was answered, "We are about three years in arrears."

Now, that was the condition of the accounts there. Why are the money-order accounts in arrears? Simply because the several Auditors of the Post-Office Department have taken their clerks and put them upon another branch of business in order that they may keep that up, and they allow this money-order branch to go untouched, while if a fair distribution were made all the accounts would be but a year and a half behind. That is the reason.

Now, in January, 1886, the House of Representatives adopted a resolution calling upon the Register of the Treasury and the Sixth Auditor of the Treasury for a report or statement of all the balances due to and from the United States, as shown by the books of the offices of the Register and Sixth Auditor, from June 30, 1789, to June 30, 1885.

The Register furnished that report very promptly; and it is published as an executive document.⁶⁸ But what did the Sixth Auditor say? The Sixth Auditor, Mr. McConville, reported in this form:

"I have the honor to inform you that it will probably require the entire services of twenty-five clerks four years to prepare the statement required by the terms of the resolution from this office."

Now, really, that is quite refreshing when we remember that the period of time which he was to report upon was only about one-half of that which the Register was required to include in his report. The Register made his report promptly, while this Sixth Auditor of the Treasury, this boasted "single-examination" officer of the committee, said that it would take twenty-five clerks four years to make up a report for half

⁶⁸ 49 Cong. 1 sess., H. ex. doc. 363. Serial 2403.

the time covered by the report of the Register. I hope the committee will ponder over that fact.

Again, what has been the accuracy, what has been the condition as to frauds, in the Sixth Auditor's Office? When the preceding bill was under consideration in this House on the 9th [8th] of March last, the gentleman from Missouri . . . himself gave us a little information on that point. He spoke of the disbursing clerk, Ewing; he spoke of the Howgate frauds; he spoke of the star-route frauds, etc. Now, let us see what considerations those several frauds suggest in connection with this very office.

It should not be forgotten that this famous star-route scandal was located in a Department where the accounts are settled by an Auditor without revision by a Comptroller, and that the great loss to the Government in that case would have defrayed the cost of the revision of all the Post-Office accounts for half a century.

Since that time, since those very frauds, the Sixth Auditor has established within his own office a division of review, thereby admitting that his single examination was not sufficient; that in justice to the Government there should not be merely a single examination. The same necessity has been recognized by the committee in framing the present bill in relation to a large class of cases, because, they say in section 12, that claims presented to an Auditor which have not had an administrative examination—an examination which they surely never ought to have—the Auditor shall cause them to be examined by two of his subordinates independently of each other. And there was the Ewing defalcation and the Burnside defalcation—all in this one office of the Sixth Auditor of the Treasury. If any member of this committee or any member sympathizing with this committee can show me where there has been an equivalent amount of fraud under any officer where there has been a revision by the Comptroller, I will yield him time to do it now.

But that is not all. There was a gentleman employed as

Fifth Auditor of the Treasury at the time these star-route scandals took place who had previously served in this House with honor and distinction. His integrity and capacity were unquestioned. I refer to Hon. Jacob H. Ela, of New Hampshire, who had for several years represented the district now represented by my honored colleague . . . ; and President Garfield selected him from all the accounting officers of the Government to take the place of the Sixth Auditor of the Treasury, whom he saw fit to displace; and he was speedily confirmed by the Senate and took charge of that office. Later, being called upon by the First Comptroller, he stated his views in regard to this double accounting, or the necessity for the revision of the accounts of his office by a Comptroller. I ask that his letter be read.

The Clerk read as follows:

“In answer to your inquiry as to ‘whether it is advisable to apply the Treasury system of adjusting accounts to the accounts of the Post-Office Department,’ I have the honor to inform you that I favor the policy of having all accounts reviewed by a Comptroller after passing an Auditor whenever they shall be reduced to the lowest practicable number. At the present time four-fifths of the accounts of postmasters are such that they could be dispensed with by causing the money-order offices to disburse such payments as become necessary and furnish such stamps as may be required at the smaller offices.

“This office now follows the Treasury system so far as its limited clerical force will allow. All postmasters’ accounts are passed upon by two separate divisions, and other accounts which pass but one division, are overlooked a second time by different clerks. The aim is to review every account as a check against fraud and to correct errors. The above statement in regard to postmasters’ accounts applies with equal force to accounts for the transportation of the mails. Mail and special mail messengers could be paid by the postmasters at money-order offices, and their receipts handled as vouchers in the

quarterly returns of such postmasters, instead of, as at present being settled by statement of account and paid by warrant. There is legislation to effect this change pending at this time. Whenever these changes, with a few others, are made it will become more practicable and necessary that all accounts should pass the review of a Comptroller."—May 8, 1884.

J. H. ELA, Auditor for the Post Office Department,
to WILLIAM LAWRENCE, First Comptroller.

Mr. BAKER of New Hampshire. There, Mr. Chairman, is testimony from the Sixth Auditor himself, who was selected especially in a time of emergency and who continued in the office until his death. If the committee can in any way diminish the force of that testimony and that proof, I can not comprehend how it can be done.

The House yesterday at my request printed in full in the RECORD the report of Secretary Woodbury in 1834⁶⁹ in response to the Senate resolution of 1832. I hope gentlemen of the House will read that report in full. But it is so important that I can not help asking the attention of the committee to a few of its provisions. The resolution itself is broad and specific on this point of accounting. Mr. Woodbury says in reply:

"While seeking to enforce the designs of Congress on the particular subjects enumerated, it will be presumed that no alterations were probably wished which, in their general operations, would lessen any of the useful checks now existing, to prevent errors in the Treasury, either accidental or designed, and to guard against losses to the public, or misapplication of money by departures from specific appropriations, or which would diminish the means of furnishing promptly to Congress and the public desirable information as to the receipts and expenditures, and of averting delays in the collections or settlement of the extensive moneyed concerns of the Government."

Again he says:

"The details under these divisions will be most natural by

⁶⁹ See No. 58.

beginning with the Auditors, who hear and decide for the claims and evidence of individuals against the Government, and with the Comptrollers, who reëxamine and control the hearing and decision of the Auditors. In these respects these two classes of officers are judicial.

“Afterwards we shall proceed to the Register, whose office was created for the purpose of recording the decisions or judgments of both, preserving the evidence and vouchers.”

That is exactly the claim I have made all along, that the Register—and I ask the attention of the gentleman from Iowa . . . to that point, and I wish the committee also to note that it was under this report that the office of Commissioner of Customs was established. He says of the Auditor under this provision:

“The present five Auditors are probably numerous enough for all fiscal purposes; but their respective titles by numbers, and the manner of assigning duties to them, are not calculated, in all cases, to make those duties well understood by the public, or to be free from complexity, and an inappropriate mixture in one bureau of subjects totally unlike.”

And right here is where this committee has secured its policy, and purpose in regard to the assignment of duties to the Auditors. They went back to this old report of Secretary Woodbury in order to turn out some kind of a question about the Auditors, and mixed them up so that no one who is familiar with the present duties of the organization could tell one baby from the other; and I repeat that right in this old report of 1834 is where the experts, who seem to have guided this committee, have gotten their fundamental idea, and it is an idea which was not approved by Congress then, and I can not believe will be approved by Congress now. [4340]

Then again he says:

“It seems required, by a due regard to system, uniformity, and proper accountability, that neither those empowered by law to decide on the necessity of certain services and purchases nor those who make the purchases and contracts should also adjust the accounts rendered for them; but that the Auditors

themselves, whether the claims originate under authority of the heads of bureaus or of Departments, should have the exclusive power, in the first instance, to judge of the reasonableness and just amount due, looking to all the evidence in the case, and to the laws and fixed prospective regulations that apply to it. Their decisions will then pass in review before the Comptroller, imposing on him the same guides, and afterwards be subject to an appeal when they differ in opinion, and only then, to the Secretary of the Treasury, in all cases not arising under his own orders."

And here Secretary Woodbury emphasizes that it was a proper thing that the accounts should first of all go to the Auditor, and secondly that no administrative officer who authorized the expenditure of money should also audit the vouchers which show that expenditure. He says:

"It is proposed to continue to devolve on the office of Comptroller all the duties originally contemplated for it, but to relieve it from those not appropriately connected with the functions of comptrolling."

Now, after a hundred years of successful accounting by Comptrollers this committee, which claims that it was appointed under a recommendation of Secretary Foster, made in 1892, comes in with a report and a bill contrary to every recommendation which was ever made in this country before, and I challenge any member of the committee to show one single, solitary instance in all the history of the Government where any legislative committee, any committee of the House or the Senate, or any Secretary of the Treasury, or any committee authorized by either of them, has ever reported that it was advisable to do away with the Comptrollers of the Treasury. It is an innovation, and an innovation not justified by the facts. It is purely a matter of fancy.

Now, the committee speak about the Register. In this report, to which I have already referred, we find it stated:

"In the arrangements of this office, no change is contemplated, except that all the papers connected with the office of Second Comptroller, and now deposited with the Second,

Third, and Fourth Auditors, should, after a certain period has elapsed sufficient to dispense with frequent references to them, be placed where they appropriately belong, and where the original design of this office required, in the charge and under the responsibility of the Register."

There is exactly the claim that I have made, and Secretary Woodbury says in this report that he commends it for its simplicity and correctness. Again he says:

"Effectual checks against overdrafts, or misapplications, exist in the Comptroller's Office."

And again:

"Notwithstanding the numerous forms and obstacles which now exist to prevent the smallest sum from being taken out of the Treasury without the previous authority of Congress, the Treasurer being now charged on the public records and under his own written acknowledgment with every dollar that goes into the Treasury, and can not be discharged from a single dollar of it except by those records and a written direction obeyed by him in the form of an order or warrant for payment, signed and verified by three other distinct officers showing the money to be wanted to meet some appropriation made by Congress itself; yet it is possible that a combination among all these officers, or an accident escaping the vigilance of all, might lead to an improper withdrawal from the Treasury of some part of the public money."

When all of those officers united in making a statement and adjudication, after a careful examination of all the vouchers and all the authorities known to them, Secretary Woodbury admits the possibility of fraud or the possibility of error. What would he have said if he could have been met by this report, which proposes to take away one-half of all those safeguards of the Treasury, And why? Simply because somebody claims that it would be a little more economical or that somebody's accounts have been delayed for a few months.

Now, I make this statement in the presence of the committee and the House, that if anybody's accounts have been delayed in the Auditor's offices or the Comptroller's offices of

the Treasury beyond one year at any time, that the man himself who rendered the account has been more to blame than the accounting officers of the Treasury, and that in truth and in fact he has been called upon for some kind of evidence or some kind of information and has failed to furnish it.

In this connection also, Hon. James Guthrie, Secretary of the Treasury, in his annual report of December 3, 1855,⁷⁰ said:

“To constitute a good Auditor and a good Comptroller requires legal ability of a high order, a special knowledge of our fiscal and disbursement laws and regulations, coupled with unabating industry, unbending integrity, and promptitude of decision; and scarcely less can be required of the accountants in their offices. The Auditors and Comptrollers and the accountants under them, constitute the safeguard of the national Treasury, and have to withstand the whole army of claimants and their interested clamor. It is submitted, with their increased business and the change in the value of money, that the Auditors and Comptrollers do not receive an adequate compensation for the high qualifications they ought to possess, and the onerous duties they have to discharge.

“The system of accounting at the Treasury is easy of comprehension, and as well calculated to prevent frauds, correct errors, and secure a proper execution of the laws as any that could be devised, and might be extended to all the operations of the Government without inconvenience and to the greater security of the National Treasury and national domain. * * * It is believed that the action of two Departments should be required, as in the Treasury, in all cases where the National Treasury or public domain is to be reached or to be affected, and that no accounts, however created, should escape the usual and customary examination and reëxamination.”

Mr. Chairman, I notice that my time is rapidly disappearing. I have here various extracts from the reports of Judge Lawrence, who was Comptroller of the Treasury, and I ask that they may be printed as a part of my remarks, and that the

⁷⁰ See No. 66.

Poland report of February 16, 1869,⁷¹ be also printed as a part of my remarks.

The documents are as follows:

Judge William Lawrence, in volume 4 of his decisions, page 20 of the introduction, says:

“The revision by a Comptroller of all accounts examined and adjusted by Auditors is certainly a great safeguard in the system of accounting. The accounts examined and settled by the [Sixth] Auditor of the Treasury for the Post-Office Department are not subject to such revision, except on appeal (Revised Statutes, 270); in which respect the accounting system of the Treasury Department for the Post-Office Department is anomalous (McKnight’s case, 13 Court of Claims, 303). If these accounts had been subject to such revision in the usual mode, it may well be doubted whether payments of large amounts of money which were made for a time under the so-called ‘star-route contracts,’ upon the construction given, however honestly to the statute regulating ‘increased’ and ‘expedited’ mail service, could ever have been made.”

* * * * *

Lawrence, page 24:

“The necessity of establishing a system of revision of the audit of postal-accounts, in accordance with the laws and regulations which control the adjustment of all other accounts, is conceded.”

Lawrence, page 26:

“It must be manifest that the Comptrollers exercise a jurisdiction which, as to the number of cases, the amount of money involved, and the number of persons interested, is much greater in extent than that of any one court of the United States, in fact than that of many of the courts combined. It must be apparent also that as many difficult and important questions of law receive the consideration and decision of Comptrollers as can possibly arise in the highest court of any State, or in courts of extensive jurisdiction of the United States.

⁷¹ See No. 70.

“The Comptrollers are required to give construction to every act of Congress under which money can be paid from the Treasury.” [4341]

* * * *

Mr. HEPBURN. Mr. Chairman, the allegation urged most strenuously against the enactment of the pending bill is that it displaces a system that is venerable, that has been in existence for more than a century, and that was adopted by men distinguished for their wisdom and financial ability.

Gentlemen in the argument of antiquity lose sight of the fact that a system adapted to the uses and demands of this country a century ago may not be now. When our present system of accounting was adopted, the entire revenues of the United States were less than \$3,000,000 per annum, less than 1 per cent of the expenditures of a year ago, and that a method of accounting which was practicable then as applied to that meager sum of \$3,000,000, might be entirely inadequate to the present emergencies.

Our present system is valuable; but it is valuable as an antiquity rather than as a method adapted to present wants. This bill proposes changes which will bring benefit in the way of economy, which will bring benefit in the way of a more expeditious discharge of the public business, and yet which will secure every guaranty of safety that we have to-day.

When the old system was adopted, the accounts were rendered to the Auditors, and there was the accounting of the Auditor and the review by the Comptroller, one a check upon the other, and those were all. Now we have an entirely different system. The great proportion of accounts are rendered to the disbursing officers, officers who make payments at their peril, whose bonds stand behind their fidelity. The account then goes to the Department, and there is the departmental accounting. The account is again gone over. Then it goes to the auditor, and there again is a review, and under the present system it still goes again to another series of accounting officers, and is reviewed in the Comptroller's Office.

Now, it is proposed to do away with this final fourth going over, or statement of the account, and that is the main feature of this bill. Three accountings are already provided for; and yet, under the provisions of this bill, on all questions of law the opinion of the Comptroller, as the final officer, may be had. And upon every question of fact, provision is made for appeal. So that it seems to me that every needed guaranty, every needed requirement of certainty and of accuracy, is secured by this bill. I think the commission are entitled to great credit for the care with which they have gone over the subject committed to them.

The gentleman from Kentucky . . . has just said that this bill meets with the cordial approval of the present Secretary of the Treasury, Mr. Carlisle. He might have gone further and said that his predecessor, Mr. Foster, was on record indorsing this system, and that the predecessor of Mr. Foster was in favor of such radical change as would substantially do away with the cumbrous machine known as the Comptroller's Office, taking away the accountings from that officer as they are had to-day, as being unnecessary.

I desire to say nothing more than that I give my adhesion to this bill. I believe it is a good one in the direction of economy, of certainty, and of the expedition of the public business. [4345]

* * * *

[Mr. DOCKERY.] Mr. Chairman, I come now to the consideration of House bill 6948, which is unanimously reported by the Joint Commission as a substitute for House Bill 6478. It is entitled "A bill to improve the methods of accounting in the Department of the Treasury, and for other purposes." The title, therefore, challenges us to an examination of the present condition of the business in the accounting department of the Treasury, and the necessity of determining in the light of such investigation whether or not there is any necessity for an improvement in the methods of accounting.

It is hardly necessary for me to occupy the time of the

House at any length in attempting to establish the fact that there is very great delay in the audit and payment of claims and settlement of accounts under the existing system.

The experts employed by the commission state that:

“The time elapsing from the date of rendering until the final settlement of the accounts (by the Comptrollers) passing through the several Auditors’ Offices is as follows:

First Auditor’s Office, from two to six months.

Second Auditor’s Office, from six months to two years.

Third Auditor’s Office, from nine to seventeen months.

Fourth Auditor’s Office, from five months to one year.

Fifth Auditor’s Office, from three to six months.

Commissioner of General Land Office, from three to four months.

“These figures represent an average of the various classes of accounts, and many, of course, are delayed a much longer period. There are scarcely any accounts finally settled within a reasonable period, while for some of the officers who have gone out of service, as, for instance, Indian agents, it is as much as five years before the accounts are settled, and during all this time the vouchers and papers lie in one or another of the offices of the Treasury or administrative departments.”

These facts are known and acknowledged by all who are conversant with the condition of the public business in the Treasury Department.

I also quote from the last annual report⁷³ of Hon. Charles Foster, Secretary of the Treasury, in which he tersely reviews the unsatisfactory methods now employed. . . . [4347]

* * * *

Mr. Chairman, I could multiply citations in support of the proposition that some change in the accounting system of the Treasury is necessary to secure prompt and accurate audit of claims and public accounts. I do not, however, think it at

⁷³ See No. 73.

all necessary, although I am aware there are those who object to any change in the existing system.

Hon. Levi Woodbury, then Secretary of the Treasury, under date of May 8, 1832,⁷³ adverting to this fact, stated that—

“Difficulties will perhaps spring up on various sides to defeat changes which may have or may be imagined to have an unfavorable effect on some incumbents personally, and others officially, while honest differences of opinion will be likely to occur in respect to the probable advantages to result from some other changes.”

The difficulties that confronted the then Secretary of the Treasury in respect to certain changes he suggested in response to a resolution of the Senate, are no less potent to-day than they were at that period. It is true that the century which is about to close has been one of unparalleled growth and development in all departments of human effort. It is the age of steam and electricity; it is the age of the railroad, the telegraph, the telephone, and other marvelous improvements, the result of the inventive genius of the American people. Old methods have passed and are passing away and giving place to modern and improved methods; and yet, when an attempt is made to perfect the methods of the accounting branch of the Treasury and bring them in harmony with the progress of the century, we are met with the objection that the system which is sought to be improved is one hundred years old.

HISTORY ACCOUNTING SYSTEM

Now then, Mr. Chairman, let us briefly examine the history of our accounting system, and the uses and purposes for which it was created. The accounting department of the Treasury is designed to secure a speedy and reliable audit of the receipts and expenditures of the Government; that is to say, the function of the accounting branch is to determine the amount to which the Government is entitled, or the amount

⁷³ Dec. 8, 1834. See No. 58.

the Government should pay under a proper construction of the statutes. The audit, therefore, of the accounting branch looks solely to the ascertainment of the correct amount under a proper interpretation of the law. The bill under consideration, so far as it relates to the income of the Government, specifically changes the audit of customs receipts. Under the existing system about 90 per cent of our customs revenues are collected at ports where there are naval officers, and the audit of all such receipts involves a quadruple examination of accounts.

There is first the joint double audit of the naval officer and the collector of the port before the duties are collected. This is followed by an audit of the First Auditor, and finally the accounts are reviewed by the Commissioner of Customs. The proposed bill abolishes the office of Commissioner of Customs, thus dispensing with the fourth and final examination as now existing, and leaving a triplicate system of examination for the protection of the Government by the joint action of the naval officer and collector of the port and the audit of the Auditor.

The bill not only leaves a system which requires a triplicate examination of accounts, with the right of appeal to the Comptroller of the Treasury, but also strengthens the audit by requiring original papers to be sent to the Auditor in all cases where the Secretary of the Treasury may so direct. It seems hardly necessary to urge the desirability of this change, inasmuch as the triplicate safeguards which yet remain with the appellate supervision of the Comptroller would seem to be a sufficient guaranty that the Government will secure a reliable and yet more expeditious audit than the one which now prevails.

In this connection it is well to state the fundamental proposition that the essential virtue of an audit consists in the act of audit being as nearly contemporaneous with the receipt or expenditure as is practicable to be made. In other words, it would seem to be desirable to make the audit in the lifetime

of the officer who receives or expends public money, rather than to deal with his administrator or rely upon his official bond.

The auditing system of the Government was established in 1789, when the area of the country was 827,844 square miles, its population 3,929,214, and its annual expenditures about \$500,000. The Treasury Department was then provided with a Secretary, a Comptroller, an Auditor, a Treasurer, and a Register, but the accounting business devolved alone upon the Auditor and Comptroller. Accounts and claims were presented to, and stated by, the Auditor and reviewed by the Comptroller, thus combining the requirements of a double audit.

Apparently it was the theory of the system, and the early practice thereunder, that all accounts and claims against the Government, with the possible exception of army and navy expenditures, were to be paid only on presentation and after audit by the accounting officers. The appropriations for the support of the Government for the calendar year 1789 were expressed in a statute of thirteen lines, enacted twenty-seven days after the auditing system was adopted. For nearly thirty years the appropriations for the conduct of the several departments of the Government were made in gross, and without reference to the number of persons employed, the salaries to be paid, or amounts for specified objects; and for nearly forty years all of the appropriations for the support of the Government were made in but one general bill.

The general system of auditing and bookkeeping adopted in 1789, with its methods of double checking and divided responsibility in the Treasury Department, was perhaps the best that could be devised at that time.

The growth of the country, however, and the increase in the expenditures of the Government has required many changes to be made in the original system. The first important change was made by the act of May 8, 1792 [1 Stat. L., 279], which created the office of accountant for the War Depart-

ment, who was authorized to settle accounts relating to that Department, and to whom advances were made for all the expenses of the Department. The act of April 30, 1798 [1 Stat. L., 610], created the Navy Department, and provided an accountant therefor, who was authorized to settle all accounts in that Department.

This was followed by the act of 1816 [3 Stat. L., 322], creating an additional accountant for the War Department, but continuing in force the same system of accounting. During this period the accountings for the War and Navy Departments were practically made by the accountants for those Departments. It is true, the power of revision still rested in the Treasury Department; but as a matter of practice it was but nominal, for the reason that payments were made on the audits of the accountants of these departments without waiting for the revision authorized by the accounting branch of the Treasury Department. This fact is set out in a report of December 17, 1816,¹⁴ made to the Senate by James Monroe and others. As a reason for this practice of payment before the revision of the Treasury Department, they state that the delays necessary to such revision would result in confusion and obstruct the operations of the Government.

The act of 1817 [3 Stat. L., 366] abolished the offices of accountants of the War and Navy Departments and Superintendent General of Military Supplies, and restored the settlement of accounts to the Treasury Department. This act also created the Second Comptroller, the Second, Third, and Fourth Auditors, and transferred the appropriations for clerk hire in the offices of the accountants of the War and Navy Departments and the Superintendent General of Military Supplies to the Auditors' offices, with the duties which they had been performing, thus making it clearly the intention of the act to dispense with all administrative examination of accounts.

Other important changes made in the accounting system

¹⁴ See No. 36.

were the establishment in 1812 [2 Stat. L., 716] of the General Land Office, with an auditing branch in which all land accounts were settled, and the transfer of the General Land Office to the Interior Department, established in 1849 [9 Stat. L., 395], in which the law authorized the continuance of the same audit; and in both cases the accounts passed [4348] from the audit in the administrative office directly to the First Comptroller for review.

The next important change was made by the act of 1836 [5 Stat. L., 80], under which the Auditor of the Treasury for the Post-Office Department was established, the act making his decision final and conclusive except upon appeal to the First Comptroller. Again, in 1849, the office of Commissioner of Customs or Third Comptroller was established for the purpose of relieving the Comptroller of the Treasury from a part of his duties. The Commissioner of Customs was then charged not only with the duties of accounting, but also with administrative functions which have since been withdrawn from that office by the creation of an Assistant Secretary of the Treasury, and the establishment of a division of customs in the office of the Secretary of the Treasury.

Yet another change, made in 1867, restored in express terms the administrative examination which was dispensed with by the act of 1817. The experience of the Departments of the Government having demonstrated the essential importance of an administrative examination, it was gradually resumed and practiced in the Departments until it was finally crystallized in the act of 1862 [12 Stat. L., 593], as amended by the act of 1867 [14 Stat. L., 571], and is now expressed in the Revised Statutes, section 3622, in the following language:

“Every officer or agent of the United States who receives public money which he is not authorized to retain as salary, pay, or emolument, shall render his accounts monthly. Such accounts, with the vouchers necessary to the correct and prompt settlement thereof, shall be sent by mail, or other-

wise, to the Bureau to which they pertain, within ten days after the expiration of each successive month, and, after examination there, shall be passed to the proper accounting officer of the Treasury for settlement.

“Disbursing officers of the Navy shall, however, render their accounts and vouchers direct to the proper accounting officer of the Treasury. In case of the nonreceipt at the Treasury, or proper bureau, of any accounts within a reasonable and proper time thereafter, the officer whose accounts are in default shall be required to furnish satisfactory evidence of having complied with the provisions of this section.

“The Secretary of the Treasury may, if in his opinion the circumstances of the case justify and require it, extend the time hereinbefore prescribed for the rendition of accounts. Nothing herein contained shall, however, be construed to restrain the heads of any of the Departments from requiring such other returns or reports from the officer or agent, subject to the control of such heads of Departments as the public interest may require.”

It may be well to say that Massachusetts' great Senator, Hon. Henry Wilson, was the author of the act of 1867, which restored the administrative examination as a part of the accounting system of the Treasury.

Mr. Chairman, it thus appears that the original system established in 1789 was changed in 1792, in 1798, in 1812, in 1817, in 1836, in 1849, in 1862, and again in 1867. From its original status, with one Auditor and one Comptroller, the system has developed into a system of five Auditors, acting under three independent Comptrollers, one great Department Bureau (the General Land Office) settling its own accounts directly with a Comptroller without the intervention of an Auditor; and a Sixth Auditor who acts independently of a Comptroller, except upon appeal. It may be well to summarize the effect of the different systems which have prevailed as to the audit of public expenditures since the foundation of the Government.

The original system of one Auditor and one Comptroller evidently contemplated a double audit to be made before payment, except, possibly, for the expenditures of the War and Navy Departments. The acts of 1792 and 1798 in practice only provided an administrative audit by the accountants of the War and Navy Department; but in theory it was a triplicate examination of accounts. The audit of the Land Office accounts is a double audit consisting of the administrative audit and the Comptroller's audit. The audit by the Auditor for the Post-Office Department contemplates only a single audit, with right of appeal to the Comptroller, the account having been first stated by the administrative office, while the existing system, under section 3622 of the Revised Statutes provides, as stated by Secretary Foster, a "triplicate system of examination of public accounts which has no counterpart in any other Government, whether European or in the several States of the Union."

Mr. Chairman, it is scarcely a matter for comment that, in view of the complex system which prevails, the accounting should be so much in arrears.

In a report submitted to the House of Representatives under date of March 10, 1886, it appears from the books of the Register that the civil accounts of the Government showed balances due the United States of more than \$25,000,000. This exhibit only included the civil accounts, and was entirely exclusive of the military and naval accounts, and the accounts of balances due the Government in the office of the Sixth Auditor.

OBJECT OF AN AUDIT

Now, Mr. Chairman, it may be well to again advert to the purpose of the audit and emphasize the fact that an audit, so far as expenditures are involved, contemplates a speedy ascertainment of the correct amount due or to be credited, and the proper interpretation of the law so far as it relates to such account.

The total expenditures of the Government for the fiscal year ending June 30, 1893, exclusive of postal expenditures, were \$383,477,954, and of this amount \$340,696,143 were advanced to disbursing agents, and \$42,781,811 were payments made after settlements by the Auditors and Comptrollers.

The percentage of the expenditures for this fiscal year, audited after payment by responsible disbursing agents, constituted 89 per cent of the total expenditures. It may be stated also that the payments on account of audited accounts included for that year \$9,500,000 for sugar bounty, and a payment of \$3,000,000 due to the Choctaw Indians. If, therefore, we deduct those extraordinary payments, it would leave the amount of the general expenditures paid after settlement by the auditors at about 8 per cent, or 92 per cent of the whole expenditure having been first disbursed by disbursing officers, and audited after payment.

It is manifest, therefore, that under existing conditions more than 90 per cent of our total appropriations being first expended and then audited, a speedy audit is essential to properly protect the Government. The functions of the accounting system, as heretofore stated, involve the determination whether expenditures have been made as authorized by law, and that accounts are mathematically correct. These functions should be promptly exercised in order to secure the Government against loss by preventing the advance of money to officers who are either delinquent in rendering their accounts, or who have not properly disbursed the public money intrusted to their care.

The delays resulting from a triplicate system of examination are so great that the Auditors have become practically "dead letters" in the administration of the accounting branch, and the Government must largely rely upon the administrative departments to exercise oversight and secure a proper expenditure of the public money.

I desire to state also in this connection that the require-

ments of submitting estimates for appropriations and the existing methods of Congress in making appropriations, involving as they do a detailed and thorough inquiry by committees not only into the purpose for which appropriations are asked, but also into the manner and results of expenditures previously made, and the act covering back into the Treasury balances of appropriations two years after the year for which they are made, and the law passed in the year 1862 as amended in 1867, requiring the examination of accounts by the administrative departments, all combine to make a system of checks absolutely perfect to protect the Government, provided that a final audit can be had practically contemporaneous with expenditures.

DOUBLE AUDIT

Let us therefore, Mr. Chairman, address our inquiries for a few moments to the bill under consideration and determine whether it secures with promptness and accuracy an audit contemporaneous with expenditures as far as practicable.

A hundred years ago the system was designed to meet the wants of less than 4,000,000 people, with a Government whose annual expenditures were only about one-half a million of dollars. To-day the responsibility confronts us of providing an accounting system, with the necessary safeguards, for a country which consists of 3,603,884 square miles, having a population of nearly 70,000,000 and an annual expenditure of \$500,000,000. Then the system in the main contemplated payment after an audit. Now, the necessities of the Government require that 92 per cent of all our liabilities, exclusive of postal expenditures, shall be first paid by bonded disbursing agents and subsequently audited by the accounting branch of the Treasury. It is obvious, therefore, that a system which contemplates an audit after payment should be constructed with the view of giving a speedy and effective audit.

Mr. Chairman, there should be a double audit of all the expenditures of the Government, whether they be claims or

accounts, whether the audit be made after disbursement or prior to payment. A double audit is essential to mathematical accuracy and a correct interpretation of statutes. So far as mere questions of computation are concerned, the examination by the administrative departments and by the auditing branch of the accounting department will amply protect the Government. The records of the Departments show that the differences between the Auditors and Comptrollers, growing out of mere mathematical errors are infinitesimal. Now, then, conceding as we do that there should be a joint double audit, the question arises, who shall make that audit?

It is contended by gentlemen who are opposed to this bill that the administrative audit under the present triplicate system of examination should be abolished, and accounts and claims sent directly to the Auditor whose examination should be reviewed by a Comptroller. It seems to me, Mr. Chairman, that an administrative examination is of paramount importance. Congress commits to the administrative departments the expenditure of [4349] vast sums of money, much of which in its detail is necessarily matter of regulations by the administrative departments.

It follows, therefore, that these Departments should supervise and examine expenditures they have authorized, in order to determine that they have been made in accordance with laws and regulations, and that the amounts are correctly stated. It is admitted in the report submitted by Mr. Monroe, in 1817, and confirmed by all subsequent experience, that the Government must rely upon the administrative branches to enforce economy in the public service, and that the heads of Departments must be held responsible to the nation. From this view it would seem there is no plausible ground for dissent.

If the administrative departments are to enforce economy in the administration of the public service, then there is no escape from the conclusion that they must supervise and review the expenditures they have made. This view, as here-

tofore stated, has been crystallized into our statutes, and is therefore without the pale of legitimate controversy. Now, then, the administrative examination being conceded to be a necessity, what additional examination should be made in order to secure a trustworthy audit, for it must be admitted that whatever system is employed in the accounting branch of the Treasury, it should contemplate prompt, accurate, and final settlements?

In the opinion of the joint commission, concurred in by the Secretary of the Treasury, and by the officials who have had to do with the preparation of this bill, the administrative examination should be supplemented by the examination of the Auditor, which should be final and conclusive upon the executive branch of the Government, subject, however, to appeal by the head of the Department interested, by the Comptroller of the Treasury, by the claimant, or by the Secretary of the Treasury. This appeal, of course, will rest upon questions of both law and fact.

The bill also provides that whenever an Auditor makes an original construction, or modifies an existing construction of statutes, such decisions shall be forthwith reported to the Comptroller of the Treasury, and the payment of items affected by the decision withheld until the Comptroller approves, disapproves, or modifies the decision. It further authorizes the head of the Department or any disbursing officer to apply to the Comptroller of the Treasury for a decision upon any payment to be made, which decision shall govern in the adjudication of the account containing the disbursement.

The bill still further provides that where a claim is presented to an Auditor which has not had an administrative examination, the Auditor must cause the claim to be examined by two of his subordinates independently of each other.

It also abolishes the offices of First and Second Comptroller of the Treasury and creates a Comptroller of the Treasury, who shall exercise all the functions now performed by the

First and Second Comptrollers and the Commissioner of Customs, thus avoiding the conflicting decisions which are frequently made by the three independent Comptrollers.

It would seem, therefore, Mr. Chairman, that the Government is protected at every point by the provisions of this bill. In lieu of the triplicate examination by the administrative department, the Auditor, and the Comptroller, which now greatly delays the settlement of public accounts and thus makes the Government liable to losses by disbursing officers, there is substituted a system which provides an independent double audit by the administrative branch on the one hand and the accounting branch on the other, with the Comptroller of the Treasury exercising active legal supervision, and declaring the law in respect to all expenditures.

The objection has been urged that the bill will protect the claimant rather than the Government. In other words, that the claimant will in every case appeal where in his judgment his interest will be subserved by so doing, but that the Government will not have in actual practice the benefit of an appeal, because, as is claimed, the Auditor will not appeal from his own decision. This fallacious criticism evidently rests upon an imperfect examination of the bill. A careful scrutiny of its provisions shows that the Government will be protected, first by the administrative examination, again by the Auditor's examination, which is final unless appealed from.

The bill further provides that, upon the allowance of any account or claim, the head of the Department interested shall be forthwith notified of such allowance, thus affording an opportunity to appeal if he so desires. This privilege of appeal is made effective by the provision which requires the Secretary of the Treasury to make regulations which shall fix the time that shall elapse between the allowance of an account and the issue of a warrant, thus affording the administrative department ample opportunity to enter an appeal if desired.

Mr. Chairman, there are other beneficent provisions of this bill to which I will not now allude, inasmuch as the contention

in respect to this measure all twines about the proposition to substitute a joint double audit by the administrative and accounting branches, with the appellate supervision of the Comptroller, for the triplicate examination which now vexes and delays the settlement of the people's business.

I will not detain the House further, but will submit as a conclusion to my remarks letters from ex-Secretary of the Treasury Hon. Charles Foster and of the present Secretary of the Treasury, Mr. Carlisle, which heartily and earnestly indorse the provisions of this bill, and urge its speedy enactment:

“. . . I have very carefully examined the provisions of the bill H. R. 6948, improving the methods of accounting in the Treasury. I believe the bill will secure a speedy and reliable [audit] of the expenditures of the Government, infinitely superior to the present system.”—FOSTER to DOCKERY.

“I have carefully examined the draft of bill entitled ‘A bill to improve the methods of accounting in the Department of the Treasury, and for other purposes,’ and I have the honor to state that, in my judgment, the changes from existing law, as contained in said bill, will simplify the accounting system of the Department and expedite the settlement of public business, while at the same time securing accuracy and economy in the conduct of the service.

“I therefore beg to state that I approve of the bill.”—
March 27, 1894. JOHN G. CARLISLE to DOCKERY.

* * * * *

“With reference to objections which have been raised in Senate Miscellaneous Document No. 145 to the bill to improve the methods of accounting in the Department of the Treasury, introduced by you from the Joint Commission of Congress, I beg to add that I have carefully examined the same and find no reasons therein to change the views expressed by me in the letter of March 27 last, addressed to you, concerning the bill in question.

“In my judgment the provisions of the bill will accomplish a prompt and accurate audit of the expenditures of the Government more nearly contemporaneous with their creation than can be secured under the existing system.

“About 90 per cent of all the expenditures of the Government other than those from postal revenues are made through responsible disbursing agents, and their accounts will be carefully audited by the administrative departments of the Government before going to the Auditors. This method together with the requirement that all claims which do not receive an administrative audit shall have two independent examinations in the Auditor’s offices, constitutes a complete check, and besides the proposed bill provides the additional safeguard of an active legal supervision on the part of the Comptroller.

“The delays under the present accounting system have long been the subject of adverse comment and criticism, both in Congress and in the Department. My immediate predecessor, Hon. Charles Foster, in his last annual report to Congress, said among other things with reference to this subject: ‘It is not only vexatious in respect to details, but wrong in respect to system. Beyond that, however, is the fact that it is highly expensive without compensating results to the Government.’

“I have personally and with the aid of officials of the Treasury Department given careful consideration to the provisions of the bill, and I again earnestly recommend that it be enacted.”—April 24, 1894. CARLISLE to DOCKERY. [4350]

* * * *

The CHAIRMAN (Mr. HATCH). General debate on the bill has been exhausted by order of the House. The Clerk will proceed to read the bill for amendments under the five-minute rule.

The Clerk read as follows:

“SEC. 6. The balances which may from time to time be certified by the Auditors to the division of bookkeeping and

warrants, or to the Postmaster-General, upon the settlements of public accounts, shall be final and conclusive upon the executive branch of the Government, except that any person whose account may have been settled, the head of the Executive Department, or of the board, commission, or establishment not under the jurisdiction of an Executive Department, to which the account pertains, or the Comptroller of the Treasury, may, within a year, obtain a revision of the said account by the Comptroller of the Treasury, whose decision upon such revision shall be final and conclusive upon the executive branch of the Government: *Provided*, That the Secretary of the Treasury may, when in his judgment the interests of the Government require it, suspend payment and direct the reëxamination of any account."

Mr. [IRVING P.] WANGER [of Pennsylvania]. Mr. Chairman, I move to strike out the last word. I make this motion more particularly for the purpose of asking information as to the manner in which the Secretary of the Treasury is to become advised that the interests of the Government require the suspension and reëxamination of any account. I should be very glad to be enlightened on that point, and I avail myself of this opportunity to submit that a system which has stood the test imposed upon the accounting department of this Government through the enormous transactions of the late war and of our great national obligations is one that is not to be lightly set aside. It seems to me that if there is a way provided by which the Secretary of the Treasury will become informed, and by which the Comptroller will become informed in these cases of the necessity for action upon their part, then probably the safeguards provided by this bill are ample; but unless there is a method provided for bringing to the attention of these officers the accounts which require investigation, I fail to observe wherein there is any advantage obtained by the proviso to this section. I send to the desk and ask to have read in this connection an article from the New York Tribune of April 19, 1894.

The extract is as follows:

GOVERNMENT ACCOUNTS—EX-DEPUTY COMPTROLLER GARRISON CRITICISES THE FINDINGS OF THE DOCKERY COMMISSION—NECESSITY OF A DOUBLE AUDIT—DEPARTMENT AUDITORS NOT INDEPENDENT—THE NEW SYSTEM WOULD REQUIRE EXPENSIVE REORGANIZATION OF CLERICAL FORCES.

To the Editor of the Tribune:

SIR: In the proposed reduction of officials and clerks and the so-called reform in the accounting system of the Treasury Department, recommended by the Dockery Commission and their experts, that commission has chosen a high and shining mark at which to aim its arrows of destruction. Every one familiar with the history of the Department, its growth and development, knows that from time to time in later years a number of offices and divisions have sprung into existence and expanded without any well-defined statutory authority, and with less apparent necessity, encroaching upon and usurping the duties which rightfully and properly belong to the original bureaus, which came into existence when the Department was established. To these apparently useless outgrowths of later years the commission and its experts have not even "paid the cold respect of a passing glance." But their first blow is delivered at an office which ranks next to that of Secretary of the Treasury in dignity and importance, which was created by the same act (September 2, 1789) which established the Department, and which has often been termed "the key to the Treasury," because of the high responsibility which attaches to it. The First Comptroller, the Second Comptroller, and the Commissioner of Customs, in the matter of the final examination and certification of accounts and claims, are each now invested with the same powers and duties as was conferred upon the Comptroller of the Treasury by the organic act of 1789.

By the bills reported by the commission, and in accordance with the recommendation of its experts, the offices of Commis-

sioner of Customs and Second Comptroller are to be abolished outright, and the First Comptroller is shorn of his power and authority with respect to the detailed and regular examination and certification of accounts and claims in his office. In lieu thereof the First Comptroller, who is to be continued under the title of Comptroller of the Treasury, is to have a sort of appellate jurisdiction, which will meet the case of dissatisfied claimants, but affords no adequate or satisfactory provision for an appeal on behalf of the Government. Neither can the routine duty required of the Auditors in the proposed reform, to report to the Comptroller from time to time their decisions upon the construction of statutes, operate as a satisfactory or valuable check. Such reports, setting forth the opinions of the Auditors generally as to the construction of the laws, may be interesting and instructive reading for the Comptroller, should he be inclined to peruse them, but they will not present to him actual cases to consider and decide.

Divesting the case of the alluring inducements thrown about it by the commission and its experts, and the promises that the so-called reform, if adopted, will do away with all the vexatious delays incident to the present system of accounting, it is a measure to concentrate in the Auditor, in addition to his own duties as now fixed by law, the additional duties and powers of the Comptroller. Is it a move in the right direction to discard the well-known theory of divided responsibility upon which the Government is established, and to invest in one officer, or class of officers, sole power in auditing and passing upon the vast receipts and expenditures of the Government, which from the beginning have been exercised by two separate and independent officers, or classes of officers, the one operating as a check upon the other? The commission says, in its report, "It is clear that a divided responsibility does not protect the Government." It fails, however, to adduce or even allude to the facts or arguments upon which this sweeping assertion is grounded. The experts in their report dispose of the matter in these terms: "The present sys-

tem of accounting is practically but one check, as the audit of the Comptroller is final and independent of any examinations or audits previously made, and the Government is protected by the accounting branch only so far as the audit of the Comptroller is efficient."

This statement is amusing to one thoroughly familiar with the accounting system of the Treasury. Can it be reasonably supposed that the Auditor is not a wholesome and salutary check upon the Comptroller should the Comptroller be inclined to corrupt and dishonest action? If the Comptroller should certify a false balance, or grossly violate the law in making some allowance, sooner or later it must come to the knowledge of the Auditor, and if he is not corrupt the dereliction of the Comptroller will be brought to light and punished. And so, if a clerk of the Comptroller should be guilty of gross mistake, or fraud, or dishonesty in changing the Auditor's findings in an account or claim, inevitably his action will become known in the Auditor's office in the ordinary course of official business. Every one familiar with the routine of business in the accounting offices will recognize the correctness of this position. Therefore the divided responsibility between the Auditor and Comptroller does operate as a very effectual check. The strong probability of speedy detection is the most efficient safeguard against fraud. Unless both the Auditor and the Comptroller, or clerks in the office of each, are corrupted, it is well-nigh impossible, under the present system of accounting, for any fraud to get by except that of a skillful forger, which would not be detected by experts in any business establishment.

A few such forgeries have been perpetrated and escaped the scrutiny of both accounting officers, but no great losses have arisen, as the frauds have all been detected within comparatively short periods. Compare this record with the stupendous frauds and losses arising from systematic falsification of books and accounts, running through many years, in the accounting and fiscal offices of State and municipal govern-

ments throughout the United States, and of public and private corporations, and it speaks the highest praise for the accounting system of the Treasury Department, although it may be characterized as cumbersome and antiquated. But give to one officer, or class of officers, as it is proposed to give to the Auditors, the sole and exclusive power as to the examination and settlement of all the accounts of receipts and expenditures of the Government, and the valuable check of the divided responsibility is removed. There is no coördinate bureau or office which will, so to speak, act as a spy upon the other. The temptation to the official and to the clerk to commit fraud, or to let improper expenditures go by from corrupt motive, is enhanced as the probability of detection is removed.

The commission and its experts, in the arguments advanced in favor of the proposed change, do not allude at all to the importance of a thorough and complete audit of the accounts of the officers who collect and receive the vast revenues of the Government, except in the report relating to the office of Commissioner of Customs, in which they suggest that as about 90 per cent of the revenue from customs is first passed upon by naval officers at certain ports of entry, this so-called audit, together with that of the First Auditor, should be sufficient. But in the last report, which recommends the abolition of the office of Second Comptroller and the taking away from the First Comptroller the detailed examination of accounts, they do not refer to the receipts or revenues of the Government, but to the expenditures only, and endeavor to show that the duties of the Comptroller respecting the expenditures may safely be dispensed with, because 90 per cent of the expenditures is disbursed by disbursing officers, whose preliminary examination of their accounts is thorough and satisfactory, and also because nearly all expenditures first receive administrative examination in the several Departments to which they appertain. It seems but a flimsy argument to say that a disbursing officer's preliminary examination of his own accounts is sufficient to warrant dispensing with the detailed

examination required of the Comptroller by existing law. Some of the heaviest defalcations against the Government have been by disbursing officers. A dishonest disbursing officer might corrupt a dishonest Auditor, who has the sole authority in the settlement of his accounts, but this would be almost impossible under the present system, which requires a detailed examination of accounts by the Comptroller after the examination by the Auditor.

The bill introduced on March 29 provides for an auditor for each of the several Executive Departments named therein, who is to have jurisdiction of all accounts coming under the heads of such Departments. For example, the Auditor for the War Department would have jurisdiction of all military expenditures and also of the civil expenditures of that Department. The broad and philosophical distinction that has prevailed between military and naval expenditures on the one hand, and civil expenditures on the other, since the office of Second Comptroller was established, in 1817, is ignored, and the jurisdiction of the several auditors as now fixed by law (except that of the Sixth Auditor) is radically changed. Accounts are no longer certified to the Register of the Treasury, but to a division of the Secretary's Office, to be known as the Division of Bookkeeping and Warrants. All accounts certified by the First Auditor, including customs accounts, are to be certified to said division. Yet the bill reported by the commission for abolishing the office of Commissioner of Customs and devolving his duties upon the Auditor, which passed the House of Representatives on March 8, requires the First Auditor to certify customs accounts for the Register of the Treasury.

This confusion in the proposed legislation only serves to show that the important measures proposed have not been carefully and maturely considered. Should the proposed measures be enacted into laws, it is difficult to estimate the confusion and delay that will of necessity be brought about in carrying the radical changes into execution and the extra

cost that will be entailed in getting the new system started. If the work is to be brought up and kept up, the clerical force must be increased, instead of decreased, for files are to be changed, new books devised and opened, and every Auditor (except the Sixth) must adapt his office to a changed jurisdiction.

A very obvious objection to the feature of having an Auditor for each Executive Department is that he will be unduly influenced by the will of the head of that respective Department, whose accounts he audits and financially certifies. This will be almost inevitable. The commission and the experts attach great importance to the administrative examination of accounts in the several Executive Departments, and regard with favor the idea of having an Auditor for each Department. Adverting to the proposed change, the experts say: "This will do much toward removing the irritation and friction that is known to exist between the officers connected with the administrative departments of the Government and the Government's accounting officers."

The administrative examination of accounts and claims in the Executive Departments is merely perfunctory, for the purpose of ascertaining whether the officers concerned have obeyed instructions and kept within prescribed limits, and is not the critical examination of each voucher, as made by the accounting officers, to test its correctness and pass upon the legality of the expenditure. For this reason the administrative examination by an Executive Department has never been regarded by the accounting officers as binding upon them. And the great battles the Comptrollers have had to fight have been against the undue pressure exercised by heads of Departments in [4351] seeking to enforce the allowance of expenditures which the Comptrollers have regarded as extravagant and unwarranted by law. And Congress, recognizing this fact, passed the act of March 30, 1868, now section 191 of the Revised Statutes of the United States, which makes the final action of the Comptroller and the Commis-

sioner of Customs "conclusive upon the Executive branch of the Government," and "not subject to be changed or modified by the heads of the Departments."

Much more might be said on this subject, but the foregoing is sufficient, at least, to emphasize the thought that Congress should go slow in breaking up the accounting system in the Treasury, begun under Alexander Hamilton, which has been a marked success for the century, and more, that it has prevailed especially in abolishing the office which in the words of Hamilton, "imports the second trust in the Department."

J. R. GARRISON.

WASHINGTON, *April 2, 1894.*

Mr. DINGLEY. One single suggestion with reference to the inquiry of my friend. He has asked how the Secretary of the Treasury will be informed as to the necessity of a reëxamination of an account. The bill requires that all decisions of the Auditor in the settlement of accounts shall be certified to the division of bookkeeping and warrants, which under this bill is in the Secretary's office and is a part of that office. The Secretary thus has official notice when it is sent to that division. There is also a requirement that such decisions shall be sent to the Comptroller and to the head of the Executive Department affected.

Therefore all three of the officers who have a right to ask for a review are forthwith officially informed of the settlement of the account, and have an opportunity to ask for a revision, of any settlement. I might add that under the existing system, inasmuch as the settlement of accounts is not certified to the Secretary's office, he has no official knowledge of what the settlement may be, while under the proposed system the settlements are to be certified to the Secretary's office instead of to the Register's office, thus giving him official information on the subject.

Mr. WANGER. Is the division of bookkeeping and accounting a clerical division which simply makes a record?

Mr. DINGLEY. It is a part of the Secretary's office and directly under his eye.

Mr. DOCKERY. And he signs the warrants.

Mr. DINGLEY. And as my colleague on the commission, the gentleman from Missouri, suggests, the Secretary signs the warrant and no money can be paid out until he does sign the warrant. The protection is really much increased over that afforded by the present system.

Mr. [JOSEPH H.] WALKER [of Massachusetts]. I will ask the gentleman whether this does not increase the power of the Secretary of the Treasury so that hereafter he will be able to do officially, under the law, what heretofore he has done unofficially and outside of the law?

Mr. DOCKERY. That is correct.

Mr. DINGLEY. Yes. As the law now exists, the Secretary has no official notice of the settlement of accounts. They are not sent to his office, as this bill requires that they shall be. Therefore, instead of there being any reduction of protection there is additional protection given, as my friend from Pennsylvania will see if he will examine the matter.

Mr. BAKER of New Hampshire. Mr. Chairman, I move to strike out the last word. The statement which has been made by my friend from Maine as to the certification to the bookkeeping division in the Secretary's Office is unquestionably correct as far as that certification in itself goes; but the matter which is to be certified to the Secretary of the Treasury will give him no knowledge whatever in regard to what has been passed upon in the separate vouchers of the accounts, because that which goes to the Secretary of the Treasury and is made of record in the bookkeeping division provided for is simply a statement of balances, and does not refer to a single voucher or a single disputed question in the whole matter. Consequently, so far as that is concerned, it does not answer the point raised by the gentleman from Pennsylvania.

The Clerk read as follows:

"Any person accepting payment under a settlement by an Auditor shall be thereby precluded from obtaining a revision

of such settlement as to any items upon which payment is accepted; but nothing in this act shall prevent an Auditor from suspending items in an account in order to obtain further evidence or explanations necessary to their settlement. When suspended items are finally settled a revision may be had as in the case of the original settlement. Action upon any account or business shall not be delayed awaiting applications for revision: *Provided*, That the Secretary of the Treasury shall make regulations fixing the time which shall expire before a warrant is issued in payment of an account certified as provided in sections 5 and 6 of this act."

Mr. BAKER of New Hampshire. Mr. Chairman, I move to strike out the last word. This paragraph is practically new legislation, and, it seems to me, very vicious legislation, for the reasons which I will briefly state:

"Any person accepting payment under a settlement by an Auditor shall be thereby precluded from obtaining a revision of such settlement as to any items upon which payment is accepted."

If the person whose account is audited by the Auditor could be present at the auditing and know what was transpiring in the Auditor's Office, there would be no objection to this provision; but the accounts of officers of the Government that are audited are those of persons who are frequently hundreds and even thousands of miles away from the Auditor's Office, and it seems to me that this provision is drawn in such a way that it will necessitate the employment by those officers of attorneys in Washington to watch their accounts as they are considered and notify the officer in any given case not to accept a check which may be sent to him in payment, because there is no notification given to the officer which will inform him what items have or have not been disallowed. For instance, the officer may render an account embracing five hundred items. If he accepts payment of anything relating to those five hundred items, he is excluded by that from a revision of that account.

Mr. DOCKERY. Oh, no.

Mr. DINGLEY. He is precluded only as to items upon which he accepts payment. If he renders an account embracing five hundred items, he may accept payment of four hundred and ninety; and then he is precluded from obtaining a revision of the settlement as to those four hundred and ninety items; and he ought to be if he accepts payment. But if as to ten of those items he does not accept payment, he can obtain a revision as to those items. Acceptance of payment of any item ought to preclude him from making further claim as to that particular item.

Mr. BAKER of New Hampshire. The gentleman is unquestionably right as far as he goes; and so far I agree with him. But there is no way by which a man can know whether a partial disallowance of his account relates to ten particular items or to the four hundred and ninety other items. My point is that in order to keep himself informed about matters of this kind it will be necessary for him to keep continually employed some agent in Washington who will watch his accounts; and that is a system which we ought not to encourage.

Mr. DOCKERY. How does the officer now ascertain the items which may be disallowed?

Mr. BAKER of New Hampshire. So far as that is concerned, he can now at any time ask for a revision of the account; and such revision is generally granted. If it is not granted, he has a right to go to the Court of Claims and there file his petition within six years; but under this bill that right will be taken away from him.

Mr. DINGLEY. Not at all; this does not affect any right he may have in court or before this body.

Mr. DOCKERY. The provisions of this bill refer only to the settlements made by the auditing branch of the Government.

Mr. BAKER of New Hampshire. Then it should be expressly so stated.

Mr. DINGLEY. Not at all. You can not by an act of this kind shut a man out from making any claim he may be entitled to make in court.

Mr. DOCKERY. And this act does not undertake to cut him out.

Mr. BAKER of New Hampshire. There is no way known to our laws whereby any American citizen can sue the Government of the United States except by virtue of statutory authority; and if the statute allowing suit to be brought be repealed, there is no such authority. That is an answer to what has just been said by the gentleman from Missouri and the gentleman from Maine.

Mr. [ALBERT J.] HOPKINS of Illinois. As I understand the gentleman from New Hampshire, his point is this: That if on an account embracing five hundred items and aggregating \$10,000 the auditing officer should allow only \$9,000, there is nothing to show upon what items the deduction of \$1,000 has been made. Is that the gentleman's point?

Mr. BAKER of New Hampshire. Very frequently there will be nothing giving such information until long after his check is sent him; and in such a case he must hold his check without using it at all in order to obtain reëxamination.

Mr. DOCKERY. The gentleman will allow me to say that this will be a matter of regulation under this bill. The bill expressly authorizes the Secretary of the Treasury to make regulations for the enforcement of this act; and the matter of which the gentleman speaks would be a subject of regulation under this bill as it is under the present law.

Mr. HOPKINS of Illinois. That is what I was about to suggest to the gentleman from New Hampshire. If a bill embracing a number of items should be passed upon by the Auditor, some items being allowed, some rejected, and some modified, then under the regulations of the Treasury Department—[4352]

* * * *

Mr. BAKER of New Hampshire. Now, I wish to call attention to another part of this same paragraph—an amendment engrafted upon the bill by the committee since the bill was originally printed. The language is:

“Provided, That the Secretary of the Treasury shall make regulations fixing the time which shall expire before a warrant is issued in payment of an account certified as provided in sections 5 and 6 of this act.”

Now, I would like some explanation of this provision. Does it mean that the Secretary of the Treasury may fix an indefinite period? If it means just exactly what it says, the Secretary of the Treasury may at any time blot out entirely, so far as payment is concerned, any balances which may be found by the Auditor, because he may fix a period of payment so remote that the man will not live long enough to get the money. I would like to have some explanation of that provision.

Mr. DOCKERY. I answer the gentleman from New Hampshire by stating that this proviso means exactly what it says. It means to give the Secretary of the Treasury power to make regulations to determine the time that shall elapse between the allowance of a claim and the issuance of the warrant. It was done to protect the interests of the Government. Under the bill every account of a disbursing officer will go to an administrative officer to be first examined. It then goes to an auditor, is examined, and the examination in this case is final unless there shall be an appeal from the result of his decision. When it is audited, provision is made for the issuance of a certificate. The committee consider the question as to what time ought to elapse between the auditing of an account and the issuance of the warrant in order to protect the Government.

It was suggested to the commission that five days ought to be inserted in the law, so that the head of the Executive Department would have ample opportunity to appeal on behalf of the Government if he desired to do so. But on further reflection, and after consultation with the Secretary of the Treasury and other officials, it was deemed best to leave this entirely a matter of regulation for the Secretary of the Treasury, as there are so many different classes of warrants

to be issued, and while in the great majority of cases five days would be amply sufficient, yet in others it might require ten days or more. This proviso is in the interest of the people and of the Government.

Mr. HOPKINS of Illinois. And without detriment to the claimant.

Mr. DOCKERY. And without detriment to the claimant.

Mr. BAKER of New Hampshire. Mr. Chairman, I move to amend in line 36, on page 9 of the bill, after the word "time," by inserting "not exceeding thirty days," so that it will read:

Provided, That the Secretary of the Treasury shall make regulations fixing the time, not exceeding thirty days, which shall expire before a warrant is issued in payment of an account certified as provided in sections 5 and 6 of this act."

Mr. DOCKERY. There seems to be no objection to that.

Mr. DINGLEY. Ordinarily there would not be over five days; but certainly it could never exceed thirty days.

Mr. DOCKERY. I think, however, upon reflection that the bill is carefully drawn and will protect the Government, and had better stand as it is.

The CHAIRMAN. The Clerk will report the amendment proposed by the gentleman from New Hampshire.

* * * *

"Insert after the word 'time,' in line 36, on page 9 of the bill, the words 'not exceeding thirty days.'"

Mr. DINGLEY. I am fearful that if a specific time is provided here as proposed, there may be two evils arise. First, it may be taken as a legislative declaration that thirty days in all cases ought to expire before issuing the warrant, which in most cases would be unjust both to the citizen or official interested in the account; and on the other hand I am fearful that cases may arise where the warrant ought to be longer delayed for the protection of the Government.

Mr. DOCKERY. Undoubtedly.

Mr. DINGLEY. So it seems to me wiser to leave to the discretion of the Secretary of the Treasury to determine by regu-

lations, to be published, the time which shall elapse before warrants issue as applying to the different classes of claims. The commission was at first inclined to provide a certain limitation in all cases, but when they came to examine more fully into the matter, and to consider the different characters of warrants, some of one class and some of another, it seemed to be a case that could be better determined by Treasury regulation, the time which should elapse before the warrant issued, rather than to undertake to accomplish it by statute.

Mr. DOCKERY. There are so many doubtful claims that it is necessary to place power in the hands of the Secretary to hold them up for a reasonable time.

Mr. BAKER of New Hampshire. I am entirely in favor of fixing this section so that there shall be the least possible harm either to the Government or to any citizen. But here is a provision by which the Secretary of the Treasury may be enabled, after an account has passed the administrative department, and after passing the Auditor, its allowance being determined, to say, as often as he pleases, that this warrant shall not issue during the present year.

Now, any reasonable time would be satisfactory. The gentleman from Missouri mentioned ten days. I think it might go beyond that. I can see no possible objection to fixing thirty days as the outside limit. Of course the use of the words "not exceeding," in connection with the amendment, would not require that the Secretary should insist upon the limit of the thirty days in every case, but in no event to exceed it. It seems to me entirely proper and fair as between the citizen and the Government.

Mr. DINGLEY. Let me suggest to my friend from New Hampshire whether under existing laws the Secretary of the Treasury does not sometimes suspend the issue of a warrant within his discretion. Is not this sometimes done when there has been some fraud suspected? I think this discretionary power should not be taken from the Secretary.

Mr. BAKER of New Hampshire. I will answer the gentle-

man by saying that under section 191, the present law, which the commission proposes to repeal, the Secretary of the Treasury has no right to go back of the accounting Auditor's certificate.

Mr. DINGLEY. But my understanding is that he has sometimes refused to issue the warrant. Section 191, to which reference is made, was designed especially to prevent payments of any accounts or claims that had not been passed by the accounting branch of the Government.

The CHAIRMAN. Debate on this amendment is exhausted. The question is on the amendment.

The amendment was rejected.

The Clerk, proceeding with the reading of the bill, read as follows:

"Sections 191 and 270 of the Revised Statutes are repealed."

Mr. BAKER of New Hampshire. I move to strike out the last word. Section 191 of the Revised Statutes is the very subject of the Poland report, which I have had printed with my remarks. It was distinctly understood, and had been the experience of people connected with the Government during nearly a century, that it was much safer to trust the final decision of the accounting officers in regard to items in any person's account or in regard to claims, than it was to give the Secretary of the Treasury a right to dictate to the accounting officers what they should find.

Section 191 made the finding of the accounting officer absolutely binding on the Secretary of the Treasury, with the exception that, if he wished, he could send the account back to the accounting officer with a request for its reexamination, which of course was a notice to the accounting officer that it was necessary for him to proceed with caution in regard to that account. That has been occasionally done, and occasionally the finding of the accounting officer has been changed. But that section made the accounting officer absolutely independent of the head of the Department. Now, the repeal of this

section places each one of these Auditors under the direction and control of the Secretary of the Treasury. He can dictate to them what they are to do. And, gentlemen, if this bill becomes a law the result will be that, as there is to be an Auditor for each of the Departments, the head of each Department will require of the President that a man shall be made Auditor of his Department who is satisfactory to himself, and consequently there will be no line of demarkation between the expenditure and the allowance of the expenditure in this regard, which is contrary to the policy of all the Administrations for the last twenty years, and contrary to good policy in the Government.

Mr. DINGLEY. Mr. Chairman, I simply desire to call the attention of my friend from New Hampshire . . . to the fact that section 191, which he has spoken of as being repealed, and which is repealed in terms, is reënacted in section 6, as applicable to the new plan, following almost the identical language:

“SEC. 6. The balances which may from time to time be certified by the Auditors to the division of bookkeeping and warrants, or to the Postmaster-General, upon the settlement of public accounts, shall be final and conclusive upon the executive branch of the Government, except that any person whose account may have been settled, the head of the Executive Department, or of the board, commission, or establishment not under the jurisdiction of an Executive Department, to which the account pertains, or the Comptroller of the Treasury, may, within a year, obtain a revision of the said account by the Comptroller of the Treasury, whose decision upon such revision shall be final and conclusive upon the executive branch of the Government: *Provided*, That the Secretary of the Treasury may, when in his judgment the interests of the Government require it, suspend payment and direct the reëxamination of any account.”

That is the reënactment of precisely the section to which the gentleman has alluded, and which is here repealed be-

cause it applies to a different state of circumstances; but in order to carry out the same policy it has been put in in all its force, so as to make it certain that the auditing branch of the Government shall be as distinct and independent under this bill as under existing law; and almost the same language is used.

Mr. DOCKERY. Not the same language, but a little stronger language.

Mr. BAKER of New Hampshire. I withdraw the pro forma amendment.

The Clerk, proceeding with the reading of the bill, read as follows:

“SEC. 12. In the case of claims presented to an Auditor which have not had an administrative examination, the Auditor shall cause them to be examined by two of his subordinates independently of each other.”

Mr. BAKER of New Hampshire. Mr. Chairman, I move to strike out the last word. In this section 12 the committee seem largely to have given away their own case. They say that—

“In the case of claims presented to an Auditor which have not had an administrative examination the Auditor shall cause them to be examined by two of his subordinates independently of each other.”

Now, it does not need any argument to show—for the statement itself shows—that an examination by two clerks in the same office is not equivalent to an examination by two clerks in different offices under different jurisdictions and under different supervision.

For instance, this proceeds upon the idea that any possible fraud must be with the clerk, and not with the Auditor. If the fraud is with the Auditor, of course he will detail the clerks whom he chooses to make the examination, and a clerk whose official position and livelihood depend upon the good will of the Auditor would necessarily find in pursuance of the wish of the Auditor. But if the two accounting systems were distinct and separate, then while the one might wish it done

one way, the other one would be a check upon him. Exactly this thing has been attempted in the office of the Auditor for the Post-Office Department, and it does not work successfully there, and will not work successfully anywhere.

I withdraw the formal amendment.

The Clerk read as follows:

“SEC. 23. This act shall be in force on and after the 1st day of July, 1894.”

Mr. WALKER. Mr. Chairman, I have held this bill in my hand and carefully followed the reading of the whole of it, and I am somewhat familiar with the matter of accounts. I will frankly say to this House that it has appeared to me, and undoubtedly to every member of this House, as a purely technical bill. It is a bill that can not be understood by the members of this House, as such, unless they have given very close attention and examination to the whole system of accounting by the Government. It comes then to this, that we can not act upon our individual judgment in passing upon this bill, but we must act upon the judgment of this commission or not act at all. It is a commission composed of six men, three appointed by the House and three by the Senate of the Congress of the United States, and the people of the country would be more likely to intrust their judgment as to what should be done to those six men [than] to any other six men now sitting in Congress.

Upon the part of the House, I would submit that there is scarcely a man on this floor who would not submit his judgment to that of the opinion of the gentleman from Maine . . . upon questions not political purely, and upon matters on which he himself was not an expert. Now, I know, from attempts to find out the condition of various items in the Treasury, that it is impossible for a plain man to get at the condition of the Treasury upon any item.

Let me say to this House that I tried for thirty days to find out what . . . the exact “final balance” in the Treasury of the United States was at the end of the year 1892, and for each

year back for five years. I was unable to do it, and did not find out.

Now, let me say that I have had to do with accounts for fifty years lacking two—the revision of accounts in my own business; and there never has been a year in which I have not made some improvement in simplicity and having their condition clear on the face of the accounts so as to be more easily understood by myself and my partner, from the year I commenced business. I submit that these accounts of the Government, to my certain knowledge, need a thorough revision and simplification; and I do hope that this House will take the judgment of this commission and will vote unanimously to approve their findings, to inaugurate a system that they have recommended to us, that we may try it.

Let me say, furthermore, that I believe that at the end of every five years these accounts ought to be gone over by a commission, in order to still further simplify them. I know from my own experience that it can be done. Let me tell you of a little incident in my knowledge. There were two partners in business. One of them attended to the details of manufacturing and the other to keeping the books in a certain business which required all the time of the second person. Subsequently those books, for a larger business, were taken and revised and a new system adopted. Those books were as accurately and more clearly kept in sixty minutes in the day under the revised system. Now, as to the simplification of the accounts of the Government. If it is a fact that those accounts have not been simplified and revised and reorganized for twenty years even, it is conclusive proof that it should be done.

The CHAIRMAN. Does the gentleman withdraw the pro forma amendment?

Mr. WALKER. I withdraw the pro forma amendment.

Mr. WANGER. I desire to offer an amendment, Mr. Chairman.

The Clerk read as follows:

“Strike out ‘four,’ in line 2 of section 23, and insert ‘five;’ and the rules and regulations by that time made in pursuance of the provisions of section 20 shall be reported to Congress January 1, 1895.”

Mr. WANGER. Mr. Chairman, this last section of the act provides for its going into effect about the time that it is reasonable for the most sanguine friends of the measure to hope that it may be enacted into legislation. There will, therefore, be no time for the preparation necessary to carry it into successful, satisfactory, and conservative operation; no time for the heads of Departments to consider what regulations may be necessary in order to provide the safeguards essential to an economical administration of the affairs of the Government.

I, therefore, propose by this amendment that it go into effect in 1895, a year hence, in order that due provision may be made for the details of the administration of the act, that the regulations that shall have then been adopted shall be reported to Congress by the first of next year, in order that such legislation as may commend itself to Cabinet officers and other heads of Departments may be asked for by them and enacted by this Congress in order that a safe and certain system may be established. I can add nothing to what I have said in this direction. It seems to me that such a vast machinery must require very considerable thought and care in order to make it what every well-wisher of a reformed system would desire.

* * * *

The amendment was rejected.

Mr. DINGLEY. Mr. Chairman, I move that the committee rise and report the bill to the House, with the recommendation that it do pass.

The motion was agreed to. [4354]

Senate, July 14, 1894

* * * *

Mr. [JOHN] SHERMAN [of Ohio]. Mr. President, it is

a sad commentary upon American legislation that a proposition which thoroughly changes and revolutionizes the accounting of the Treasury Department, and therefore the accounting of the whole Government of the United States, is now to be suddenly enacted into law, not by the act of either House, but by the attachment to the pending bill of provisions which could not have been, and are not now, well understood in either House. These provisions, as I say, create an entire revolution in our financial system, and yet probably not twenty Senators will know that this question is pending or care what disposition is made of it.

The proposition is here in violation of the rules of both the House and the Senate. If this proposition were offered to-day as an amendment in the Senate it would be ruled out at once by our rules as containing legislation, and the same would be true in the House of Representatives, if objection were made there to the introduction of this subject-matter.

Yet I consider it my duty, without much hope of success however, to place upon the record of the Senate what, in my judgment, will be the consequences of this change in our financial system. I wish first to call attention to the elemental principles of our financial management. I find that all the laws I will need to read are old and well-established, commencing with the very foundation of the Government.

Section 233 of the Revised Statutes provides that—

“There shall be at the seat of Government an Executive Department to be known as the Department of the Treasury, and a Secretary of the Treasury, who shall be the head thereof.”

Section 236 provides that—

“All claims and demands whatever by the United States or against them, and all accounts whatever in which the United States are concerned, either as debtors or as creditors, shall be settled and adjusted in the Department of the Treasury.”

I find also this provision, which is in the act of the 2d of September, 1789 [1 Stat. L., 65], the famous act framed by Hamilton:

“There shall be in the Department of the Treasury a First Comptroller and a Second Comptroller, each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of \$5,000 a year.”

Mr. [FRANCIS M.] COCKRELL [of Missouri]. Did I understand the Senator from Ohio to say that that is the act of September 2, 1789?

Mr. SHERMAN. It is so stated here in the marginal notes.

Mr. COCKRELL. It is simply a mistake. When the Treasury Department was organized there was an Auditor, a Comptroller, a Treasurer, and a Register only.

Mr. SHERMAN. The office of First Comptroller was undoubtedly provided for in the act of the 2d of September, 1789.

Now, the next section specifies the duties of the Comptroller. There was but one Comptroller in the beginning. Now there are three.

Mr. COCKRELL. Two

Mr. SHERMAN. I call the Commissioner of Customs a Comptroller. He has always been regarded as a Comptroller, and is one.

I wish to read now the duties of the Comptroller as established in these early times:

“It shall be the duty of the First Comptroller:

“First. To examine all accounts settled by the First Auditor, except those relating to receipts from customs, and all accounts settled by the Fifth Auditor, and by the Commissioner of the General Land Office, and to certify the balances arising thereon to the Register.” [7470]

In the original act, as a matter of course, these duties were confined to one Comptroller and the other Comptrollers were added to it at a later period. I may mention that hereafter.

“Second. To superintend the adjustment and preservation of the public accounts subject to his revision.

“Third. To countersign all warrants drawn by the Secretary of the Treasury, which shall be warranted by law.

“Fourth. To superintend the recovery of all debts certified by him to be due to the United States, and for that purpose to direct all such suits and legal proceedings, and to take such measures as may be authorized by law, and are adapted to enforce prompt payment thereof.”

Those are the broad, comprehensive duties of the Comptroller, and they stand and have stood as the law since the 2d of September, 1789, although in that period of time, by the acts of 1817 [3 Stat. L., 366] and 1849 [9 Stat. L., 395], two Comptrollers were added to the number. Their powers were not changed, however.

In defining the duties of the Second Comptroller, the act of the 3d of March, 1817, provides that—

“It shall be the duty of the Second Comptroller:

“First. To examine all accounts settled by the Second, Third, and Fourth Auditors, and certify the balances arising thereon to the Secretary of the Department in which the expenditure has been incurred.

“Second. To countersign all warrants drawn by the Secretaries of War and of the Navy, which shall be warranted by law.

“Third. To report to the Secretaries of War and of the Navy the official forms to be issued in the different offices for disbursing the public money in those Departments, and the manner and form of keeping and stating the accounts of the persons employed therein.

“Fourth. To superintend the preservation of the public accounts subject to his revision.”

Similar powers were conferred upon an officer called the Commissioner of Customs, and which related only to the collection of revenue and the disbursements of the expenses of the collection of the revenue. The Auditors were provided for at the same time and by the same law. I think there was but one in the beginning, and there are now six. Section 276 provides that—

“There shall be connected with the Department of the Treasury six auditors of accounts, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be known as the First, Second, Third, Fourth, Fifth, and Sixth Auditors, respectively. . . .

“SEC. 277. The duties of the Auditors shall be as follows:

“First. The First Auditor shall receive and examine all accounts accruing in the Treasury Department, all accounts relating to the receipts from customs, including accounts of collectors and other officers of the customs, all accounts accruing on account of salaries in the Patent Office—”

Then it defines a great number of accounts—
“and, after examination—”

Here is the point I want to come to—

“and, after examination of such accounts relating to the receipts from customs, including the accounts of collectors and other officers of the customs, he shall certify the balances and transmit the same, with the vouchers and certificates, to the Commissioner of Customs for his decision thereon, and he shall certify the balances of all other accounts, and transmit the same, in like manner, to the First Comptroller for his decision thereon.”

These are the fundamental laws which provide for the mode of accounting in the Treasury Department. There are two sets of officers. Every account or claim made against the Government of the United States until this hour has to pass under the supervision of one Auditor and one Comptroller, the Comptroller being the judge not only as to the legality of the claim against the United States, but as to the amount due. That has been the law ever since the foundation of the Government and in the Revolutionary period for ten years before the Government was founded.

Now, it is proposed by this bill to abolish all the Comptrollers in the Treasury except one. I will read the first clause of section 4, of the bill:

“The offices of Commissioner of Customs, Deputy Com-

missioner of Customs, Second Comptroller, Deputy Second Comptroller, and Deputy First Comptroller of the Treasury are abolished, and the First Comptroller of the Treasury shall hereafter be known as Comptroller of the Treasury.”

It goes on and provides for his duties, excluding him from any participation in accounting, except in case of an appeal. Then it transfers to the Auditors, who are divided among the different Departments, as I shall show, all the powers of the Comptroller in addition to the powers they now exercise by the law.

Heretofore all claims and as well the accounts of disbursing officers go to the Auditor. He examines the amount, the statement of the case, and presents it. According to the natural idea of an auditor, an examiner, he is a man who states the case or makes out the figure. It is then sent to the Comptroller, and is there passed upon finally. But this proposed act takes away entirely from the Comptroller all power in the case except in the case of a limited appeal, which I shall refer to hereafter, and confines the examination of the accounts to a single officer; and that is a revolutionary proceeding in my judgment.

Now, let us reflect on this proposed change for a moment. Any kind of a claim may be made to the Auditor. It may be well or ill founded. It may be fraudulent or fair. It goes into the hands first of the Auditor, then to some clerk, and finally probably reaches down to a second or third class clerk. The gravest claims against the Government and claims for the Government are proposed to be referred to these officers, without any supervision whatever, except that supervision or possible supervision which I shall mention hereafter; and if the account is certified by the Auditor, without the aid of the Comptroller, it is then certified—where?

“First, The Auditor for the Treasury Department shall receive and examine all accounts of salaries and incidental expenses of the office of the Secretary of the Treasury and all bureaus and offices under his direction, all accounts relating to

the customs service, public debt, internal revenue, Treasurer and assistant treasurers, mints and assay offices, Bureau of Engraving and Printing—”

And naming some others—

“and to all other business within the jurisdiction of the Department of the Treasury, and certify the balances arising thereon to the division of bookkeeping and warrants.”

Now, what is that division? It is under one of the clerks of the Secretary of the Treasury, appointed by him, controlled by him, and removable at his pleasure. He is an officer at the head of a division. It is called a division in the Secretary's office. His functions heretofore have been to make out statements, estimates for appropriations, expenses, and the like. It is a very important position, it is true, but a position having no responsibility in connection with the collection of debts or the payment of claims.

The balances are certified to him for what? For a warrant upon the Treasury. The Secretary of the Treasury has no more power over this matter than you, sir, as President of the Senate. He has no power whatever. It was intended by our financial law that while the Secretary is the head of the Department and may control the movements of others and direct their conduct so far as he lawfully can, yet he has neither the power to receive money nor to pay money. The Secretary of the Treasury would be the last man to get any money out of the Treasury of the United States. He could not by any possibility touch or handle money, because it is left entirely to the accounting officers, and those accounting officers are independent men. They are leading men in the country. *

The Comptrollers who have filled that great office since the foundation of the Government have been equal in ability and power to and better lawyers than the great body of the Secretaries of the Treasury who have held office there. I refer to such men as Whittlesey,⁷⁵ who is known to you,

⁷⁵ Elisha Whittlesey was Representative from Connecticut, 1823-38; Sixth Auditor, 1841-49; First Comptroller, 1849-57, 1861-63.

sir, by reputation; such men as Mr. Lawrence and Mr. Taylor, men of the highest ability, who have held that position.

Mr. [SHELBY M.] CULLOM [of Illinois]. And Mr. Matthews.

Mr. SHERMAN. Mr. Matthews was a very good officer, but not equal to some others. Mr. Whittlesey was understood to be the one of chief merit, and Mr. Whittlesey upheld his position openly, I think, if I am not mistaken, to Mr. Jefferson Davis, at any rate to some prominent Cabinet officer. He overruled the requisition of the Secretary of War. Complaint was made, and Mr. Whittlesey said that was within his function, and it was beyond the power of the Secretary of War or anybody else.

Mr. CULLOM. If the Senator will allow me, I hardly feel satisfied with the remark he made to the effect that the gentleman to whom I referred was not equal to some of the others.

Mr. SHERMAN. I do not know him so well.

Mr. CULLOM. I thought so. That gentleman was for a long time a circuit judge in our State. He is a very able lawyer, and he would probably have been a candidate for supreme judge this year if he had consented to accept the nomination.

Mr. SHERMAN. I have no doubt the gentleman deserves all the Senator says of him. I happen to know the others from the olden times, especially Mr. Whittlesey, who was one of the greatest men this country produced. He was a long time a member of the House of Representatives, and was then transferred to this position, which he held through several Administrations under different parties.

Now, as to the question of transferring the whole accountability of the Treasury Department from two men who are constantly looking out for each other to a single division or to a clerk in a division in the Secretary's office, it seems to me it is one of those things that when proposed should be rejected from the beginning. The mere question of a slight

saving of expense (although I do not think there will be any) or the mere question of convenience ought not to be considered for a moment.

There have been some objections urged, I feel bound to state, that the position taken by the Commission appointed by Congress to examine into this matter has been well sustained by able arguments from the members of the Commission, and especially from their experts, but it seems to me that every one of the points made by those gentlemen could be easily answered. In the first place, the experts upon whom our friends have relied are, I understand, railroad men, accustomed no doubt to large transactions in dealing with railroad accounts. They are [7471] not men familiar with the Treasury of the United States. They are not men who have ever held positions there. They are not men familiar with the peculiar organization of that most complicated machinery, the Treasury Department. They look at it simply as they would look upon the accounts of a corporation, but it is far beyond that.

Therefore, when it is said that a single individual might be trusted to pass upon the accounts of a corporation it does not follow that greater care should not be taken when we are dealing with the great affairs of the Government, with a revenue of \$400,000,000. Sir, the vast machinery that we have under control, the collection and disbursement of more than \$400,000,000, is one of those huge things that require all the care, all the guards that can surround it. To compare it with a railroad corporation, however great may be its transactions, or to suppose that the same machinery necessary to protect a lot of stockholders should be applied to the machinery of the United States is very faulty.

The idea, therefore, of breaking down a single one of the barriers which guard and protect the property of the United States ought to be considered with the gravest care. So happy and so successful have been the financial operations of the Government of the United States that from the beginning

until this time there has been very little loss. So far as I know now, no loss worth naming has been caused by the neglect of the officers of the Government, either Auditors or Comptrollers. This is owing to the very fact that these duties are divided and one is under the watch and eye of the other, and that any error or mistake made in the Auditor's Office when sent to the Comptroller would be there corrected by a different set of clerks, with whom they have no communication and of whose acts they could have no knowledge.

Therefore it is that scarcely any losses have occurred. Hardly one mill in a million has been lost through any want of honesty among the officers of the Government or any defects in the machinery of the Government. So when it is proposed to change all this, having been compelled at one time to assume important duties in that Department, I feel that any change whatever proposed to be made in existing conditions except to strengthen them ought to be met with prompt and determined resistance.

I can conceive the force, I admit, of some of the points made by Senators who have had this matter in charge. I believe that there ought to be but one Comptroller, and that he ought to have under him three or four very able men who are assistants with a large and liberal pay—men of high character, great lawyers. These Comptrollers have to pass upon questions of law, sometimes extremely difficult. I can say that the duties of a Comptroller if properly performed are equally as important as the duties of the Chief Justice of the United States.

Mr. [ORVILLE H.] PLATT [of Connecticut]. Or the Attorney-General.

Mr. SHERMAN. They are more important. We could get along very well with a comparatively weak Attorney-General, but we could not get along well with an incompetent Comptroller of the Treasury. But if you take from him all the essential powers of his office and the power to supervise the Auditor, so that the statements of the Auditors are to be

taken as true and valid without further examination, there is the end. All that the Comptroller could then do would be to pass upon such legal questions as are brought before him, but now he not only passes upon legal questions but he supervises through his agents and employés all the matters of account. Every addition is made in that office, and it is a check upon the other office.

Mr. President, the nature and character of the questions which are brought before this officer I think make him far more important than the Secretary of the Treasury. The office of Secretary of the Treasury will almost run itself, because there is an experienced body of men in the clerical force around him. His signature is all that is wanted generally in the great variety of business there, but the Comptroller has mental work to perform every day. He has the combined duty of an arithmetician and a judge. He passes upon legal principles and upon sums of arithmetic.

Therefore, I say it is a grave mistake for the Government of the United States to change the system without fuller deliberation than has been had. Think of it now. This proposition here has never been read in the Senate until to-day. It was never read in the Senate until it was offered and put on the bill *nem. con.* in order to get rid of it. It is here in violation of our rules. I will state what I think our friends ought to do on both sides of the Chamber, because there has been no party feeling in this matter, as is shown by the debate that has taken place in the other House and the various speeches made there. I have read myself, among the rest, one from a member from Missouri, another from a member from Maine. Then there were others on the other side of the question. All have been temperate and kindly. There is no necessity to hurry this matter. Besides, if the law is enacted it can not go into effect immediately. I have a letter here from a leading officer of the Treasury Department saying that it would require at least a year to make the necessary preparations and set the system in motion exactly. New sets of forms and new modes of accounts will be necessary.

There is another feature of the provision that I dislike very much, and that is that they have designated the Auditors according to the Department whose accounts they are to act upon. That is, the accounts from the War Department go to the Auditor for the War Department; and for every other Department there is an Auditor, except the State Department. A number of other divisions and employments are grouped together, but as a rule there is an Auditor for the War Department, an Auditor for the Interior Department, and so on.

It was the intention of the framework of the Departments that the heads of Departments should have no power or control over the Treasury Department. The Treasury Department at least was to be absolutely independent. I think it is a very faulty division of the powers and distributions of the various Auditors to say that one is for the Army and one is for the Navy. How long will it be before the Army Auditor will feel that he belongs to the Army and feel disposed to be generous and liberal to the men of the Army? The Auditors then, instead of being servants of the Treasury Department, will become the servants of the heads of the different Departments after which they are named. That was the trouble with the Sixth Auditor. He was attached to the Post-Office Department, and he came to believe that he was independent of the Treasury Department. Finally he was curtly informed that he was still an officer of the Treasury Department. Even now the tendency is to transfer the whole accounting of the Post-Office Department, amounting to seventy odd million dollars a year, to the Postmaster-General.

These Departments naturally try to build themselves up one upon the ground of another. Therefore nearly all of them have established around the head of the Department what is called an administrative cabinet. That is the tendency, and that tendency ought to be broken up. The old practice was by law to distribute the various kinds of accounts among the different officers, and the Third, Fourth, and Fifth Auditors had to pass upon accounts that belong to different De-

partments, so that there could be no favoritism, no power to influence the Auditor; but if you place an auditor in charge of a particular class of accounts, say naval accounts, he will soon become attached to the Navy. The natural effect of association in passing upon such accounts would have its influence with him, especially when his accounts are not to be passed upon by any other officer. A double examination in the accounts of the Treasury Department is essential, and without it no provision ought to be made.

As I said, I would be in favor of having only one Comptroller, but I would give him strong assistance, so that he might pass the second time upon all the accounts that go through the different Auditors. I would so divide up these accounts that no one could tell exactly what account would come to him. I suppose it would be within the power of the Secretary of the Treasury to do that. But now it is proposed to be defined by law so that it can not be changed.

I have here now some impartial reports that were made by men not in office or not seeking office. I have three or four letters or statements made by gentlemen who in the past were leading officers of the Treasury Department. Some of them live here now, but they have not been in the Treasury Department for some years. I have no doubt most of the Senators have had their attention called to the statement of Mr. J. R. Garrison, late Deputy First Comptroller of the Treasury. He was a very worthy, excellent officer, as I have always understood. He was for a long time in office in the Treasury Department, and went gradually up until he became one of the leading officers there. He says:

“The bills above referred to—”

Speaking of the bills which were then pending—
 “provide for abolishing the office of Second Comptroller of the Treasury, for taking away from the First Comptroller his power and authority to make detailed examination and final settlement of accounts and claims in his office. Six auditors provided for are invested with exclusive power and

authority to finally examine and certify all accounts and claims in which the United States are concerned, subject to appeal, under conditions specified, to the First Comptroller, who is to be known as the Comptroller of the Treasury. Accounts are no longer to be certified to the Register of the Treasury, but to a division in the office of the Secretary of the Treasury, to be known as the division of bookkeeping and warrants.”

Another feature of this proposition is, that when the accounts are passed by the Auditor he still retains possession of them and they are in his custody, while under existing law they are transferred to the Register; the idea being that the Auditor should examine and pass the accounts, and they would go to the Comptroller, and then in due course they would come back to the Register, where they would be registered and account kept of [7472] them, and they would be cared for. But all that is proposed to change. The Register’s office is to be practically abolished, except so far as certain matters named in the bill.

“The files of accounts are no longer to be kept by the Register (who has been the custodian of the accounts of civil expenditures since the foundation of the Government), but the respective Auditors are to keep the files of the accounts subject to their jurisdiction.

“The respective jurisdiction of the six Auditors of the Treasury (excepting that of the Auditor for the Post-Office Department) is very materially modified.

“In order to clearly comprehend the effect and scope of the proposed legislation the two bills referred to must be considered in connection with Senate bill No. 1738 and House bill No. 5750, which are identical, both introduced March 6, 1894, and provide for abolishing the office of Commissioner of Customs and concentrating in the First Auditor the sole and final authority as to examining and certifying customs accounts and all other accounts subject to the jurisdiction of the Commissioner of Customs, with the right of appeal to the First Comptroller under specified conditions.

“Right here it must be observed that this last-named bill, in section 3, provides that the First Auditor shall certify to the Register of the Treasury the accounts now subject, under existing law, to the jurisdiction of the Commissioner of Customs, and this bill (H. R. 5750) was passed by the House March 8, 1894.

“But by the bill introduced March 29, 1894—”

A few days afterwards—

“above referred to (Senate No. 1831, identical with H. R. No. 6478), in section 5, it is provided that the First Auditor shall have sole and final jurisdiction with respect to the same class of accounts—those now subject to the jurisdiction of the Commissioner of Customs—but shall certify said accounts to the division of bookkeeping and warrants.”

That is an office in the Secretary's office proper. He discusses one or two other points. It has been said that this will expedite business; that it will especially hasten forward action upon the cases of disbursing officers. Here is his reply to that:

“How far will the proposed changes expedite the public business? The question has been considered as if the delays so much complained of occur only in the offices of the Comptrollers and the Commissioner of Customs, and it is assumed that if these offices are abolished all the public business will be kept up to date. Facts do not sustain any such line of argument. The delay in the Auditors' offices have been quite as much as those in the offices of the Comptrollers and Commissioner, in all probability more, except in isolated cases where the Comptrollers and the Commissioner of Customs have necessarily held up accounts and claims pending investigation of frauds or the production of necessary evidence. A full and fair investigation, not confined to a single Auditor or to any special class of accounts, will demonstrate the correctness of this statement.”

Here is another point, the truth of which I know from my own personal observation and experience:

“Again, nearly all accounts pass through some Executive Department for administrative action or approval, and it is just here that most delays occur. Well-authenticated cases might be cited in which the head of some Department has complained to the First Comptroller of the supposed delay of his office in passing some account or claim, when investigation has developed the fact that the very account was lying unacted upon in the Department from which complaint emanated.”

That grew out of the practice I mentioned a while ago, that nearly all the heads of Departments gathered around themselves a little coterie, a little administrative cabinet. No doubt in all the Departments there are clerks of various kinds who form such a cabinet, and these accounts are especially those of disbursing officers of the Navy and the Army. They would be retained, and would receive a kind of a superficial examination. There is no legal authority for such an examination, and there is no legal authority for any examination of public claims or accounts, except those in the Treasury Department, to which I have referred.

I can not see any objection, however, to the head of the Department looking through the papers of any officer of his department, to ascertain whether the office is properly conducted.

I do not complain of it. I know myself when I was Secretary of the Treasury complaints were made about the settlement of the accounts of disbursing officers, and it was finally found the accounts were left to the War or the Navy Department at the time, though the blame all fell upon the Treasury Department.

The paper I have here, which was prepared by Mr. Garrison, is a very interesting document. I shall not stop to read it, as I do not care to weary the Senate with reading, but I shall ask leave to print it in the RECORD in connection with my remarks.

* * * *

I invite Senators who wish to look into this matter to read this paper, because it is certainly a very able one, and goes over the whole ground, giving the history of these offices; and Mr. Garrison⁷⁶ is certainly a very well-informed man. I will read one paragraph from his paper:

"Doubtless a bonded disbursing officer will, if honest, seek to render correct accounts and avoid errors for which he and his sureties must be held accountable. This may be said of any officer who renders accounts to the Government. If all disbursing officers were beyond the reach of temptation and strictly honest there might be some force in what is said regarding their primary examination to see that their own accounts are correct. But it must be remembered that some of the heaviest losses to the Government have been through the defalcations of some of its disbursing officers. A dishonest disbursing officer may succeed in corrupting a dishonest Auditor, in whom is concentrated the sole and exclusive authority as to settlement of accounts, as is given in the proposed modification and reform of the accounting system. But under the existing system, wherein every account settled by an Auditor must receive a detailed examination and revision by a Comptroller, such corruption or collusion is impossible, unless both officers can be corrupted. One operates as a check upon the other."

I have another paper here written by a gentleman who was a high officer in the office of the Second Comptroller, but who is not now connected with the office, and does not care to have his name drawn into the controversy. His statement in regard to this bill is brief, and I shall ask the liberty of inserting that also in the RECORD, so that the Senate may have full information on the subject.⁷⁷

* * * *

I have here a communication from W. I. Lewis, who was formerly a clerk in the Treasury Department. It so happens

⁷⁶ See p. 842.

⁷⁷ See p. 865.

that of the gentlemen who have sent me communications, one was in the office of the Commissioner of Customs, one in the office of the First Comptroller, and one in the office of the Second Comptroller. As the letter of Mr. Lewis, who was formerly a clerk in the Treasury Department, but is now a business man in the city of Washington, is very brief, I shall append it to my remarks.⁷⁸

I have also a letter from Mr. Lawrence, which I shall read. Mr. Lawrence was certainly one of the most industrious Comptrollers we ever had in the Treasury Department. He wrote more opinions and made more decisions than I suppose any judge upon the bench ever did in the same length of time. His letter is as follows:

“Referring to our conversation last evening, I respectfully call your attention to volume 1 of the Decisions of the First Comptroller in the Department of the Treasury, in the appendix to which you will find the organization and duties of the accounting officers (pages 411-700) as they stood in 1880. Claims generally against the United States, except those paid by disbursing officers, are first presented by the claimant, or in some cases transmitted by the officers in the Departments to the proper Auditor, who states an account, either allowing or disallowing the claim, when it is passed to the proper Comptroller, who either rejects it or certifies a balance due the claimant.

“If the case is a civil matter, the First Comptroller certifies it to the Register, who certifies a copy of the Comptroller’s settlement to the Secretary of the Treasury for warrant. If it is a War, Navy, or Indian claim, the Second Comptroller certifies it to the head of the proper Department, who draws his requisition on the Secretary of the Treasury for payment, the requisition being countersigned by the Second Comptroller and registered by the Second, Third, or Fourth Auditor, according to the nature of the claim.

⁷⁸ See p. 879.

“The Secretary issues a warrant on the Treasurer, which is countersigned by the First Comptroller, and is registered by the Register. The warrant is then transmitted to the Treasurer, who issues a draft on himself or either of the assistant treasurers, or a United States depository. Warrants for the advance of money to disbursing officers must be signed by the Secretary himself, and countersigned by the First Comptroller. Other warrants are signed by an Assistant Secretary, and countersigned in the name of the First Comptroller by his deputy. Neither the Second Comptroller nor Commissioner of Customs, who is also a Comptroller, has any duty in connection with warrants. The accounts of disbursing officers are settled by the proper Auditors and Comptrollers.

“The Sixth Auditor of the Treasury for the Post-Office Department, who is his own comptroller, countersigns warrants issued by the Postmaster-General on accounts settled by him.

“I am of opinion that in order to secure uniformity of decisions there should be but one Comptroller, with an increased salary, removable only by the President, by and with the advice and consent of the Senate. The auditors should be retained by all means. A double scrutiny of claims is essential to secure accuracy and honesty.”—April 20, 1894.

WILLIAM LAWRENCE, to JOHN SHERMAN.

That is the opinion of Mr. Lawrence, who is entirely disinterested.

I shall also ask leave to print a short statement in regard to the organization of the Treasury Department and mode of dealing with accounts from the beginning of the Government, which is very brief.⁷⁹ [7473]

* * * *

I have another paper here, which I shall not print but shall hand to the Senator from Missouri. It is upon the transfer of the files and records of the Treasury Department, and I think it will be interesting to the Senator, as it is connected

⁷⁹ See p. 906.

somewhat with this subject, but I do not think it necessary to print it.

Mr. President, I have said about all I desire to say. I have no feeling and no interest about this matter more than any other Senator. There is no officer in the Treasury in whose case I am at all interested. All I desire to do is to preserve intact all the securities which have been given to the Government of the United States to protect its Treasury from defalcation and fraud.

I think it is unquestionable that if we should take away the guards which are now around the Treasury Department, the power of the Comptroller to reëxamine the acts of the auditors in all their parts and details, a great blow will be given to our financial solvency and frauds will undoubtedly occur.

It is sometimes said, and has been said with a good deal of ingenuity by the gentlemen who support this proposition, that an appeal may be taken from the auditors to the comptrollers, but that is very fully answered in one of the statements I have submitted. Who makes the appeal? The claimant can make the appeal and the Secretary of the Treasury can make the appeal. But how can the Secretary of the Treasury know anything about what is going on in the accounting offices?

It would not be possible for the Secretary of the Treasury to know anything of one out of a thousand of the claims which are daily being acted upon in the Department. Who is to inform him? Who is to act for the Government? If there is any fraud committed by any officer of the Government, that officer is interested in concealing the fraud, and there would be no chance for the Secretary to know of it.

Besides, one year is allowed within which to make an appeal. Would you suspend all the payments of the Government for one year in order to allow somebody to make an appeal?

The whole provision, it seems to me, is not carefully drawn. The bill is of no account whatever; and it is merely put in for buncombe. I do not intimate that the Senators who have been

engaged in this investigation would try to deceive anyone, for I know they do not so desire, and have no wish to conceal anything; but evidently this appeal to the Comptroller as to particular claims is entirely unfounded. It is true that there is not taken from him the power to pass upon legal questions. Where new laws have been enacted which have to be construed, the Auditor is bound to consult the Comptroller as to the proper construction of those laws, but when a legal question shall arise in the examination of a claim as a matter of course nobody would know anything about it except the clerk who has the management and the care of the account. So there is no guard whatever. The Comptroller may be ever so able a man, but he may have no opportunity to act in such a case.

So far as the Secretary of the Treasury is concerned, it is impossible for him to know what is going on in that great Department. He never looks after claims, and the law expressly excludes him from having anything to do with claims. A Secretary of the Treasury would not dare, consistently with his public duty, even to mention the subject of a claim to an Auditor or a Comptroller. If he should do so he would show his utter unfitness for the office. No man who ever held that office would ever do a thing of that kind. It would be in the nature of a criminal act for him to attempt to influence his subordinates. The accounting officers are absolutely independent of him, and he can not interfere with them.

So that in every way I can look at it, I regard this measure as a bad measure, although no doubt it is regarded in a different light by the commission who were ordered to examine into the matter, and who prepared it.

But it seems to me now—and I make this criticism with some reluctance—that this commission ought to have reported their proceedings to each House, and that report should have been sent either to the Committee on the Judiciary or the Committee on Finance, where it should have been taken up and a proper inquiry and examination made. A joint commission has no right to report in this way. All it can do is to in-

form Congress, and then its report should be sent to one of the regular committees.

I say to my honorable friend from Missouri—and no man respects him more than I do, not only as a faithful, honest, and industrious public servant, but as a man who would not do anything whatever that was wrong, if he knew it—that the proper thing to do is to refer the provisions of this bill relating to the reorganization of the Treasury Department to one of the regular committees, so as to afford an opportunity for the question to be fully examined, and to be heard when there will be more than ten or fifteen Senators present, and when all Senators shall have an opportunity to know what is pending. After an examination by such a committee, it should then be reported to the Senate. I do not care what committee considers the subject, though I suppose the proper committee would be the Committee on Finance or the Committee on the Judiciary.

I could make many suggestions of changes which I think would tend to increase the guards thrown around the Treasury for its protection, and no doubt others could do the same. But to let the bars down in this wholesale way, it seems to me, Mr. President, is improvident and wrong, and I think its results will work evil to our country. Every kind of claim in any part of the country may be presented to the Auditors at will, and the Auditors must keep open doors to every demand made against the Government of the United States.

A claim may be antiquated; it may be as old as the war of the Revolution; it may be entirely groundless, and founded upon forgery or perjury, and yet it may be presented, and if there is no bar between the Treasury of the United States and a false and unfounded claim except one man, and he perhaps trusting everything to his subordinates, I fear that evil results will follow.

It is not wise to break down any of the guards or checks which surround the Treasury. The money of the people of the United States should be sacredly and safely reserved in the future as it has been in the past.

That is all I desire to say, Mr. President.

The papers ordered to be appended to Mr. SHERMAN'S remarks are as follows:

* * * *

STATEMENT OF J. R. GARRISON, LATE DEPUTY FIRST COMPTROLLER OF THE TREASURY, IN OPPOSITION TO THE PROPOSED LEGISLATION TO IMPROVE THE METHODS OF ACCOUNTING IN THE TREASURY DEPARTMENT BY ABOLISHING THE OFFICES OF SECOND COMPTROLLER AND COMMISSIONER OF THE CUSTOMS AND GIVING THE SIX AUDITORS THE POWER TO FINALLY EXAMINE AND CERTIFY ALL CLAIMS AGAINST THE UNITED STATES, SUBJECT ONLY TO AN APPEAL UNDER LIMITED CONDITIONS TO ONE COMPTROLLER OF THE TREASURY.⁸⁰

To Senate, April 12, 1894

OBJECTIONS TO THE PROPOSED LEGISLATION—REASONS SHOWING IT TO BE UNWISE, AND THAT IT WILL NOT IMPROVE THE METHODS OF ACCOUNTING IN THE TREASURY DEPARTMENT.

The bills above referred to provide for abolishing the office of Second Comptroller of the Treasury, for taking away from the First Comptroller his power and authority to make detailed examination and final settlement of accounts and claims in his office. Six Auditors provided for are invested with exclusive power and authority to finally examine and certify all accounts and claims in which the United States are concerned, subject to appeal, under conditions specified, to the First Comptroller, who is to be known as the Comptroller of the Treasury.

Accounts are no longer to be certified to the Register of the Treasury, but to a division in the office of the Secretary of the Treasury, to be known as the division of bookkeeping and warrants. The files of accounts are no longer to be kept by

⁸⁰ 53 Cong. 2 sess., S. misc. doc. 145. 14 pp. Serial 3171.

the Register (who has been the custodian of the accounts of civil expenditures since the foundation of the Government), but the respective Auditors are to keep the files of the accounts subject to their jurisdiction.

The respective jurisdiction of the six Auditors of the Treasury (excepting that of the Auditor for the Post-Office Department) is very materially modified.

In order to clearly comprehend the effect and scope of the proposed legislation the two bills referred to must be considered in connection with Senate bill No. 1738 and House bill No. 5750, which are identical, both introduced March 6, 1894, and provide for abolishing the office of Commissioner of Customs and concentrating in the First Auditor the sole and final authority as to examining and certifying customs accounts and all other accounts subject to the jurisdiction of the Commissioner of Customs, with the right of appeal to the First Comptroller under specified conditions.

Right here it must be observed that this last-named bill, in section 3, provides that the First Auditor shall certify to the Register of the Treasury the accounts now subject, under existing law, to the jurisdiction of the Commissioner of Customs, and this bill (H. R. 5750) was passed by the House March 8, 1894.

But by the bill introduced March 29, 1894, above referred to (Senate No. 1831, identical with H. R. No. 6478), in section 5, it is provided that the First Auditor shall have sole and final jurisdiction with respect to the same class of accounts—those now subject to the jurisdiction of the Commissioner of Customs—but shall certify said accounts to the division of bookkeeping and warrants.

So that by the bills introduced March 6 the Auditor is required to certify a certain class of accounts to the Register of the Treasury, and by the bills introduced March 29 he is directed to certify the same class of accounts to the division of bookkeeping and warrants. This instance illustrates the mistakes, incongruities, and perplexities that must of necessity

arise if the attempt to break up the system of accounting which has prevailed with signal success for more than a century, and to engraft upon what remains a crude and untried system, should be successful and become enacted into law.

REASONS FOR THE PROPOSED CHANGE UNWARRANTED

The reasons assigned for the proposed legislation to abolish the final revision and certification of accounts and claims by the Comptrollers and the Commissioner of Customs are two:

1. That the change will expedite the public business and do away with the objectionable delays in the settlement of accounts in the Treasury Department. [7474]

2. That it will be economical and save to the Government the salaries of the officials whose offices are abolished and the salaries of such clerks as may be dispensed with.

(1) How far will the proposed changes expedite the public business? The question has been considered as if the delays so much complained of occur only in the offices of the Comptrollers and the Commissioner of Customs, and it is assumed that if these offices are abolished all the public business will be kept up to date. Facts do not sustain any such line of argument. The delay in the Auditors' offices have been quite as much as those in the offices of the Comptrollers and the Commissioner, in all probability more, except in isolated cases where the Comptrollers and the Commissioner of Customs have necessarily held up accounts and claims pending investigation of frauds or the production of necessary evidence. A full and fair investigation, not confined to a single Auditor or to any special class of accounts, will demonstrate the correctness of this statement.

Again, nearly all accounts pass through some Executive Department for administrative action or approval, and it is just here that most delays occur. Well-authenticated cases might be cited in which the head of some Department has complained to the First Comptroller of the supposed delay of

his office in passing some account or claim when investigation has developed the fact that the very account was lying unacted upon in the Department from which complaint emanated.

The commission, and particularly their experts, lay great stress upon the value and importance of the so-called administrative action by the Departments on accounts and claims, supposing that such action may take the place of the detailed examination by the Comptroller of the Treasury Department, but the delays caused by such administrative action seem to have altogether escaped their attention.

The proposed change materially modifies the jurisdiction of each of the six Auditors (except that of the Auditor for the Post-Office Department); divests the Register of the Treasury of his authority as official bookkeeper of the Department and custodian of its files; provides that accounts shall be certified to a new division, and that each of the Auditors shall keep his own files of accounts. To illustrate how radical the change will be, internal-revenue accounts which have gone to the Fifth Auditor under provisions of law since the present internal-revenue system was inaugurated will, under the proposed change, go to the First Auditor, while judiciary accounts and other accounts relating to the Department of Justice, which have always been under the jurisdiction of the First Auditor, will, if the proposed bills are enacted, go to the Fifth Auditor.

It does not require argument to show that to prepare the proper books and blanks necessary to inaugurate the proposed change in the system, to transfer the files and prepare places or rooms for them, to familiarize the officials and clerks with their new duties, and to do all things necessary to change the well-established order of things which has existed for a century, and to adapt it to the new conditions, must take time. The changing of the files will not only be productive of confusion, perplexity, and delay in the dispatch of business, but will necessarily require considerable labor by competent clerks to assort and properly distribute the vast accumulation of ac-

counts and records, and will be attended with heavy expense.

While the new order of things is being established the regular routine work of adjusting accounts will fall behind. It is not an extravagant estimate to say that if the present clerical force is left intact it will be some years, at least, before the system is in thorough running order and the work brought and kept up to date. But with the large reduction in the clerical force recommended by the commission and their experts it is inevitable that the public business will soon fall greatly in arrears, much more so than at present. The claim that the proposed changes will expedite the public business and obviate delays is not well founded.

(2) How far will the proposed changes prove to be measures of economy? There will be a saving of the salaries of the officials who are dispensed with, to wit: the Commissioner of Customs and deputy, Second Comptroller and deputy, and Deputy First Comptroller. But against this it should be borne in mind that the First Comptroller is to be continued as Comptroller of the Treasury at a salary of \$5,500 per annum, in lieu of his present salary of \$5,000, with an assistant comptroller at \$5,000 per annum, and a chief clerk at \$2,500 per annum. The experts recommend that the salaries of the 6 Auditors shall be \$4,000, instead of \$3,600, and that there be 10 principal clerks in the Comptroller's office at \$2,000, in the place of 4 chiefs of division at \$2,100.

The bills referred to do not provide for the changes in the clerical forces. The experts in their report estimate the number of clerks to be dispensed with, but this is entirely problematic. For the reasons stated, if the clerical force is reduced to the extent recommended by the experts, the public business must fall behind for several years until the new system has been inaugurated and put in satisfactory operation. The cost of the necessary books, blank forms, printing, arranging files, cases, and lockers for the files of the several Auditors, moving and arranging the vast number of accounts now in the several file rooms, and other necessary expenses incident to the change

must be taken into consideration. The saving in dollars and cents, if any, will by no means be as great as that estimated by the experts, for they have ignored the fact that the proposed change must be attended with heavy expenses and much extra work, for which they have made no estimate.

PROTECTION AND SAFETY IN A DIVIDED RESPONSIBILITY

It is claimed by the experts, and assumed by the Commission, that a divided responsibility in the accounting system is no protection to the Government. The best possible answer to this proposition is the record of the accounting system of the Treasury for more than a century. No one can examine the facts without being forced to acknowledge that the Government has been protected against fraud, collusion, and consequent loss, in a most remarkable degree. Can it be safely asserted that this is owing solely to the honesty and integrity of the officials and clerks, and that the accounting system instituted by the act of September 2, 1789, which established the Treasury, inaugurated under the supervision and special approval of Alexander Hamilton, has in no way contributed to the result?

During the many years of Republican administration after the late war it was continually asserted by the party in opposition that a change was essential in order that the books of the Treasury might be examined, and the frauds, which a long lease of power is sure to beget, might be brought to light. This claim was even made by Gen. Hancock, when a candidate for the Presidency. But when the change did come, and the Democratic party came into power, the books were examined, and the most rigorous scrutiny was given to the accounting system, but no frauds were discovered. The system is a sure check and spy upon fraud, and none can go long undiscovered so long as the integrity of the system is preserved. No falsification of the books and records of the Treasury Department has been discovered, no corrupt collusion between the accounting officers has been brought to light, and

the losses arising within the Department from fraudulent transactions are few in number and trifling in amount.

These are mainly, if not entirely, cases of skillful forgery on the part of dishonest clerks, of such a character as would not ordinarily be detected in a bank or business house, and which escaped the scrutiny of both accounting officers for the time being. They were, however, soon discovered, and the guilty parties arrested, tried, and punished. These cases were adverted to and urged upon the attention of the House in the debate on the bill (H. R. No. 5750) for abolishing the office of Commissioner of Customs, by those favoring the measure, as argument to show that the office of Comptroller in the Treasury is not a safeguard because these frauds were not discovered by that officer or in his office. And it may be here noted, parenthetically, that some of the cases brought up for the purpose of arraigning the office of Comptroller were those for which the Comptroller was in no sense responsible—notably the Burnside defalcation for sales of waste paper, an account pertaining to postal revenues settled exclusively by the Sixth Auditor, and never coming before the Comptroller; and the Ewing defalcation, which was really brought to light by a letter of the First Comptroller to the Attorney-General, complaining of Ewing's neglect in rendering his accounts, and stating that the Comptroller would recommend to the Secretary of the Treasury that no further requisitions of the Attorney-General in Ewing's favor be honored, unless his accounts in arrears were promptly and satisfactorily rendered. (See CONGRESSIONAL RECORD, March 9, 1894, volume 26, No. 71, pages 3358 to 3370.)

The record of the accounting system of the Treasury for more than a century, when compared with that of the fiscal departments of the States and of public and private corporations throughout the country, is marvelous and speaks volumes in favor of the "divided responsibility and double check," the opinions of the experts to the contrary notwithstanding. The losses to the Government arising within the

Treasury Department, as compared to the vast amounts involved as receipts and expenditures, are indeed insignificant, and the result is astonishing when the comparison is extended to the stupendous and frequent defalcations, reaching millions of dollars, which have occurred and are still occurring in the treasuries of various States, and of city governments, in the offices of State and city treasurers, auditors, and comptrollers, as well as in public and private corporations and individual concerns. These frauds are accomplished by the result of one-man power—single responsibility, under which systematic falsification of books and records has been made possible, and successfully carried out for years without detection. Is it wise to open the Treasury of the United States to such possibilities?

The commission, in their report of March 29, 1894 (House Report No. 637, page 2), quote from a report⁸¹ made to Congress in 1842, by a "select committee on retrenchment," arguing against the system of divided responsibility, claiming that it does not prevent wrongdoing, but often promotes negligence and fraud, and that "the complex system of expenditure and account is one of the greatest practicable obstructions to economy and responsibility in the Government." It is sufficient answer to this remarkable statement, now invoked to arraign the accounting system inaugurated under Hamilton, that it had no influence on Congress at the time; that body in its wisdom did not see fit to adopt the views of the "select committee" in 1842, and it looks as if valid reasons for breaking down the accounting system are wanting when this back number is resurrected from the dust of the past. The commission say (on the same page of said report): "It is clear that the present mode of settling accounts does not answer the demands of public justice or economy; and it is also clear that the divided responsibility does not protect the Government." The views or arguments adduced by the commission in support of this strong assertion are those of the experts, which will presently be adverted to.

⁸¹ See No. 63.

The above statement of the commission must have been made hastily, relying on the views of the experts, for it is in direct contradiction of the views of some of the ablest men of our country, who have emphatically favored a divided responsibility in the accounting system—the independent action of a Comptroller and an Auditor. At the first session of Congress (May, 1789), in the debate on the question whether there should be a board or a single head to manage the finances of the United States, Mr. Madison objected to the former, as follows: “If a board is established, the independent offices of Comptroller and Auditor are unknown; you give the aggregate of these powers to the board, the members of which are equal; therefore you give more power to each individual than is proposed to be intrusted to the Secretary.” (Debates in Congress, volume 1, O. S., pages 384-408.)

Mr. Baldwin, who subsequently brought in the bill to establish the Treasury Department, said he hoped “to see proper checks provided—a Comptroller, Auditors, Register, and Treasurer.” He “would not suffer the Secretary to touch a farthing of the public money beyond his salary. The settling of the accounts should be in the Auditors and Comptroller, the registering them to be in another officer and the cash in the hands of one unconnected with either.” (*Id.*, 408.)

After Mr. Hamilton had been succeeded as Secretary of the Treasury by Oliver Wolcott, who was promoted from the office of Comptroller, he (Mr. Hamilton) advised the President as to the proper officer to whom should be assigned the temporary execution of the Comptroller’s Office, made vacant by Mr. Wolcott’s appointment as Secretary. In this letter Mr. Hamilton treats *in extenso* of the complicated system and divided responsibility of the Treasury Department, emphasizing the importance of the separate, independent action of each officer as a check upon the other, even referring to the Register as exercising an important check, “first upon the Secretary and Comptroller, whose warrants he must register and sign before they can take effect; and secondly, upon the settlements of the Comptroller and Auditor by recording their

acts and entering them on the books to the proper accounts." In referring to the Comptroller, Mr. Hamilton says his "office imports the second trust in the Department," and he refers to the Auditor as "the coadjutor of the Comptroller in settlements."

Attorney-General Crittenden, in 1852, addressed to the President an elaborate and exhaustive opinion respecting the duties and powers of the accounting officers of the Treasury, growing out of a question of conflicting jurisdiction between the Commissioner of Customs and the Secretary of the Treasury. The learned Attorney-General traces minutely each step in the accounting system established by the organic act of September 2, 1789, and dwells upon the high importance of each process, the separate and independent action of the officers of the Treasury upon whom rest the duty of examining and certifying accounts and claims; that of the Auditor in examining and settling accounts and claims and reporting his balances thereon to the Comptroller (or to the Commissioner of Customs, as the case may be) for his decision thereon; of the Comptroller (or the Commissioner of Customs) in re-examining and certifying the balances to the Register of the Treasury, and of the Register in recording the same, and (where payment is to be made) certifying to the Secretary of the Treasury "a copy of the balance of the account as audited and adjusted (by the Auditor), and certified to the Register by the Comptroller."

In the opinion of Mr. Crittenden, each of the separate steps, by the independent, separate action and divided responsibility of the officer named, is essential as a "safeguard against improper expenditures of the public money," and as the necessary legal process upon which the Secretary of the Treasury may issue a warrant for payment "which shall be warranted by law." (15 [5] Ops. Atty. Gen., 630-658.) See also Opinion of Attorney-General Taft, February 7, 1877 (15 Ops. Atty. Gen., 192), as to the effect of settlements by the accounting officers.

In 12 United States Court of Claims Reports, page 553,

occurs the following statement as to the divided responsibility of the accounting officers and the necessity therefor: "But for the settlement of accounts against the [7475] United States there is established by law a peculiar and well-appointed system, which requires in each case careful examination and consideration and the judgment and decision of high officers, appointed by the President with the advice and consent of the Senate, called 'accounting officers,' of two distinct classes, acting separately, the Comptrollers reviewing and finally passing upon the action of the Auditors."

The same principle as to the propriety, necessity, and safeguard, in the separate, independent action of the two distinct classes of accounting officers (Auditors and Comptrollers) is recognized in *McKnight vs. The United States* (13 C. Cls., 292-313), which gives an elaborate and instructive review of the accounting system; and also in numerous decisions of the United States Supreme Court, among which reference may be made to—

Smith vs. The United States (5 Peters, 291).

Watkins vs. The United States (9 Wallace, 759).

United States vs. Gausson (19 Wallace, 198).

United States vs. Stone (106 U. S., 525).

United States vs. Johnston (124 U. S., 236).

United States vs. Waters (133 U. S., 215).

Having shown what weight of authority may be cited (and my statement is by no means all that might be referred to) in favor of the system of divided responsibility and its importance as a safeguard and protection to the Government, we come now to consider the views of the experts, adopted by the Commission, in support of the claim that a divided responsibility in the accounting system "does not protect the Government."

It is claimed that 90 per cent of the expenditures of the Government are now paid through disbursing officers "who are under bond and take especial care to pay out money only for purposes clearly authorized by law, who, indeed, are

authorized to obtain the decisions of the Comptroller as to the construction of statutes before making payments," and that as such disbursing officers "primarily satisfy themselves of the correctness of their accounts," and that "as the administrative officers also examine and approve these accounts coming under their control before they go to the Auditor," the final revision or detailed examination by the Comptroller may be safely dispensed with, and the whole matter left to the sole discretion and conclusive action of the Auditor.

As a legal proposition it may be said that section 2 of the act of March 3, 1817, now section 236 of the United States Revised Statutes, which requires that "all claims and demands whatever, by the United States or against them, and all accounts whatever in which the United States are concerned, either as debtors or as creditors, shall be settled and adjusted in the Department of the Treasury," never contemplated that the primary examination by a disbursing officer of his own accounts, or the administrative action of any Executive Department in approving them, could take the place of one of the examinations and audits required to be performed in the Treasury Department. And as a business proposition it appears unreasonable and fallacious to claim that such examination and administrative action can be safely taken as a substitute for the critical and detailed examination such accounts now receive in the Comptroller's Office.

Furthermore, the commission and their experts seem to have looked at the question with the view of accounting for expenditures alone, not considering the importance of a proper and rigorous examination of the accounts of the officers who receive and collect the revenues of the Government amounting to \$500,000,000 annually.

Doubtless a bonded disbursing officer will, if honest, seek to render correct accounts and avoid errors for which he and his sureties must be held accountable. This may be said of any officer who renders accounts to the Government. If all disbursing officers were beyond the reach of temptation and

strictly honest, there might be some force in what is said regarding their primary examination to see that their own accounts are correct. But it must be remembered that some of the heaviest losses to the Government have been through the defalcations of some of its disbursing officers.

A dishonest disbursing officer may succeed in corrupting a dishonest auditor, in whom is concentrated the sole and exclusive authority as to settlement of accounts, as is given in the proposed modification and reform of the accounting system. But under the existing system, wherein every account settled by an auditor must receive a detailed examination and revision by a comptroller, such corruption or collusion is impossible, unless both officers can be corrupted. One operates as a check upon the other. Right here it may be observed that the provision for an appeal to the Comptroller in the proposed legislation will not correct any such abuse or fraud as the one above suggested. Dissatisfied claimants may appeal to the Comptroller—and doubtless the Comptroller will have his hands full of such appealed cases—where the Auditor is vigilant and active in seeking to protect the interests of the Government.

But what protection is there to the Government against the action of a dishonest auditor, who for bribe, or favor, prejudice, bias, or any improper motive, rules against the interest of the Government, or suffers extravagant and dishonest expenditures to pass? Neither the Secretary nor the Comptroller can be advised of any such action, unless it be accidentally discovered, and therefore there can be no reason or motive why either of them shall order an appeal to the Comptroller in such cases. Neither will the routine duty required of the auditors in the bills before named, of reporting to the Comptroller their decisions upon the construction of statutes, serve to prevent, or check, or disclose collusive or dishonest practices, or the corrupt and dishonest allowance of accounts or claims by them. The proposed legislation breaks down the all-important safeguard that the divided responsi-

bility imposes—one office acting as a check upon the other. In this connection it is proper to advert to this remarkable assertion, to be found in the report of the experts (page 34, H. R. Report No. 637):

“The present system of accounting is practically but one check, as the audit of the Comptroller is final and independent of any examinations or audits previously made, and the Government is protected by the accounting branch only so far as the audit of the Comptroller is efficient.”

This is stated as an axiomatic truth, no argument or reason whatever being assigned in its support. Can it be supposed that because the Comptroller's action is final and conclusive that for this reason the Auditor is no check upon him? Such a view is without foundation in fact. A comptroller who might be inclined to reverse the Auditor's action, and make an illegal allowance or certify a false balance, would hesitate to do so, because his illegal action would, in the ordinary course of business, soon become known to the Auditor, and thus brought to light.

An honest auditor would not hesitate to report to the Secretary, to the President, or to Congress, if necessary, the dishonest and illegal action of a comptroller. The same principle applies to the clerks in the Comptroller's Office. They might be tempted to corrupt or dishonest action in the settlement of an account or claim, but the knowledge that their wrongdoing would shortly come to the knowledge of the clerk in the Auditor's Office, who handles the same line of work or class of accounts, would prevent them. The strong probability of speedy detection operates as one of the most potent and effective preventives of wrongdoing. The divided responsibility affords this salutary check. But remove it, and concentrate in one officer, as the proposed legislation concentrates in the Auditor, the sole authority and undivided responsibility in the settlement of accounts and claims, and the temptation to corrupt action and dishonest practice is enhanced as the probability of detection is made remote.

The experts give much weight to the administrative action respecting accounts in the Departments or offices in which they are approved. Such action is in no sense an audit, but merely perfunctory examination of an account for the purpose of ascertaining whether the officer whose account is to be approved has obeyed instructions or kept within prescribed limits. It is not a critical examination of each voucher to test its correctness and pass upon the legality of the expenditure involved. Therefore it can not take the place of the detailed examination made by the Comptrollers. The proposed legislation in no way provides that this so-called administrative action or examination shall be more critical or exact than it has been in the past.

It is well known to all familiar with these matters that thousands of vouchers and accounts annually pass through the accounting offices of the Treasury, bearing the approval of the head of some Department, after the so-called administrative action therein, in which are found gross errors in computation, and many of the charges so approved by the head of the Department are held to be illegal by the Comptroller. The experts, in referring to the proposed change which takes away from the Comptroller the detailed examination of accounts in his office and vests the final authority to pass upon and certify the same in the Auditor, say:

“This will do much toward removing the irritation and friction that is known to exist between the officers connected with the administrative Departments of the Government and the Government’s accounting officers.”

The experts in making this somewhat naive statement were evidently unmindful of the protracted struggle that existed on the part of the Comptrollers from the foundation of the Government down to 1868 against the undue pressure exercised by heads of Departments in seeking to enforce the allowance of accounts and claims which the Comptrollers held to be extravagant or unwarranted by law. Various opinions by distinguished Attorneys-General of the United States were

rendered, some supporting the view that the approval of the head of an Executive Department should control, others in favor of the conclusive authority of the Comptrollers. But Congress settled the vexed question authoritatively and decisively in favor of the Comptrollers by the act of March 30, 1868 (15 Stat., 54), now section 191 of the Revised Statutes of the United States, which provides that—

“The balances which may from time to time be stated by the Auditor and certified to the heads of Departments by the Commissioner of Customs or the Comptrollers of the Treasury upon the settlement of public accounts shall not be subject to be changed or modified by the heads of Departments, but shall be conclusive upon the executive branch of the Government and be subject to revision only by Congress or the proper courts.”

Here is a legislative sanction and approval of the divided responsibility; the separate and independent action of the Auditor and the Comptroller in the settlement of public accounts, and a recognition of the high and important duties and powers of the office of Comptroller, which is stronger than all else that has been or can be adduced in favor of the present accounting system, and ought to be sufficient reason and authority for its retention.

OBJECTIONABLE FEATURES IN THE PRESENT SYSTEM OF ACCOUNTING

An objectionable feature in the present system of accounting is that statutes sometimes receive contradictory constructions by the two Comptrollers and the Commissioner of Customs, each being independent of the others, and their rulings in other matters pertaining to the settlement of accounts are occasionally at variance. This is an objection which can not be overlooked, but it has never occasioned any serious difficulty or loss to the Government. There has been harmony in the construction of the great and important principles, and

the difference has related mainly to minor matters in accounting.

Had the original system as inaugurated under Hamilton been preserved intact this difficulty could not have arisen. Instead of creating separate and independent Comptrollers, as the business of the Government increased the one Comptroller might have been granted assistant comptrollers to perform the duties now assigned to the two Comptrollers and the Commissioner of Customs, and thus many of the difficulties and perplexities in the accounting system would have been avoided. The proposed legislation is not a return to the original system, but a wider departure from it. It vests in the five Auditors the final authority to decide upon matters of account now vested in the Comptrollers and the Commissioner of Customs. (The Sixth Auditor, since the creation of that office in 1836, has, so to speak, been his own comptroller.)

Under the proposed reform there will be six Auditors, each of whom may make decisions, and these decisions will not always be harmonious. If specially appealed to the Comptroller the contradictory decisions will be harmonized; but, as already shown, the process provided will not bring all of such cases before the Comptroller. The remedy proposed for the objectionable feature of contradictory decisions will aggravate rather than cure the evil.

The delay in the transaction of the public business is urged as an objectionable feature in the present accounting system. But the delays that exist are not the fault of the system, but arise from lack of administrative force and proper dispatch of business in Executive Departments and in the accounting offices. As already shown, these delays can not be attributed solely to the Comptrollers and the Commissioner of Customs. The facts will not warrant any such conclusion.

For example: Postal accounts settled by the Sixth Auditor, which do not go to the Comptroller for revision or detailed examination, have been as much in arrears as the accounts in any bureau in the Treasury Department.

Furthermore, for reasons already stated, the proposed legislation, in overturning a well-established system and radically changing the existing order of things and jurisdiction of offices, will, in all probability, bring about greater delays and cause the public business to fall still further behind.

CRITICISM OF SPECIAL SECTIONS OF SENATE BILL NO. 1831
AND HOUSE BILL NO. 6478

Section 1.—The reasons assigned for the change in the nomenclature of the several Auditors, designating them as Auditor for the Treasury Department, Auditor for the War Department, etc., are fanciful rather than real. The title designates the jurisdiction of the particular Auditor only superficially. True, the Auditor for the Treasury Department will have jurisdiction of all accounts and business coming under the Treasury Department, but it will still be a question to be determined (and sometimes not without difficulty) to say just what accounts and business do come under the Treasury Department, and in like manner with respect to each of the other Executive Departments.

For this fanciful change in title the existing jurisdiction of the Auditors is to be radically overturned, which will be inevitably attended with great confusion, and render it extremely difficult after the lapse of years to trace the payments of accounts and claims. This is no slight evil, as there is no statute of limitations against the Government, and it is a matter of frequent occurrence in the Departments to have old claims, long since paid, brought before the accounting officers and other officials, and their payment urged. [7476]

The present division of jurisdiction between the several Auditors is broader and more philosophic than that given in the proposed change. Under the existing system all military and naval accounts go to the three Auditors (the Second, Third, and Fourth), and all civil accounts go to the First, Fifth, and Sixth Auditors, and to the Commissioner of the General Land Office (as Auditor of public-land accounts).

The division between the several auditors is very simple; military accounts are assigned to the Second and Third Auditors, the jurisdiction of each being clearly defined; naval account to the Fourth Auditor; post-office and postal-revenue accounts to the Sixth Auditor; public-land accounts to the Commissioner of the General Land Office; the Fifth Auditor has accounts accruing in the Department of State, internal-revenue accounts, and a few others specially assigned to him by statute; and the First Auditor, as the original Auditor, has jurisdiction of all civil accounts not assigned by law to another Auditor. No difficulty can arise as to jurisdiction under the foregoing plain and simple provisions.

This well-defined jurisdiction it is proposed to break down; to divide up the files of accounts between the Auditors for the several Departments, and to combine in one Auditor jurisdiction both of military and civil accounts, in another jurisdiction of naval and civil accounts, and to radically change the jurisdiction of each (except that of the Auditor for the Post-Office Department, whose jurisdiction is not invaded).

Another very grave objection to an Auditor for an Executive Department is that he is liable to be unduly influenced by the will of the head of that Department, with whom he is brought in immediate contact. A Cabinet officer is a powerful factor in the administration of the General Government, and it is not overstating the case to say that an Auditor of a particular Executive Department will become a subordinate of the head of that Department, and in a great measure subservient to his will.

Section 2.—The provision in the latter part of this section as to the important duty of bringing suit against delinquent officers and their sureties is very vague and unsatisfactory. It is that “the Auditors, under the direction of the Comptroller of the Treasury, shall superintend the recovery of all debts finally certified by them, respectively, to be due to the United States.” Bearing in mind that the Comptroller of the Treasury, as provided for in this bill, has appellate jurisdiction only

of accounts, whose duty will it be, if the bill should become a law, to certify transcripts of accounts to the Solicitor of the Treasury for suit? The specific provisions of sections 3624, 3625, and 3633 of the Revised Statutes, imposing this duty on the Comptroller and the Commissioner of Customs, seems to have been overlooked in drafting this bill, and the general language employed leaves the matter in doubt.

The above-named sections are not specifically repealed, and as the First Comptroller is continued under the title of Comptroller of the Treasury, would the duty of certifying transcripts of accounts to the Solicitor still remain as one of his duties? The perplexity is augmented by the fact that the bill for abolishing the office of Commissioner of Customs, which passed the House of Representatives March 8, 1894 (House bill 5750, and House bill 1738), in section 2 provides for amending section 3625 by inserting therein the words "First Auditor of the Treasury," instead of the words "Commissioner of Customs."

Section 3.—The provision in this section that "The returns of fees mentioned in section 1725 of the Revised Statutes shall be made as prescribed by the Comptroller of the Treasury," conflicts directly with the authority conferred by law upon the President, and takes from the President and vests in the Comptroller a duty specifically assigned by the statute to the President.

The fees referred to in section 1725, Revised Statutes, are consular fees, and the form of rendering these fees is invariably contained in the consular regulations prescribed by the President through the Secretary of State, as the law provides. Section 1725 must be construed in connection with sections 1745 and 1752, Revised Statutes. Section 1745 authorizes the President to prescribe "the rates of tariff of fees to be charged for official services" by consular officers of the United States, and section 1752 authorizes the President to prescribe the regulations and issue the orders governing all diplomatic and consular officers of the United States, in relation to their du-

ties, "The transaction of their business, the rendering of their accounts and returns," etc.

These regulations are always prepared by the Secretary of State and officially prescribed by the President, and in them are always included the tariff of fees which the President is specifically authorized to prescribe (section 1745), and the form of rendering the "return" thereof (section 1725). The authority to prescribe the forms of accounting and returns for diplomatic and consular officers of the United States is vested by law in the President who acts through the Secretary of State.

Section 5.—The objections to changing the jurisdiction of the Auditors, as now fixed by law, have already been fully stated. The proposed change of certifying balances to the division of bookkeeping and warrants instead of to the Register is ill-advised. The records of all civil accounts and the files thereof have been with the Register since the Treasury Department was established. The Register, in the opinion of Hamilton, Crittenden, and other able statesmen, who were thoroughly familiar with the accounting system, is one of the checks upon which the Secretary must rely in granting warrants upon settlements. If any improvement or reform is to be made all the files and all the records should be kept in the Register's office, as is provided in the organic act creating the Treasury Department. The proposed change will produce great confusion and can be productive of no good.

Section 6.—In this section, beginning at line 26, the following clause occurs: "Any person accepting payment under a settlement by an Auditor shall be precluded from obtaining a revision of such settlement." This is very obscure as to the real meaning, and the rest of the section does not throw light upon it. Does it mean that if any officer's or claimant's accounts are settled in the ordinary course of business, and a Treasury draft sent to him, which he accepts, negotiates, and receives the money thereon, that he has "accepted payment" in the sense of the proposed statute, and is therefore precluded from

obtaining a revision of the settlement, even for good and satisfactory cause shown? The intent of the statute should be made plain. The objections to the provision in this section authorizing the Auditors to keep their own files of accounts have already been fully stated.

Section 8. The advantages of certifying accounts to the Register instead of to a division in the office of the Secretary of the Treasury have already been adverted to. It is inconsistent with the general theory of the duties of the Secretary, as fixed by law, to require his office to perform duties which appertain to the Register so long as the office of Register remains.

Sections 9 and 10.—The duties required of the Auditors in these sections as to passing upon requisitions for advance of public money to disbursing officers are substantially those which are now performed by the Comptrollers, and do not provide any better protection for the Government. And the provisions as to the rendition of accounts do not materially differ from the existing law touching this matter (section 3622, Revised Statutes), as modified by subsequent acts, which authorize quarterly rendition of accounts, but give the Secretary of the Treasury authority to require their rendition more frequently.

This claim, set up as to the great improvement in the system and the better protection to the Government that will inure from these two sections (9 and 10) if enacted, is not well founded.

Section 12. The provision in this section that claims presented to an Auditor which have not had administrative examination shall be "examined by two of his subordinates independently of each other" is, to say the least, a very inadequate and unsatisfactory substitute for the separate, independent, detailed examination of such claims in the Comptrollers' offices, for which this provision is intended as a substitute.

It is respectfully submitted that a candid consideration of

the foregoing objections, in connection with the manifest advantages of the present system of accounting, will demonstrate that the proposed changes are unsafe and unwise, and ought not to be adopted.

It appears strange that the experts in their examination of the Treasury Department have passed by many features which to those thoroughly familiar with its workings are regarded as useless and unnecessary, and have aimed their first and only blow at the distinctive and most important feature in the accounting system, the office of Comptroller, regarded by Hamilton as the "second trust in the Department," often spoken of as "the key of the Treasury," and which none of the great Secretaries from the days of Hamilton to the present time have considered as unnecessary or unessential.

In the report⁸² of Levi Woodbury, Secretary of the Treasury, made to the Senate in 1834, from which the commission quote, there is no suggestion that the office of Comptroller might be safely dispensed with, or that the divided responsibility of the Auditor and the Comptroller is not a wise and salutary feature in the accounting system. The report recommended simplification of methods, and the present commission say, after quoting largely from Secretary Woodbury's report: "It is evident that some simplification of the present methods is necessary." It is not shown in what way the methods proposed will simplify existing methods; on the contrary, it is not overstating the case to say that the radical changes introduced will produce greater confusion. The honorable members of the commission, engrossed with their own duties as legislators, and not familiar with the details of the accounting system and offices, have necessarily relied upon their experts.

The experts employed as salaried agents to discover defects in the existing system of accounting and to correct them, could hardly be expected to approve the system as satisfactory. Naturally they arrayed themselves against existing methods and greatly magnified the defects and evils which appeared to

⁸² See No. 58.

exist. A perusal of their report clearly shows it to be an arraignment of the present accounting system, and not a judicial and impartial consideration of its merits and defects. In their efforts to improve it they have recommended the striking down of its most important feature and the destruction of one of the essential safeguards of the public Treasury.

* * * *

THE SYSTEM OF ACCOUNTING IN THE TREASURY DEPARTMENT
—ITS ORIGIN AND GROWTH—THE OFFICE OF SECOND COMPTROLLER A PUBLIC SAFEGUARD.⁸³

To Senate, July 14, 1894

The general scope of the Treasury Department, and the functions of its several bureaus, can be clearly understood only by means of the information obtained from a close observation of the system of public accounting which has worked so satisfactorily, with few interruptions, for more than three-quarters of a century.

The present system of settling public accounts has been in operation since the year 1817.

By the act of March 3, 1817, the offices of accountants in the War and Navy Departments were abolished, and the appointment of an additional Comptroller (the Second Comptroller of the Treasury) and four Auditors was provided for.

It was evidently the intent of the framers of the act of 1817 to establish a tribunal for the settlement and adjustment of accounts against the Government that should be wholly independent of control or revision by those Departments or offices by whom the public expenditures and liabilities are incurred.

The Comptrollers were, by the act of 1817, stationed over the several Departments as checks upon their expenditures. They are not clerks of but are checks upon the heads of Departments. They are the depositaries of special powers. Their functions are so far judicial that President Madison at one

⁸³ Anonymous. See p. 836.

time urged that their tenure of office should be independent of the Executive. It is evident that only through an intimate acquaintance with departmental history can the jurisdiction of the Comptrollers be known or the embarrassment and loss that would result from the want of such safeguards be fully estimated.

If, owing to the great growth of the public business, consequent upon the expansion and development of the country, errors have crept into the system of public accounting and injured the general symmetry of the plan as projected by Hamilton, simplicity and order may readily be restored by prudent and wise legislation. It is not necessary to destroy the system to get at the error.

The best evidence as to the value of the present system lies in the fact that it has stood the test of time, having met all the requirements and demands of the Government from its very foundation down to the present period. By looking back at the ordinance⁸⁴ of the old Congress, "for regulating the Treasury and adjusting the public accounts," adopted September 11, 1781 (3 Journals Congress, 666), it will be found that this early ordinance provided for precisely the same officers that were constituted by the act of 1789. The duties of the several officers were also similar.

In fact the act of 1789 only continued in operation the old system that had been in existence under the early ordinance from 1781. The same system was preserved by the act of 1817, but it was enlarged and extended to meet the conditions growing out of a great increase of the public business. That is substantially the system which exists to-day. So that it may be said that the present system of accounting has continued, with but few interrup- [7477] tions, and only such changes as were made necessary by the growth of the country, from 1781 to the present time, or one hundred and thirteen years. It would seem, therefore, that a system that has worked satisfactorily for that long period ought not to be dis-

⁸⁴ See No. 9.

turbed without good and valid reasons. It is not believed that such reasons exist.

The practical effect of the contemplated changes, if made, will be to do away with all revision of the accounts and claims, after their settlement by the several Auditors of the Treasury, except in those few cases where appeal shall be taken to the Comptroller of the Treasury, as provided in the bill "To improve the methods of accounting in the Department of the Treasury, and for other purposes." To some extent this right of appeal may be satisfactory to the individual who may generally be relied upon to see that his own interests are protected, but who is to guard with equal care the interests of the Government? It may be answered that provision is also made that the Secretary of the Treasury may, within a stated time, obtain a revision of any account. To the superficial observer this may look like adequate protection, but to the experienced accountant it would seem to be throwing away the substance and retaining only the shadow.

If the Comptroller of the Treasury is to have action on only those few cases appealed to him from the Auditors, he is not likely to have in his office the subordinate experts through whom every head of a bureau must work, and on whom he must rely for his information and for the performance of the detailed work. Without these experts the accounts could not be properly examined, and the head of the bureau must work at great disadvantage.

Again, as the work of the Auditor is not to be uniformly revised by anybody, only the employés in his office will see the accounts, or know what they contain, what source of information will the Secretary of the Treasury have in regard to them, and how will he determine what particular accounts contain errors prejudicial to the interests of the Government? Is it expected that the Auditor's clerk will call attention to his own errors, even if he becomes aware of them? No; and hence owing to the want of information as to what accounts are improperly adjusted there will be no intelligent revision

of accounts, and the interests of the Government will be without adequate protection.

Auditors and their employés are but human, and until the liability to mistakes is eliminated from human action it will be unsafe and unwise to entrust great interests to the exclusive care of one person. An Auditor operates through his clerks, and unless errors are discovered by the clerk, and attention called to the same, the Auditor himself remains in ignorance of the error. If the clerk has a moral or mental defect the error will pass unheeded. His knowledge that the revision of his work is highly improbable will engender careless habits and loose rules of construction.

It should not be forgotten that the famous star route scandal was located in a Department whose accounts are settled by an Auditor without revision by a Comptroller, and that the great swindle and consequent loss to the Government would have defrayed the cost of revision of all Post-Office accounts for half a century or more. Since that time the Sixth Auditor has established within his own office a "Division of Review" of accounts, thus recognizing the necessity of bringing more than one mind to bear upon important questions. The same necessity has been recognized by the committee in framing the present bill, for in section 12 of the bill it is provided that, "In the case of claims presented to an Auditor which have not had an administrative examination, the Auditor shall cause them to be examined by two of his subordinates independently of each other." It is a fact that a large percentage of all claims settled by the Second Comptroller do not receive administrative action, but are filed directly with the accounting officers.

It will be admitted that a rigid scrutiny of official acts tends to keep many in honorable paths who might otherwise be treading devious ways. An ounce of experience is worth many pounds of theory. Search the records of the Comptrollers' offices and you will find innumerable cases where reversal of the Auditor's action has saved the Government large sums,

while the amount of wrong prevented is of course incalculable.

Some time during the year 1878 an official claimed to have expended over \$30,000 of his private funds for the benefit of the Government. He presented fair vouchers as evidence of the claim. Congress was induced to make an appropriation to reimburse him. The Auditor allowed the claim but the Second Comptroller demurred to the evidence. Investigation proved the claim fictitious, and the next Congress repealed the act of appropriation. Thus this large sum was saved to the Government.

At another time Congress passed an act granting extra pay to certain persons in the service. Ten days after the act became a law a claimant made application for what might be due him thereunder, and he was paid. After the lapse of a number of years the same party again claimed the gratuity. The claim was again certified by the Auditor for allowance, but upon examination by the Second Comptroller it was disallowed upon the ground that the claimant had once been paid in full.

Many other cases could be cited wherein the amount saved by the revision of accounts, after they have been passed by the Auditors, have been large, but it is believed that the two mentioned will suffice to illustrate the value of the double-check system of accounting now practiced.

No one mind is capable of grasping all the different points of the many complex questions which daily arise in the accounting offices. One man will bend his mind to the discovery of noncompliance with prescribed forms. Another will look carefully into the legal status of the transactions; while still another will readily discover all the errors in computation. These different human characteristics are recognized in all the business affairs of life. In our jury system twelve different minds are brought to the determination of questions in order that the facts may be viewed from twelve different stand-points.

The ancient practice of some dignitary "sitting within the

gates," hearing and deciding disputes instanter, may have been suited to those primitive times, but it will not satisfy the people of the present day. The complicated affairs of life now require some system adequate to meet the present needs. The system of public accounting established by Hamilton has been reasonably satisfactory for more than one hundred years. To modify that system and remove the checks upon dishonesty and profligacy and place it within the power of one man to decide what is lawful and proper (be he ever so honest), is an experiment fraught with untold danger and the possible loss of large sums of money, compared to which the saving in clerk hire will be insignificant.

The work necessarily involved in the examination and settlement of claims and accounts coming before the Second Comptroller's Office can not be fully expressed in figures. Even if it were practicable to convey by tabulated statements a definite idea of the work, such statements could not be clearly understood except by those who have given long and close personal attention to the work.

The necessity for the work of revision is made apparent by the fact that in 1,160 claims examined in the office of Second Comptroller during the present fiscal year, errors aggregating \$34,809.68 were discovered, and corrected, being \$23,370.38 reported by the Auditor for allowance, to which claimants were not entitled, and \$11,439.30, not reported by the Auditor, but found due claimants under the laws and decisions applicable to the cases and allowed by the Second Comptroller; also by the further fact that in 387 accounts of disbursing officers errors aggregating \$453,288.66 were discovered and corrected.

In connection with this subject attention is invited to the "joint report from the Secretaries of the different Departments respecting the annual settlement of the public accounts," hereinafter set forth, which was made to the Senate at the second session of the Fourteenth Congress. This report is dated December 6, 1816.

It is an anomaly to be noted that the reasons which appear to have influenced the committee in 1816 in recommending the establishment of the office of Second Comptroller are practically the reasons now urged for the abolishment of the same office. If the condition of the public business at that early date warranted the appointment of an additional Comptroller, how can its present condition be considered to justify the abolishment of that office?

Attention is also invited to the accompanying tabulated statement showing the number of claims and accounts revised by the Second Comptroller during the present fiscal year; also the number of corrections made therein, and the amount disallowed by the Comptroller in said revision.

The bill lately introduced into the Senate and House of Representatives, entitled "A bill to improve the methods of accounting in the Department of the Treasury, and for other purposes," ought properly be entitled "A bill to open the doors to frauds upon the Treasury, and for the benefit of claim agents, and for other purposes."

The bill is vicious and dangerous, and bears upon its face evidence of having been drafted by men without practical experience in Treasury accounting, and without knowledge of the methods they propose to remedy. It is supposed to be a bill to simplify the system which has been in successful existence for almost a century, whereas it is in truth and in fact a bill to confuse and confound.

The reëxamination of accounts, and review of the action of the several Auditors is removed, and a feeble attempt to preserve the checking system by a review established within the several bureaus, thus abolishing the Comptrollers' offices.

Time will not permit an exhaustive brief on this unsafe innovation, but a few salient points can be presented which will show the wrongful tendencies of the proposed legislation.

If enacted into a law it will radically change the system of checks and balances which have so long given satisfaction to both officers and the people.

The bureaus of the First and Second Comptroller, as Comptrollers, are abolished, and in their stead a judge of a court of appeals and an assistant judge are to be substituted, under the name of "The Comptroller of the Treasury and Assistant Comptroller." They will have practically little to do with questions of law, because, as will be seen by an examination of the bill, under the system proposed very few appeals will be taken, as will be shown.

Section 4 amends section 271, Revised Statutes, as follows:

"SEC. 271. The Comptroller of the Treasury, in any case where, in his opinion, the interests of the Government require it, shall direct any of the Auditors forthwith to audit and settle any particular account which such Auditor is authorized to audit and settle."

Now it does not appear how the Comptroller of the Treasury is to know when the interests of the Government demand the settlement of any account unless it be shown in very few cases which are brought to him on appeal; and it is not for a moment to be presumed that Auditors will appeal from their own rulings, and claimants will scarcely venture to invoke such remedy.

The judge and assistant judge, it is true, will have certain duties and powers, the first named having full control; the assistant such duties as his chief may assign him, being chiefly clerical. The revision of the accounting of the several Auditors is entirely removed from the Comptroller, and except upon questions of law (and as has been shown few will arise under the proposed bill) he and his assistant will have plenty of time for recreation.

To speak more plainly, the Comptrollers are shorn of all power, and the several Auditors become the most important officers in the Treasury, ranking in powers for mischief the higher officials. Their action in almost every case will be final, and no matter how great the fraud, there will be no redress either upon the part of the Government or the citizens. The Government will stand powerless in their presence.

To illustrate, attention is called to lines 26 to 28, page 8 of the bill, where it says: "Any person accepting payment under a settlement by an Auditor shall be precluded from obtaining a review of such settlement." Can any legislative enactment be more unjust, more arbitrary? A citizen having a claim pending before the Auditor of the Treasury Department is allowed \$1,000. He believes he ought to have more, but not having access to the books and may-be pressed for money, accepts it as the best thing that can be done. After a time it is made known to him that the Government owed him \$2,000 instead of \$1,000, and he modestly asks a revision. He files his petition and is confronted with the above enactment, being practically informed that "mistakes are not corrected in the office of the Auditor of the Treasury." The unfortunate claimant has but one remedy left, and that is an appeal to Congress or the Court of Claims; and sensible men know that is a very doubtful remedy.

Can any law of Congress be more inequitable; nay, more unjust?

But the Government is no better off. Its checking system is gone and it is left to the tender mercies of the accounting officers.

Section 12, recognizing the necessity for the checking system by Comptrollers, in an infirm endeavor tries to preserve it, but it does not. Read what it says:

"SEC. 12. In the case of claims presented to an Auditor, which have not had an administrative examination, the Auditor shall cause them to be examined by two of his subordinates independently of each other."

Mark the words, "the Auditor shall cause them to be examined by two of his subordinates independently of each other." But will they be independent of the Auditor? That is a pertinent question.

To again illustrate. The Auditor of the Treasury, being a man, perhaps of some vanity, of inordinate ambition, and some cupidity (this is merely a supposable case), has a claim

pending in his Bureau which is somewhat cloudy. The claimant, knowing his man, "sees" the Auditor and departs. The claim, amounting to \$50,000, is taken from the files; the Auditor calls upon his subordinates; gives them his opinion regarding it. However independent they may be of each other, they will not be independent of him, and after an accounting and revision the claim is audited and allowed. The fortunate claimant, of course, will ask for no review; will ask no appeal; the Auditor will certainly not appeal from his own ruling; and the lucky man appears, draws his warrant, and walks out of the Treasury Department with his \$50,000—minus the sum it has cost him to "fix" things. This is by no means an extreme case.

Some years ago a claim for some \$30,000 ran the gantlet of all the guards against fraud until it reached a division of the Second Comptroller's Office. The clerk whose duty it was to review it made a careful examination, and after such examination pronounced the evidence insufficient and stood by his conviction, notwithstanding there was a good deal of cursing about red tape. A careful investigation was had, resulting in finding the claim fictitious [7478] and without foundation. The Auditor's action was reversed, the claim disallowed, and \$30,000 was saved to the taxpayers. This is but one of hundreds of such instances, and will it be safe to tear down such a system and substitute a weakling like said section 12 in its stead? Better cling to the Comptroller's offices as organized in 1817.

There is a report filed with said bill which purports to have been prepared by the three experts who have, it is said, given much time to the examination of departmental methods. If they did prepare the report it reflects no credit upon them, for they display a lamentable ignorance of the subject they pretend to treat. It really needs no answer, because an examination of it in connection with the bill bears its own refutation. To one familiar with the workings of the Second Comptroller's Office it is apparent that these gentlemen named or either of them have never given a day's study to

its books. Indeed, it is asserted that not one of the three have ever spent a half day in the Bureau. They have never been seen there but once or twice, and then did not remain in any one room as much as twenty minutes, and some of the rooms they did not visit at all. Their examination and information came from other sources, and they gave little heed to what they were attempting to undo.

But to the report, and a perusal of it will readily show how little they know of what they are talking about, and attention is called to the following culled from it:

“Sections 9 and 10 of this act will do more for the protection of the Government than a dozen reexaminations of accounts.”

It will not do to accept this dicta but go to the act itself, and that will show that said sections 9 and 10 have nothing at all to do with an examination of accounts that will protect the Treasury. Section 9 simply provides for the signing and countersigning of warrants and is no check at all. As a matter of fact, every officer of the Government knows that the Secretary of the Treasury, and the officers under him, are guided by the initials of the different subordinates through whose hands the warrants and accounts must pass, and on them they must rely. They have no time to turn themselves into law professors and bookkeepers, but they must heed the initials, and it is the same to them whether coming from one or a dozen bureaus. The Secretary of the Treasury and the Comptroller can not know under section 9 whether an account be correct or not. Such a statement in a report can have but one object, and that to deceive.

A part of said section 9 repeals section 269 and so much of section 365 of the Revised Statutes as requires the Register of the Treasury to record warrants. This of itself is a removal of a check, and gives the Register less to do, while in the report the experts advise that he be given three more divisions and more clerks with less to do. Why, it is not easy to determine. It is an enigma that is not easy of solution.

It will thus be seen (and this may be a repetition) that

there is absolutely nothing in section 9 to protect the Government in lieu of a reëxamination of accounts by a different set of officers removed from the influence of the first accounting bureau; and it is amazing that men should make such an assertion and expect people who can read to believe it.

Section 10 does no better. On the contrary, it is confusing and gives no relief. In all candor, where can the experts point to a clause in said section which is a check or balance? It is faulty in the extreme and attempts to provide against possibilities by requiring an impossibility. The entire section is too long to incorporate in this paper, and but one more brief reference will be made to it.

To give the nondescript dignity it is presumed, the services of the President are brought into requisition. It is sufficient to say that he, too, like the Secretary of the Treasury and the Comptroller, must rely upon the initials of his subordinates and sign what is placed before him, else he would have no time to give to other public business. He in this instance is at the mercy of the Auditors, and the men who drafted the bill, if they knew anything, must have known it. It is merely a blind and practically meaningless.

Section 11 is no improvement on the present system, but the reverse. It gives no check upon the Attorney-General in the examination of accounts. It is a tortuous provision, and only removes checks upon the officers who act under him.

Section 13 is merely directory and is already the law.

It is not necessary to analyze the remaining portions of the bill, as they are perhaps necessary should the change asked be unfortunately made.

The fourth section of the bill, however, deserves especial mention.

The Auditor for the Navy Department must certify all his balances to the bookkeeping division, but he has no control over said division. He is made responsible, but has no control of the books to which he must certify his balances. He is at the mercy of a division beyond his jurisdiction. The experts in

framing their report, the men who drafted the bill, gave little heed to this lax method to be substituted for the old and satisfactory way of doing business, and the looseness of the proposed act shows they have given no real study to their subject.

The bill, if it should ever become a law, will throw all the naval accounts into an endless muddle. In less than a year Congress will be called upon to reverse its action and restore the system which prevails and gives so little cause for complaint. Every protection is provided now, and appropriations and accounts arising thereunder move like clockwork. To overthrow the system as proposed by the railroad gentlemen will so pile up the difficulties the officers will encounter that a Second Comptroller, with all his powers as they at present exist, must be again created.

So much for a hasty review of this bill of abominations.

Attention is now called to another peculiar phase of the monstrosity.

An attempt is made to preserve all the high class of officials. Whether fearing a resistance on the part of some of them or with a desire to preserve some special interests, something like a logrolling process is apparent.

The Chief Comptroller has an increase in the bill of \$500 added yearly to his salary. The experts recommended an increase of a thousand. They (the experts) also recommend that each Auditor be allowed \$400 per annum more than is now paid them. This feature has a dubious aspect. If economy is one reason why the bill must become a law, why lessen the duties of the Comptroller and give him a higher salary? Why increase the salaries of the Auditors? This increase is made at the expense of the clerks in the classified service, who must be turned loose with nothing, and chiefs of divisions, who will be turned out of office. This of itself would be a small matter if a great and lasting reform would be accomplished. But when no reform is had, it has a strange and confessedly dark appearance. Its earmarks are not creditable to the authors of the scheme. This shady view is noticed because some one has

thought enough of the officers who expect to be retained to increase their emoluments and dignities and at the expense of the Treasury.

But to the estimated saving; \$179,000 per annum the railroad men say will be saved. This looks well in print. Will the change save such an amount? With all due deference to men who so declare, it will not! It will save nothing. Already some of the officers who are most interested are declaring that in view of increased labors their allotment of clerks by the experts is too small and they must have more. Where will the end be?

More important, however, is the great safeguard the Commission want to break down. Common rumor says that in the Second Comptroller's Bureau alone there have been errors discovered and a saving to the Government of a half million or more of dollars within the last nine months, or since its present chief became its head. It is confidently believed that this statement can be verified. If true—and it can be easily ascertained if not true—where is the economy of removing such a check, and opening wide the gate to all sorts of chicanery?

Put the sum of \$179,000, even if such estimate be correct (and it is very doubtful if it is) against \$500,000, and on which side is the economy? The experts had better try again. Better go back to railroading.

Safety to the Government, fair dealing to her citizens, demand something more than to tear down the wisdom of a century.

The flood gates will be raised should the bill pass. Scandals may not come at once, but they will come; and when they do the star-route robberies will pale into insignificance.

With bold and defiant mien, in the light of the noonday sun will the brazen sons of rascality walk into the doors of the Treasury and out again with their ill-gotten gains unheeded and unmolested.

Will it be safe to follow the leadership of Alexander Ham-

ilton, Robert J. Walker, and John Sherman, or shall the Congress of the United States bow with humiliation and shame to the superficial vaporings of J. W. Reinhart, C. W. Has-kins, and E. W. Sells?

A statement was made this morning that the "experts" called the Auditors together one day this week and told them that an attack had been made upon them. This does not include the Sixth Auditor. It was a meeting of the Auditors called together after receiving a statement prepared by the Comptroller, showing the differences in the settlement of accounts revised by him. The "experts" are trying to induce the Auditors to believe that this officer is making an attack upon their offices, and to array them against the Comptroller, in order that they may facilitate the passage of their scheme.

STATEMENT OF W. I. LEWIS, FORMERLY A CLERK IN THE TREASURY DEPARTMENT, IN OPPOSITION TO THE PROPOSED LEGISLATION TO IMPROVE THE METHODS OF ACCOUNTING IN THE TREASURY DEPARTMENT BY ABOLISHING THE OFFICE OF COMMISSIONER OF CUSTOMS AND GIVING THE POWER TO FINALLY EXAMINE AND CERTIFY ACCOUNTS AND CLAIMS AGAINST THE UNITED STATES TO THE FIRST AUDITOR, SUBJECT ONLY TO AN APPEAL UNDER LIMITED CONDITIONS TO THE FIRST COMPTROLLER OF THE TREASURY.⁸⁵

To Senate, April 27, 1894

OBJECTIONS TO THE PROPOSED LEGISLATION—REASONS SHOWING IT TO BE UNWISE, AND THAT IT WILL NOT IMPROVE THE METHODS OF ACCOUNTING IN THE TREASURY DEPARTMENT.

The office of Commissioner of Customs was created in 1849 to relieve the then overburdened Comptroller.

In a letter dated December 9, 1848, transmitting his annual report to Congress, Hon. Robert J. Walker, then Secre-

⁸⁵ 53 Cong. 2 sess., S. misc. doc. 167. 8 pp. Serial 3171.

tary of the Treasury, one of the ablest Secretaries we have ever had, said:

“The office of the Comptroller of the Treasury should be divided, and that great and augmenting portion of his duties relating to the receipts from customs and the accounts of collectors and other officers of the customs should be devolved upon the head of a new bureau, to be called ‘the Commissioner of Customs.’ Combined, as now are under the First Comptroller the duties appertaining both to receipts and expenditures of the public money, accounts, and claims, the office is overburdened with business which can not promptly and properly be performed by any one individual, however, able and laborious.”

So Congress, after due deliberation, created the office of the Commissioner of Customs. The largest portion of the income of the Government is obtained from the customs duties, involving accounts upward of \$204,000,000 during the last fiscal year.

By a comparison of the amount of customs duties collected now and the amount collected when this office was created in 1849 it would seem that if there was a necessity then for establishing the office of Commissioner of Customs that necessity must be still greater now.

But it is claimed in the report of the joint commission, No. 409, that the powers of the Commissioner of Customs are not such as were given him at the creation of the office. It is true that some jurisdiction, for various causes, has been absorbed by the office of the Secretary of the Treasury, but it is also true that jurisdiction over additional accounts appertaining to several branches of the service have been added, viz: Life-Saving Service, Shipping Commission, Commission of Immigration, and Chinese Exclusion, and the business of the Government has so largely increased, that the duties of this office are now very much larger than when the office was created.

In the report of the joint commission, No. 409, it is stated that—

“If the Commissioner of Customs had such powers as were

given to him at the creation of the office there might be some reason for the existence of the office; but as it is now the said office has no particular function to perform except to revise the customs accounts which have been previously audited by the First Auditor of the Treasury."

The facts are that, in addition to the examination of 6,135 Auditors' certificates and 16,216 accounts adjusted with accompanying vouchers and papers, there has been performed in the office of Commissioner of Customs in the last fiscal year the following work with which the Auditor had no connection, as appears from the annual report of the Commissioner of Customs, viz: 2,695 estimates received and examined and requisitions issued, involving \$16,536,915.31; 24,264 letters received and 8,839 letters written; 9,228 letters recorded; 190,107 stubs of receipts for duties and fees returned by collectors; 171,829 stubs of receipts for duties and fees examined and summarized; 12,956 tonnage stubs examined; 13,394 tonnage stubs received and entered; 6,269 Auditors' certificates registered; 18,372 papers filed, noted, and referred; 4,906 appointments registered; 2,951 Auditors' certificates checked by the stubs; oaths examined and registered, official bonds examined and approved, and commissions transmitted, 2,219; and 190 attorneys registered. (Annual Report Commissioner of Customs, 1893.)

That office looks after these matters, all incident to a proper settlement of the accounts, the collection of revenues, and payment of expenditures; bonds are taken from collectors; fines and forfeitures are kept track of: unclaimed and seized goods are watched, and the stub system is a safeguard and pays much more than it costs. The keeping and comparing of transportation and exportation business requires constant attention of that office. A record of refund cases is required by law; also emolument accounts; public fund and cash statements are to be examined and checked, and a large miscellaneous correspondence is necessary to a proper settlement of accounts.

The clerks of that office have been there a long number

of years, and have become expert accountants in their special accounts and understand the law relating to such accounts, and to place all this work in the First Auditor's office and put new clerks on it would require a much larger force than the experts have mentioned in their report, and under the proposed change with new clerks, mistakes would be easily made; and if the mistake is against the Government the claimant will not appeal to the Comptroller and the account settled as stated by the clerk will go into the files and the mistake will never be discovered. Bear in mind that the Auditor himself does not examine the account, nor make the computations; the clerks do that and the Auditor approves the sum totals. In the final settlement and collection of balances due when officers retire, especially when there are controverted questions of law and fact, then the system for the settlement of accounts by one officer will be found to be very weak, as is the case in the settlement of accounts by the Auditor of the Treasury for the Post-Office Department, which is exceptionally weak, as will appear by the following:

In January, 1886, the House of Representatives passed a resolution calling on the Sixth Auditor for a report of "all balances due to and from the United States, as shown by the books of the offices of the Register and Sixth Auditor of the Treasury Department, from 1789 to June 30, 1885," and in reply, dated March 10, 1886, Hon. D. McConville, the then Auditor, said in his letter:

"I have the honor to inform you that it will probably require the entire services of twenty-five clerks four years to prepare the statement required by the terms of the resolution from this office."

The Commissioner of Customs office is a comptrolling office and a proper function of a comptrolling office is to exhaust all legal means for the collection of moneys due the Government as much as to examine and settle an account, and under the present system it would not take but a few clerks four days, in the Commissioner of Customs office, to prepare a statement of balances if called for by Congress.

If the past experience has any weight in this matter, surely the establishment of this Bureau has been a wise and economical measure.

Take the figures from the books of the Treasury (see Finance Report of the Secretary, 1893) as to the receipts and disbursements in customs matters for a number of years, say thirteen years immediately before the establishment of this office, from 1837 to 1849, inclusive, the receipts were \$267,963,513.09, the loss \$1,737,758, or about \$6,500 to each million of dollars collected. The expenditures for same period were about \$18,000,000, and the loss about \$25,000, or about \$1,400 on each million of dollars disbursed.

Now, take the receipts from 1881 to 1893, inclusive, thirteen years, \$2,713,773,187.54 (see Annual Report Commissioner of Customs, 1893), the loss \$870.17, or about 32 cents on each million collected. The expenditures for the same period were \$280,824,420.12, and the outstanding balances \$111,469.54, or \$3.97 on each \$1,000,000 disbursed.

These figures speak louder than any clamor for change in the system which has worked so admirably.

The Commissioner of Customs, in his annual report for the fiscal year ending June 30, 1893, says:

"The amount of unadjusted indebtedness standing on the books of the Treasury arising from accounts, the settlement of which pertains to this office, is very small * * * in transactions aggregating more than \$3,000,000,000, a record of which any government may well be proud."

In the light of the past, is it wise to make the contemplated radical change not yet sanctioned by experience?

Heretofore duties on imports have been the largest single source of revenue to the Government, and will probably continue to be when the commerce and the business of the country are again adjusted on a firm basis; and as the loss has been so small (32 cents on a million) in collecting this large revenue, would it be wise to make radical changes for the sake of change? It may be claimed that some large corporations of the country have had the necessary experience to make such

change. But in the light of the financial disasters to railroads all over the country, the comparison of losses between their systems of accounting and financial methods and the system of accounting and financial methods of the Government, judging from results, are very largely in favor of the present safe system of accounting by the Government.

A careful and intelligent examination of the existing system of accounting in all its bearings will show that no person, however expert an accountant, without previous practical experience in the office of the Commissioner of Customs can go into the Treasury and in a few days, or even months, make an examination of the methods of accounting and understand the scope and appreciate the value of the different parts, and arrive at a correct and safe conclusion.

The law now provides for two sets of accounting officers, an auditing and revising office; both are required to examine and certify all accounts under their jurisdiction.

In theory each makes an independent examination; the revising office examining the accounts after they have been certified by the Auditor, just as it would if no previous examination had been made.

But it will be shown that in practice there is an important distinction. If that were not true then the system would apparently provide for a duplication of the work.

The examination of accounts as to the character of the work may be divided into two classes, one clerical, and the other judicial.

The clerical consists in making computations, and seeing that the vouchers are properly receipted, certified, and dated; this requires care and fidelity; therefore a second examination of that character must be [made] to insure such care and fidelity, and to detect and correct errors overlooked.

The principal object of a second examination, however, is to see that all laws and regulations restricting expenditures, and the acts of agents, officers, and other persons having accounts with the Government, have been complied with; ascertaining if the articles purchased and labor employed have

been applied to the object provided for by the appropriation from which the expenditures have been made, and whether such were for the service of the fiscal year for which the appropriation was made, or come within a provision of law excepting them from such requirement; and, if furnished by contract, whether there has been strict compliance with the terms of the contract.

This requires a knowledge of the special statutes pertaining to such cases and of the general laws and also the decisions relative to the subject-matter, a clear comprehension of the meaning of words and an experienced judgment in applying the statutes.

In order to operate as an efficient check upon extravagant and illegal expenditures, this work must be done by experienced men of knowledge and ability, and with scrupulous care and fidelity.

This work is now being performed by men of ability and long experience in the office of the Commissioner of Customs, experts in customs accounts.

Under the present system the object of a second examination or revision of the accounts examined by the Auditor is fourfold; to maintain the efficiency of the examinations made in the Auditor's Office; to prevent fraudulent allowances, and to provide additional means for detecting and preventing illegal expenditures; and to enforce compliance with the law.

If this bill No. 5750 becomes a law and the revision of the examination made in the Auditor's Office is done away with, then the accounts when certified by the Auditor will pass into the files and into obscurity, no matter how many illegal expenditures were passed over without question; there would hardly be the remotest chance for discovery; and mistakes, fraud, and collusion will never be detected, unless under very extraordinary circumstances, and even if discovered, the person rendering the account and the clerk auditing the same would naturally claim it to be only a mistake and criminality would not lie.

If a disbursing officer makes an illegal expenditure or inten-

tionally makes a mistake against the Government, and the account is passed by the clerk, intentionally, or by making the same mistake unintentionally (as is often the case in footing columns, as every experienced accountant knows), or when a claimant is paid the amount of his claim, be it illegal or the result of a mistake, he will let the matter go and remain silent, and the clerk who passes the account will not call attention to it and thereby disclose his part in the transaction, and it will never be found.

A collector or other customs officer, or a claimant having accounts with the Government, would naturally make the acquaintance of the clerk who has charge of his accounts, as they have in the past, with no thought of fraud or collusion. As the system now stands, there are two officers and two clerks to collude with; but with only one clerk between him and the Government, with no means of detecting carelessness, negligence, or fraud, collusion to a dishonestly inclined person would naturally be suggested.

The provision of the bill seems to be admirably arranged for claimants and delinquents, but directly adverse to the interests of the Government. The Auditor's decisions are to be final in all cases not appealed. An appeal to the First Comptroller is provided for in the bill, but no decision in favor of a claimant or delinquent would ever be appealed, and the Auditor would not appeal from his own decision, and no one else would know anything about it, and there would be no protection for the Government.

The certificate of the Auditor would disclose no question of law or fact, and the Secretary of the Treasury and the First Comptroller would have no knowledge of the questions passed upon in the examination of a claim or account thus passed by the Auditor, whatever might be allowed. But every decision against a claimant could be appealed to the First Comptroller and tried over again.

But under some extraordinary circumstances, if the Comptroller should discover that an illegal allowance had been

made by the Auditor and should take an appeal and decide against the claimant, such action would be of doubtful avail. When the allowance was made the claimant would promptly secure payment, and it would be very doubtful if the money could be recovered back upon a subsequent disallowance by the Comptroller. A suit would have to be instituted against the claimant, and even if a judgment should be obtained in many cases it would be impossible to collect the money.

It does not seem to be a very wise policy to pay the claimant first and then try to get the money back afterward.

Where such multiplex and enormous personal interests are at stake, would it be wise to abolish this safeguard of the Treasury? The value of a second examination for the purpose of preventing fraud and collusion can not be doubted. In said Report No. 409, page 5, the experts state that of 500 accounts revised by the Commissioner of Customs' Office, covering a period of two months, and aggregating a total amount involved of \$48,022,523.33, it was found that the results of these accounts were not changed, with but one error found, etc. Now, does this not prove the efficiency and preventive nature of the system and the fidelity of the clerks and those rendering the accounts, as well as the efficiency of the clerks? In a healthy condition of the present system, would not this result be precisely what should be expected? Because there has been no attempt for a long time to burglarize the United States Treasury, would it be wise to abolish the watchmen, the safeguards of the building, and thereby economize the money paid to them for salaries? It would undoubtedly simplify matters, but would it be safe?

Following the line of argument of the Joint Commission, it might be suggested that there is no necessity for the revision of the bills passed by the House of Representatives, and hence the Senate is unnecessary and extravagant; in fact, there are not wanting advocates of a single legislative body in this country and in Europe.

Is there safety in ill-considered haste to change an ac-

counting system which our fathers in their wisdom established, and which has had the approval of wise Secretaries of the Treasury?

Experience has shown that there is wisdom in revision.

The greater portion of all questions of law which are raised and decided in the statement of accounts is the work of the revising offices. Emphatically so as to the office of Commissioner of Customs; and while the amount of money may sometimes be small, the decision of the question of law in the case may prevent future payments of magnitude or prevent the misapplication of appropriations and erroneous interpretation of laws. The usefulness of these decisions cannot be measured in terms of money; they must be measured by right and justice and good government. They prevent unauthorized violations of law which would otherwise demoralize the public service.

This revising office has established a long list of admirable decisions, compared to which the auditing office can show little in value. The attention of the clerks in the Auditor's office is directed especially to the collection of evidence and to a formal statement of the accounts, while the Commissioner of Customs is concerned in the question whether the facts presented by the Auditor are in accordance with the law, hence the revising offices have developed a more highly trained judgment in the construction and application of statutes, which is the highest function of the present accounting system. It is proposed that collectors should forward all original papers pertaining to entries, including original invoices with appraisers' returns noted thereon, and the returns of the weigher and gauger to the Auditor. In the report of the joint committee it is stated that—

“The purpose of the bill is not only to reduce expenditures, but is to effect an efficient audit and active supervision of the customs accounts by the First Auditor of the Treasury, to prevent unnecessary duplication of work, and to expedite public business.”

As to the first purpose of the bill to reduce expenditures, it will be found that to examine the original invoices from the collectors would require the employment of experts and translators in the Auditor's office. Frequently the goods imported have to be examined at the ports of entry, thus necessitating a continuance of experts and translators there also. This, with the additional labor involved upon the First Auditor's office, consisting of the work now performed by the Commissioner of Custom's office, and with which the Auditor has now no connection, would cost the Government more money than the present system. Therefore a reduction of expenditures would not be accomplished.

As to the second purpose of this bill, viz: "To effect an efficient audit and active supervision of the customs accounts."

I wish to call special attention to the statement contained in the report of the Joint Commission, page 1, viz.:

"* * * About 90 per cent of the customs receipts come from offices where there are naval officers, and the Auditor has no original papers wherewith to check the transcript of the accounts which is forwarded to him by the collector and certified as correct by the naval officer. For the other ports, where there are no naval officers, the accounts of the collectors are accompanied by a copy of the merchant's entries.

Now, these naval officers represent the Treasury Department, and it is [7480] their duty to make original investigation of manifests, invoices, and entries of goods imported, and to estimate the duties, independently of the collector and *before* the duties are paid; and after duties are paid it is their further duty to examine the collector's accounts and abstracts and to certify to their correctness. (Customs Regulations, 1592, articles 1040-1042.)

The report of the Joint Committee further says, on page 1:

"It is proposed that for all ports, except New York, the collectors shall forward to the Auditor, with their statement of accounts, original consular invoices with the appraisers' returns noted thereon, and the returns of the weigher and

gauger, if any. This will give the Auditor the facilities for making a complete and satisfactory audit of the customs officers accounts.”

Over 76 per cent of the 90 per cent of customs receipts at the ports referred to are now collected at the excepted port of New York, and according to the above propositions the accounts covering less than 24 per cent of those receipts will go to the Auditor, on which a complete and satisfactory audit can be made.

The examination of these papers by the Auditor would be a duplication of work, which can not be done so efficiently by the Auditor as by the naval officers; and it would not be wise to abolish the naval officers, as the investigations made by these officers, who are agents of the Treasury Department, are made *before* the duties are paid, and errors made by the collectors in estimating the duties and liquidating the entries can be corrected in time to secure the proper duties. The naval officer is there where all the transaction takes place, and can investigate and adjust every step of the proceeding which may be unsatisfactory. The First Auditor could not make such investigation and adjustment; he could only review the papers *after* the duties were collected and the transaction closed. If, after liquidation and accounts rendered, the Auditor should discover that an error in the rate of duty had been made he would be helpless to correct it. (Heyl's Digest, 1891, Customs Administration; act of 1890, section 14, page 115; 26 Statutes at Large, section 14, page 131.)

To supplant the simultaneous investigation of transactions before they are completed by an officer of the Treasury Department who is present and can see what is being done by an examination at a distance of papers representing these transactions hardly seems to be an improvement of methods.

Collectors of customs are chargeable only with the amount of duties collected, and any additional charge by the Auditor founded on the examination of those papers would be illegal.

Notwithstanding these facts it is proposed to adopt the

above method, so valueless. The report of the Joint Commission, No. 409, on page 1, says:

“It is proposed to give the First Auditor in Washington more facilities for obtaining an accurate check upon accounts of collectors, and this will protect the Government to a much greater degree than it is now protected by the office of the Commissioner of Customs.” * * *

Suppose those papers would be of some value to the accounting officers, why not require them to be furnished under the existing system, without destroying much more valuable safeguards. The Secretary of the Treasury has now, and always has had, authority to require that all necessary papers be furnished with accounts to the Treasury Department. The Treasury regulations of 1892, section 887, require that the liquidated duties shall be certified on the entry by the proper officer.

If the work of the office of Commissioner of Customs is an unnecessary duplication, what a commentary it is on the auditing system of the Government which has prevailed since the days of Hamilton, and what a commentary on the wisdom of the great Secretary of the Treasury, Robert J. Walker, who recommended the establishment of this office, and what a commentary on the Congress which created it.

It is respectfully suggested that the United States Senate should stand true to its traditions and dignity, and whatever action is taken should be done with thoughtful and careful consideration, and with a full knowledge of all the facts in the matter.

ADMINISTRATIVE ACTION ON ACCOUNTS

On July 17, 1862, Congress provided, in “An act to provide for the more prompt settlement of the accounts of disbursing officers” (12 Stat., 593), that from and after that date any officer or agent of the United States who should receive public money which he was not authorized to retain as salary,

pay, or emolument, should render his accounts monthly, instead of quarterly, as theretofore, and that such accounts, with the vouchers necessary to the correct and prompt settlement thereof, should be rendered direct to the proper accounting officer of the Treasury, and be mailed or otherwise forwarded to their proper address within ten days after the expiration of each successive month.

At the same time Congress also provided that in case of the nonreceipt at the Treasury of any accounts within a reasonable and proper time thereafter, the officer whose accounts were in default should be required to furnish satisfactory evidence of having complied with the above provision, and that for any default on his part the delinquent officer should be deemed a defaulter, and be subject to all the penalties prescribed by the sixteenth section of the act of August 6, 1846 (9 Stat., 63), "to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenues," that is to say, the penalties prescribed by section 5491 of the Revised Statutes, which are a fine equal to the amount of the money involved or embezzled, and imprisonment for a period not less than six months nor more than ten years.

It thus appears that in July, 1862, early in the war of the rebellion, Congress dispensed with such administrative action or examination as was then had upon the accounts of disbursing officers and provided that their accounts should be rendered direct to the proper Auditor of the Treasury. The object of this legislation, as expressed in the title of the act, was "to provide for the more prompt settlement of the accounts of disbursing officers." So far as the accounts of disbursing officers of the War and Navy Departments were concerned, who were disbursing vast amounts of money appropriated by Congress for the suppression of the rebellion, and who were for the most part inexperienced in their duties as disbursing officers, there would seem to have been the greatest necessity, thus early in the history of the war, for adminis-

trative action or examination by the War and Navy Departments.

But Congress thought otherwise. Desiring to secure a more prompt settlement of these and other accounts of disbursing officers, it enacted such measures as in its wisdom were necessary to secure that object. All accounts were to be rendered monthly instead of quarterly, were to be forwarded to the Treasury within ten days of the expiration of each successive month or the delinquent disbursing officer to be deemed a defaulter and to be subject to the severe penalties prescribed by statute for embezzlement of the public funds, and all administrative action or examination upon the accounts was to be dispensed with and the accounts, with the vouchers necessary to the correct and prompt settlement thereof, to be forwarded direct to the proper Auditor for the action of the accounting officers of the Treasury.

In the aforesaid act Congress provided, however, that the Secretary of the Treasury might, if in his opinion the circumstances of the case justified and required it, extend the time therein before prescribed for the rendition of accounts, and also that nothing contained in the act should be construed to restrain the heads of any of the Executive Departments from requiring such other returns or reports from the disbursing officer or agent, subject to the control of such heads of Departments, as the public interests might require. (See the act of July 17, 1862, chapter 199, 12 Stat., 593, 594, and section 3622 of the Revised Statutes.)

On March 2, 1867, nearly five years after the passage of the act dispensing with administrative action or examination upon the accounts of disbursing officers, and after most of the large accounts of disbursements for the suppression of the rebellion had been rendered direct to the proper auditors of the Treasury, the passage of a joint resolution of Congress was secured, whereby so much of the aforesaid act of July 17, 1862, as provided that "such accounts with the vouchers necessary to the correct and prompt settlement thereof, shall be

rendered direct to the proper accounting officer of the Treasury" was repealed, and it was provided that all such accounts and vouchers should thereafter be sent to the bureau to which they pertained, and, after examination there, should be passed to the proper accounting officer of the Treasury for settlement. (See joint resolution No. 48, approved March 2, 1867, 14 Stat., 571, 572, and section 3622 of the Revised Statutes.)

It thus appears that nearly two years after the close of the war of the rebellion, when apparently there was least need for administrative action upon the accounts of disbursing officers, provision was again made for such action or examination by the bureaus to which the accounts respectively pertain.

On July 15, 1870, Congress provided that the joint resolution of March 2, 1867, should not be construed to apply to disbursing officers of the Navy, but that such officers should render their accounts as the same were rendered before the passage of said joint resolution; that is to say, direct to the Fourth Auditor for his action and the action of the Second Comptroller, without administrative action or examination, which provision of law is still in force. (See section 15 of the act of July 15, 1870, 16 Stat., 334, and section 3622 of the Revised Statutes.)

It thus appears that the accounts of disbursing officers of the Navy, after being exempt from administrative action or examination by the bureaus of the Navy Department for a period of nearly five years, were made subject to such action or examination after the war of the rebellion for a period of little more than three years, whereupon they were again made exempt therefrom, and have continued so for nearly a quarter of a century.

If administrative action or examination by the bureaus of the War Department is necessary upon the accounts of disbursing officers of the Army, it is not apparent why such action or examination by the bureaus of the Navy Department is

not necessary upon the accounts of disbursing officers of the Navy. Nor is it apparent if such action or examination is unnecessary upon the accounts of disbursing officers of the Navy, why it is necessary upon the accounts of officers of the Army.

If it was unnecessary in time of a great war, when there were thousands of inexperienced disbursing officers with inexperienced clerks in the service, it would certainly seem to be unnecessary in time of peace. If a more prompt settlement of the accounts of disbursing officers is desired than that which now obtains, a return to the remedy prescribed in the act of July 17, 1862, might and doubtless would be found sufficiently effective. That remedy, as has been shown, was the requirement that administrative action or examination should be dispensed with and accounts forwarded direct to the proper Auditor of the Treasury for the action of the accounting officers. The statute then required, as the act of August 30, 1890 (26 Stat., 413), does now, the quarterly rendition of accounts of disbursing officers.

Something in the direction of a more prompt settlement of accounts might be gained by providing for their monthly rendition in all cases, as was done in the act of July 17, 1862. But still more would be gained in that direction by dispensing with administrative action or examination upon the accounts of disbursing officers by the bureaus of the Executive Departments in which the accounts respectively accrue, as was done in the act of July 17, 1862, so far as all accounts were concerned, and as was done again in the act of July 15, 1870, so far as all naval accounts are concerned.

If these suggestions should be carried into effect, all accounts of disbursing officers of the Army would still be subject to the examination prescribed by the act of April 20, 1874 (18 Stat., 33). That act makes it the duty of the Secretary of War to cause frequent inquiries to be made as to the necessity, economy, and propriety of all disbursements made by disbursing officers of the Army, and as to their strict conformity to the law appropriating the money. It also makes it his duty

to ascertain whether the disbursing officers of the Army comply with the law in keeping their accounts and making their deposits. It directs that all these inquiries shall be made by officers of the inspection department of the Army or others detailed for that purpose.

By that designation is meant the Inspector-General's Department of the Army. It provides, however, that no officer detailed for the purpose of making the inquiries contemplated by the act shall be in any way connected with the department or corps making the disbursement. It also provides that the reports of such inspections shall be made out and forwarded to Congress with the annual report of the Secretary of War.

It would seem that these examinations or inspections, if promptly and faithfully made, should be sufficient as preliminary examinations by the War Department, that is, as examinations preliminary to the passing of the accounts to the proper accounting officers of the Treasury for a full and detailed examination by them.

SUPPLEMENTAL STATEMENT IN RELATION TO SENATE BILL NO. 1831, IDENTICAL WITH HOUSE BILL NO. 6478, INTRODUCED MARCH 29, 1894. PREPARED BY J. R. GARRISON, LATE DEPUTY FIRST COMPTROLLER OF THE TREASURY.⁸⁶

To Senate, July 14, 1894

TRANSFER OF FILES AND RECORDS IN THE TREASURY DEPARTMENT, WHICH THE PROPOSED CHANGE WILL NECESSITATE

Section 6 of the bill, lines 35-37, provides that "the Auditors shall, under the direction of the Comptroller of the Treasury preserve with their vouchers and certificates all accounts which have been finally adjusted."

In order to carry out the proposed change it will be necessary, as stated by the experts, "that the Register's jurisdiction of the files shall be transferred to the Auditors to whom

⁸⁶ In connection with S. misc. doc. 145. See also p. 842.

the accounts relate," to "transfer to the respective Auditors jurisdiction of the files now under the Register." (House Report No. 637, Fifty-third Congress, second session, pages 21 and 29.)

To fully comprehend the magnitude of the work that such transfer of the files will require, some particularity of statement is necessary.

The Register of the Treasury is now the official bookkeeper of all civil accounts, and the custodian of the files and records of such accounts. Down to 1817, he was the bookkeeper of all accounts settled by the accounting officers and the custodian of all the files. By section 5 of the act of March 3, 1817 (3 Stat., 366), the Second, Third, and Fourth Auditors (whose offices were created by said act) were authorized to record and register the accounts made subject to their jurisdiction respectively), and to keep the files and records thereof.

This departure from the Hamiltonian system of accounting is the prime [7481] cause of the confusion and perplexity upon which so much stress is laid by the experts and the honorable commission.

Had the Register's jurisdiction been preserved intact, in his office would have been the registers and records of all accounts and the files thereof. So that there would have been one central office in which the recorded balances of all accounts might be found, and the tracing of the payment of any account or claim, or the indebtedness of an officer on any and all accounts, would have been easy and simple.

The necessity of having the Register of the Treasury keep the balances of all accounts and the files thereof has been adverted to in annual reports by some of the First Comptrollers. The proposed change takes from the Register his duties as official bookkeeper and custodian of the files of civil accounts, transfers the bookkeeping to a division in the office of the Secretary of the Treasury, and divides the files of accounts between the several Auditors. Should the proposed legislation

become a law the result will be that for information as to all receipts, and respecting civil expenditures (other than receipts and expenditures of the postal service), the Register's records and files must be resorted to from the establishment of the Department down to the time the proposed legislation is to go into effect, but after that time it will be necessary to have recourse to the bookkeeping division of the Secretary's office and the files kept by each of the six Auditors.

With respect to military and naval expenditures the search for information will be more complex still. From the organization of the Department down to 1817 we would look to the Register's records and files; after 1817 to the records and files of the Second, Third, and Fourth Auditors, but after the proposed legislation goes into effect (if enacted into a law) we must turn to the bookkeeping division of the Secretary's Office and the files kept by each of the six Auditors. The records and files of postal receipts and expenditures have been kept in the Sixth Auditor's Office since its establishment in 1836.

In addition to the foregoing we must also take into consideration that the jurisdiction of each of the six Auditors (excepting the Auditor for the Post-Office Department) will be very materially changed, causing changes in the serial numbers of many classes of accounts, which will pass from the jurisdiction of one Auditor to that of another, *e. g.*, internal-revenue accounts which have been under the Fifth Auditor since the internal-revenue system was inaugurated will go to the First Auditor; judiciary accounts and accounts relating to the Department of Agriculture, which have always been under the First Auditor, will go to the Fifth Auditor; civil expenditures of the War and Navy Departments, which have heretofore been under the First Auditor, will be transferred to the Second and Fourth Auditors; all expenditures of the Interior Department heretofore audited by the First Auditor, will pass to the Third Auditor, who will also take jurisdiction of the public land accounts now audited by the Commissioner of the General Land Office, and so on.

To state the foregoing facts is to demonstrate that the changes proposed, if carried out, will multiply confusion and perplexity instead of simplifying the existing methods; so that, after the lapse of a number of years, when the officials and clerks now on the scene of action shall have passed away, it will be a matter of the greatest difficulty to trace payments and hunt up the information that is so frequently required respecting accounts and claims. There being no statute of limitation, the liability of paying old claims a second time will be increased because of the difficulty of tracing out former payments.

The necessary transfers to be made in the files, to place them under the changed jurisdiction of the several Auditors, as above partially indicated, will require much time and patient labor by skilled clerks.

In the Register's Office there are now three large files rooms, occupying much space, two located in the basement of the Treasury Department and one in the attic story, in which story is also located the files rooms of the Third and Fourth Auditors. The files of the Second Auditor are in the Winder Building, corner of Seventeenth and F streets northwest.

There is little more available space for files in the Treasury building, which has been burdened with the vast accumulation for a number of years. During President Cleveland's first Administration, Secretary Fairchild forcibly brought the matter to the attention of Congress, and urged that a hall of records for the uncurrent files and records of the Treasury Department and other Executive Departments be provided. In the near future it will become absolutely necessary to provide a building for the uncurrent files and records of the Treasury Department.

The honorable Commission and the experts seemed to have overlooked this necessity altogether, and probably they did not fully investigate and consider the actual condition of things and contemplate what a heavy undertaking it will be, attended with great expense and much labor, besides the in-

evitable confusion and perplexity already adverted to, to transfer the files and records of the Register's office—the accumulation of more than a century—to the jurisdiction of the several Auditors. If the simplifying of methods is sought for it would seem the proper course to restore all the files to the custody of the Register and to make him the official book-keeper of all classes of accounts. The Register is an independent officer of the Department, appointed by the President with the advice and consent of the Senate, and the propriety of certifying accounts to him, to be registered and recorded, rather than to a chief of division appointed by the Secretary, is manifest.

Hamilton spoke of the Register as exercising an important check upon the Secretary and the Comptroller with respect to warrants, and upon the Auditor and Comptroller in recording and registering the accounts passed by them. (Works of Hamilton, volume 5, page 77.) The Register also exercises an important check in keeping the files of accounts, and should therefore be the custodian instead of the Auditors. When an account is withdrawn from the Register's files a receipt therefor is taken, so that the party withdrawing it is known, and could always be detected should he destroy or lose an account so withdrawn, or any part thereof. But where an Auditor is given the sole power of passing upon an account or claim, as is proposed in the bills referred to, and is also made the custodian of the files of the accounts passed by him, the check against the allowance of an illegal or fraudulent account or claim is not only removed, but the custody of such account being under the Auditor and not under a separate officer, it is made much easier to make away with an account or claim which furnishes evidence of guilty action by a clerk or an official of the Auditor's office.

ADMINISTRATIVE ACTION OR APPROVAL OF AN ACCOUNT OR
CLAIM NOT AN AUDIT

So much weight is given by the honorable Commission and the experts of the so-called administrative action or approval

by the Executive Departments and other offices, that more particularity seems to be required to show that this view is erroneous.

The Commission quote extensively from the report of Hon. Levi Woodbury, Secretary of the Treasury, made in 1834,⁸⁷ as in support of their views respecting the accounting system of the Department; but they have overlooked or intentionally omitted this very significant statement, taken from said report:

"It is manifest that no effectual check can ever exist in any case where the same officer authorizes the expenditure and audits or controls the audit of accounts." (Senate Document No. 16, page 5, second session Twenty-third Congress.)

Of what value is the administrative action or approval by the head of the Department who authorizes the expenditure, in the light of Mr. Woodbury's opinion?

To illustrate how perfunctory is the approval of the heads of Departments, it may be stated as a fact that some of the Secretaries of War, and perhaps the heads of other Departments, when it was decided that the affixing of their signatures by a stamp to the accounts or vouchers to be approved would not be accepted, caused schedules of the vouchers to be made to which their signature could be appended. And yet the experts, evidently without correct information as to the facts, say:

"The safeguards or checks upon the disbursing officers rest almost entirely with the heads of the Executive Departments under which the disbursements are made." "The double detailed examinations in the Treasury Department are unnecessary, as the administrative officers keep as close a supervision over, and make as careful examination of, their expenditures as was originally done by the Auditor at the foundation of the Government."

This statement is not borne out by the facts; and even if it were strictly correct, the examination by the administra-

⁸⁷ See No. 58.

tive officers who authorize the expenditures is, in the words of Mr. Woodbury, "no effectual check."

It is respectfully suggested that the so-called administrative action in a number of bureaus connected with the Treasury and other Departments might be more safely dispensed with and a greater saving and prompter dispatch of the public business effected thereby than to strike down the office of Comptroller in the accounting system of the Treasury. This administrative action is of no value to the accounting officers, and is productive of much of the delay in the settlement of accounts, so justly complained of. A half dozen or more bureaus, offices, or divisions under the Treasury Department might be named in which are so-called accounting offices or divisions devoted to the administrative action of accounts before they come before the Auditors and the First Comptroller. The same condition of things exists in most of the other Executive Departments, and with respect to accounts under the jurisdiction of the Second Comptroller as well as the First Comptroller.

**PRACTICAL ILLUSTRATION OF THE IMPORTANCE OF A DOUBLE
AUDIT OR DIVIDED RESPONSIBILITY IN THE
SETTLEMENT OF PUBLIC ACCOUNTS**

In the report accompanying the bills introduced on March 29 no attention is paid to the great importance of a rigorous and thorough audit of revenue accounts, the argument being devoted solely to expenditures, it being claimed that the preliminary examination by disbursing officers of their own accounts, and the administrative action in the Executive Departments, afford a sufficient check to warrant dispensing with the detailed examination by the Comptroller. But it is just in revenue accounts where the chance for collusion and fraud is the best. Under the proposed change such accounts will be examined only in the Auditor's Office.

If an officer who receives and collects revenues is dishonest, and he can find a dishonest clerk in the Auditor's Office who examines his accounts, a collusion can be effected

between them, with no check upon it in the Department. The officer may arrange to render his returns short, say, by systematic errors in addition, adroitly scattered over the many pages of the returns; the dishonest clerk for a corrupt motive may agree to pass the shortages unnoticed. The Auditor can not examine into all these details; no one but the clerk who handles the accounts does. And so a false account might be audited from year to year without detection.

Much is said in the report of the experts to show that it is unnecessary for the Comptroller's Office to review or revise figures, or mathematical computations, but the foregoing illustration will show that it is just here where lurking frauds are most likely to occur.

In the report on the bill introduced March 6, and passed by the House March 8, to abolish the office of Commissioner of Customs (Senate bill No. 1738, House bill No. 5750), it is suggested that as 90 per cent of the customs revenues are collected at ports where there are naval officers, the preliminary examination by the naval officer may be taken as sufficient to dispense with the examination in the office of Commissioner of Customs. Great importance is attached to the fact that section 5 of the proposed bill provides that it shall be the duty of collectors of customs, under direction of the Secretary of the Treasury, to furnish with their accounts the original papers upon which the abstracts of the duties collected are made up by the naval officers.

This was one of the inducements set out for passing this bill, dispensing with the office of Commissioner of Customs, it being alleged that the original papers alluded to will greatly strengthen the audit of the Auditor. It was strangely overlooked by the honorable Commission and the experts that existing law, sections 248 and 251, Revised Statutes, gives to the Secretary of the Treasury the most ample and complete power to require by regulation that such original papers shall be forwarded with the accounts of collectors.

The preliminary work of naval officers can not safely take the place of the detailed examination in the Comptroller's

office (or that of the Commissioner of Customs). It was never intended for that purpose. For the duties of naval officers see sections 2626, 2869, and 2889, United States Revised Statutes; sections 1040 and 1042 of the Customs Regulations of 1892. See also customs administrative act of June 10, 1890, 26 United States Statutes at Large, pages 131-137, which makes the decision of collectors of customs as to the rate and amount chargeable upon imported merchandise final and conclusive against parties in interest, subject to appeal, under the conditions prescribed, to the board of United States general appraisers and thence to the United States circuit courts.

After the star-route frauds had been perpetrated, Hon. Jacob H. Ela, of New Hampshire, for many years a member of Congress from that State, and afterwards Fifth Auditor of the Treasury for a number of years, was selected for his special fitness and tried integrity to be Sixth Auditor of the Treasury, to which position he was transferred and appointed from that of Fifth Auditor. In a letter addressed by him to Hon. William Lawrence, then First Comptroller of the Treasury, under date of May 8, 1884, he says:

"In answer to your inquiry as to 'whether it is advisable to apply the Treasury system of adjusting accounts to the account of the Post-Office Department,' I have the honor to inform you that I favor the policy of having all accounts reviewed by a Comptroller after passing an Auditor, whenever they shall be reduced to the lowest practicable number. At the present time four-fifths of the accounts of postmasters are such that they could be dispensed with, by causing the money-order offices to disburse such payments as become necessary, and furnish such stamps as may be required at the smaller offices."

From Mr. Ela's long experience in public life, and the fact that he had served as an auditor subject to review by the Comptroller, and afterwards as Sixth Auditor, who exercises the functions both of Auditor and Comptroller, and the great interest in the proper settlement of public accounts which

existed at the time because of Star Route frauds, great weight should be given to his opinion in favor of the final review of all accounts by the Comptroller.

Public men of ability have entertained the opinion that the Star Route frauds could not have been successfully perpetrated had these accounts been [7482] subject to a detailed examination in the Comptroller's office, since the question as to the legality of said accounts would have been developed thereby and presented for final decision by the Comptroller.

DUTIES OF THE COMPTROLLER UNDER THE PROPOSED LAW

Under the proposed legislation it would seem that there is no duty appertaining to the office of Comptroller of the Treasury, as therein provided for, which may not at any time be devolved upon his assistant or chief clerk, although the Comptroller is present.

"The Assistant Comptroller of the Treasury shall perform such duties as may be prescribed by the Comptroller of the Treasury, and shall have power, under the direction of the Comptroller of the Treasury, to countersign all warrants and sign all other papers." (Section 2, lines 19 to 23.)

Thus the Assistant Comptroller may at any time countersign accountable warrants, under direction of the Comptroller, a class of warrants which under the law, must be signed by the Secretary himself, when present and in discharge of his official duties, and which can only be signed by an Assistant Secretary as Acting Secretary when the Secretary is absent, and in like manner must be countersigned by the First Comptroller when present, and by the Acting Comptroller in his absence.

"The chief clerk shall perform such duties as may be assigned to him by the Comptroller, and shall have the power, in the name of the Comptroller of the Treasury, to countersign all warrants except accountable warrants." (Section 2, lines 24 to 27.)

This broad authority as to the assignment of duties to the

Assistant Comptroller and the chief clerk makes it possible for the office of Comptroller of the Treasury to become a sinecure.

TREASURY SYSTEM UNDER THE CONFEDERATION⁸⁸

An interesting review of the Treasury system under the Confederation may be found in volume 6 of the Decisions of Comptroller Lawrence, pages 263 to 266.

Although the plan of accounting under the Confederation was several times changed, yet as early as September 26, 1778, the following ordinance [resolution]⁸⁹ was passed (Journals of Congress, volume 3, page 70 *et seq.*; Laws United States, edition 1815, volume 1, page 663):

"Resolved, That a house be provided, at the city or place where Congress shall sit, wherein shall be held the several offices of the Treasury;

"That there be the following offices, to wit, the Comptroller's, Auditor's, Treasurer's, and two chambers of accounts;

"That each chamber of accounts consists of three commissioners and two clerks to be appointed by Congress;

"That in the Auditor's office there be an Auditor annually appointed by Congress, and two clerks appointed by the Auditor;

"That in the Comptroller's office there be a Comptroller annually appointed by Congress and two clerks appointed by the Comptroller;

"That the Auditor, Comptroller, and Treasurer shall not be appointed unless by the votes of nine States, and they be accountable for the conduct of their clerks respectively."

The succeeding sections of the ordinance directed the Auditor to receive all claims against the United States, and refer them to one of the chambers of accounts, the Commissioner of which was to turn them over to his clerks for a careful examination. The accounts were then to be transmitted to the Auditor, with the findings of the Commissioner indorsed upon them. The ordinance required that—

⁸⁸ See p. 838.

⁸⁹ See No. 7.

“The Auditor shall receive the vouchers and accounts from the Commissioners to whom he referred them, and cause them to be examined by his clerk * * * and after careful examination of the accounts as aforesaid, he * * * shall transmit the accounts and vouchers to the Comptroller”—who had the final action thereon.

In this early stage, when the business of the Government under the Confederation was so limited that two clerks in the Auditor’s office and two in the Comptroller’s office were sufficient to pass upon all of the accounts, the divided responsibility in the accounting system was recognized, and the accounts practically received three examinations; first by the clerks in the Commissioner’s office; next by those in the Auditor’s office, and finally by those in the Comptroller’s office.

This scheme of accounting, under the ordinance of September 26, 1778, corresponds in very many respects with the Treasury system of to-day, as established by the organic act of September 2, 1789.

The reports ordered to be inserted in the RECORD at the request of Mr. COCKRELL are as follows:

Mr. COCKRELL, from the Joint Commission of Congress to Inquire into the Status of Laws Organizing the Executive Departments, submitted the following report (to accompany S. 1831).⁹⁰ [7483]

* * * *

Mr. [REDFIELD] PROCTOR [of Vermont]. Mr. President I regret very much to differ with the Senator from Ohio, . . . but considerable attention given by me to this matter impels me to do so.

To a person going into one of the Departments here from an active business office, the difference in methods is certainly very striking. While the methods of business in our great establishments, railroads, banks, and factories have been progressing so that they are substantially revolutionized from

⁹⁰ See No. 74.

what they were forty or fifty years ago, those of the Government have not only not progressed, but have doubtless actually retrograded.

I do not contend that the Government should model its methods entirely upon the methods of business houses; the methods of the Government should be of the most conservative and safe character; but there is no reason in the world, while business methods have made such great progress, that the Government methods should not be improved somewhat. A bank in these times which does not know at the close of every day's business its standing with every customer, would be behind the times; a manufacturing or mercantile concern which did not answer its correspondence within at least twenty-four hours and have the business to which the correspondence related under way, would also be losing in the game of competition.

Look, for instance, at the reasons which have led to these business methods of mercantile corporations, which have progressed on account of the active spirit of the age. Railroads, telegraphs, and sharp competition have compelled it to do so; while, on the other hand, the methods of the Government, established more than one hundred years ago, have been in the hands of officials serving for a long time, and the natural effect of that service is to render them hair-splitters and mechanical in their operations, and their natural tendency is to increase the machinery rather than to simplify it.

I admit that the Government methods are ancient; they have in fact the moss and fungus of antiquity hanging thickly about them. Started a hundred years ago, with a population of four or five millions, it would be very strange that they should be adapted to our present wants. In fact, they were found in a very short time to be insufficient.

The Senator from Ohio calls attention to the proposed change of designation of the Auditors. That was recommended more than sixty years ago by the then Secretary of the Treasury, Levi Woodbury. He said:⁹¹

⁹¹ See No. 58.

“It is therefore recommended that their designation by numbers be changed, and the duties assigned to each be more simplified and rendered more intelligible, by a new division of them, in part, and by attaching one of these officers, and one only, to each Department.”

Another report made more than fifty years ago to Congress states:

“The complexity of the public accounts is a matter of general remark, and all who examine the subject must concur in the President’s opinion that the system requires a general reform. * * * The duties are not distributed and arranged among the different offices in the most appropriate and suitable way; their limits of authority are not clearly laid down.

* * * * *

“To devise a system of accounts for the principal departments, which shall be more efficient for all the purposes for which it is designated, in the hands of the heads of those departments, and, through them, of the great head of the whole; and which shall be more prompt in the payment of money, in the settlement of accounts, the exhibition of results, and, withal, less expensive to the nation, is the object of the present inquiry.”

Mr. President, it is true that there should be ample guards for the safety of the Government, but it is not, in my opinion, true that a needless multiplication of machinery in the examination of accounts is for the safety of the Government. In fact the rogue will take advantage of this very machinery. If he starts his account, as he goes around through the different processes, his claim is reinforced oftentimes, rather than its fraudulent character detected, by this machinery. The delays, too, which such a system necessarily involves tend to help the dishonest claimant and to injure the honest one.

I should be very glad to submit this question to anyone who has business with the Departments and has not a Congressman behind him to secure expedition.

The report of the commission and the recommendations they have made I have examined carefully, and I believe to

be extremely conservative. They do not aim to adopt all the prompt methods which an ordinary business house would adopt; but on the contrary, to preserve to the Government all necessary precautions, and to secure not so much economy in the transaction of business, as directness and simplicity and promptness.

This measure has received the examination and unanimous approval of the commission and of two committees of this body. It has also received the full approval of the present Secretary of the Treasury and of his predecessor. I will read, as it is only a sentence, what Mr. Foster, the last Secretary of the Treasury, said of it. He said:

“I have very carefully examined the provisions of the bill, H.R. 6948, improving the methods of accounting in the Treasury. I believe the bill will secure the speedy and reliable audit of the expenditures of the Government, infinitely superior to the present system.”

In regard to the experts who were employed by the commission, I have seen much of them, and spent a good deal of time with them in going over the details of their recommendation. I have the very highest opinion of their ability. I think the commission was peculiarly fortunate in their selection. I confess my only surprise was that they were so very fortunate. These experts are men thoroughly competent, experienced, and skillful, and have been extremely careful and conservative in their methods.

It is true, as the Senator from Ohio remarked, that with all the complaints, no important changes have been made in the past methods of accounting in the Treasury Department. That is not at all strange. It is a very difficult matter to overturn customs and traditions and usages, and the opposition of personal attachment to present system, and the opposition of officials to any change in the Departments is to be expected, as everyone knows they are the most conservative possible body. I believe these changes have been very carefully prepared and that they are entirely safe. I feel sure that if there

is any detail which is not perfect, it is so nearly so that no harm can come to the interest of the Government. No progress can be made without a beginning.

I am heartily in favor of these provisions of the bill, and I should consider it very unfortunate, after the very great labor which has been expended upon it, that the results should now be lost.

Mr. COCKRELL. Mr. President, I am perfectly satisfied, notwithstanding the criticisms of the Senator from Ohio . . . , that if that Senator had given to the matter of the entire reorganization of the system of accounting in the Treasury Department the same care, attention, and labor which others have given to it, he would heartily indorse it as a better system to accomplish what he has so strongly advocated than the existing Treasury system. We all want the Treasury perfectly guarded. I say, in my judgment, this bill guards the interests of the Treasury more sacredly and more closely and more stringently than the existing system.

There is nothing particularly sacred about the present system. It is not the system of Alexander Hamilton; it is not the system of any one man; it is a mere patch-quilt; it is made up of enactments at different times. We started out with the Treasury Department under the act of September 2, 1789 [1 Stat. L., 65], having an Auditor, a Comptroller, a Treasurer, and a Register. Their principal business was to examine the individual accounts of employés of the Government. The machinery was very simple, and there was very little business to be done. We did not then have disbursing officers, receiving in advance of any expenditure hundreds of millions of dollars, whose applications for advances had to be considered. There was nothing of that kind. It was a [7486] very simple process. This system has grown up, as I have stated, by enactments at different times.

By the act of May 8, 1792 [1 Stat. L., 279], a short time after the organization of that system, there was created an accountant for the War Department, and then the act of July

16, 1798, created an accountant for the Navy Department, and the accounts of expenditures in those Departments were settled by them.

The act of April 29, 1816 [3 Stat. L., 222], supplementary to the act of May 8, 1792, created an additional accountant for the War Department.

On the occasions of the said acts of 1792 and 1798, the disbursements of the Treasurer for the appropriations of the War and Navy Departments were required to be made, not by warrants of the Secretary of the Treasury countersigned by the Comptroller of the Treasury, as previously done in pursuance of the requisitions of those Departments, according to the act of 1789, but by warrants of the Secretaries of War and Navy, countersigned by their respective accountants, who were, nevertheless, partially held in check by being required to report their settlements from time to time for the revision and approval of the officers of the Treasury.

Then various changes were made. The Land Office was created by the act of 1812 [2 Stat. L., 716], and it was given jurisdiction of its own accounts. The act of July 2, 1836 [5 Stat. L., 80], created an Auditor for the Post-Office Department. So the system has finally grown up of having the six different Auditors.

The Senator from Ohio complains that we have an Auditor for a special department. In other words, any man looking at this reorganized system, and looking at the names of the Auditors can tell where to inquire to find the status of an account. No man living can do it to-day. I venture to say that I can suggest an account of which the Senator from Ohio, with his long Congressional experience, could not tell what Department has jurisdiction. The names of the Auditors give no idea of the subjects-matter over which they have jurisdiction.

The Senator speaks about an Auditor growing up under each Department. The State Department has a separate

Auditor now. One Auditor audits all the accounts of the State Department.

Mr. SHERMAN. I think the people of the United States understand that matter very well. When they want to file a claim they send it to the Secretary of the Treasury anyway. The great mass of the correspondence goes direct to him.

Mr. COCKRELL. Not a particle of change is made in that respect.

The idea that a claim can come up and be presented to the Second Auditor, and that his decision is final, is simply absurd, I beg to say to the Senator. Claims must originate in some branch of the public service. That is a proposition which the Senator from Ohio can not deny. Now, in whatever branch of the public service they originate, they are either under the Department or the head of a bureau, and that Department or head of a bureau has to examine and audit every solitary one of them before they can reach the Auditor. They are to be audited, under the new system, by the Department in which they originate, or if it is a separate bureau, like the Geological Survey, etc., they are audited by the head of the bureau, as it is not under any Department, and they go to the Second Auditor.

The Senator complains that these Auditors will grow up and become a part of the Department. To-day the accounts of all the Departments are distributed among the Auditors. We simply redistribute them, and the Auditors will audit the same accounts, some of them the identical accounts, which they are auditing now. So there is no confusion, there is no necessity for any new books or anything of the kind. The system can be inaugurated at once.

The Senator from Ohio tells us this is a new matter and has not received any consideration. Mr. President, no matter has ever been presented to the Senate during the long term of the Senator from Ohio which has received more careful consideration than this question. When, for example, the ques-

tion of creating the Congressional commission came up, the late Secretary Foster came before the committee and insisted upon experts in order to readjust and bring the system up to current work. It was largely at his suggestion that the change was made from the method provided for in the other House. Now, what was done? Here are three experts, able men, disinterested, in no manner connected with the Government. They come here and go through the Treasury Department. They consult every head of a bureau; they consult the Assistant Secretary; they consult the subordinates. They go to the desks where the work is performed; they ascertain the entire method and system and the responsibility. When they have done that, they confer with the Secretary of the Treasury, they confer with the Assistant Secretary of the Treasury, and they discuss their plans.

Now, these experts are under a commission of members of Congress. Ex-Governor DINGLEY, Representative from Maine, is one of the active members, and Representative DOCKERY of Missouri another. The experts conferred with them. The Senate commission, composed of the Senator from Illinois [Mr. CULLOM],⁹² the Senator from Arkansas [Mr. JONES],⁹² and myself, consulted with them. They made to us a report recommending this change.

Upon that report we drew bills for this reorganized system. Such a bill was reported to the other House, and a similar bill was introduced in the Senate and referred to the Committee on Organization, Conduct, and Expenditures of the Executive Departments.

The Senator from Ohio pretends that the bill has never been before any committee of the Senate. It was referred to the appropriate committee, the Committee on Organization, Conduct, and Expenditures of the Executive Departments. Not only that, but such a bill passed the House of Representatives and came to the Senate, and was then referred to the Committee on Organization, Conduct, and Expenditures of

⁹² Brackets in original text.

the Executive Departments. It has been reported favorably to the Senate, and is upon its Calendar.

Here we have a proposition to bring the business in the Treasury Department down to current work, to simplify the methods of doing business, and to guard the Treasury in every avenue which approaches to it as well as, if not better than, under the present system. It has been considered by the experts, who have conferred with the Secretary of the Treasury, the Assistant Secretary, the commission on the part of the other House, *ex-Gov. DINGLEY* and *Mr. DOCKERY*, and the members on the part of the Senate whom I have named. They have all approved it.

It has been reported by the commission to both Houses; it has been passed by the House of Representatives; twice reported favorably by the proper committee of the Senate, the Committee on Organization, Conduct, and Expenditures of the Executive Departments. It was then properly placed as a provision in the legislative bill, providing money for the conduct of business in the Treasury Department and specifying the machinery by which the money shall be expended. It has been favorably reported from the Committee on Appropriations, and I say that no measure ever received fuller or more careful consideration. It is wise, it is just, and it is perfectly safe to the Government.

The *VICE-PRESIDENT*. The question is on agreeing to the amendment proposed by the Senator from Ohio. . . . [7487]
* * * *

So the amendment was rejected. [7488]

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