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SPEECH,

OF THE

HON. M. VAN BUREN,

OF THE SENATE,

in the Act to carry into Effect, the Act
of 13th April, 1819,

FOR THE SETTLEMENT OF THE LATE
Governor's Accounts.

ALBANY:
PRINTED BY J. BUEL.

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SPEECH.



MR. CHAIRMAN,

I HAD flattered myself that the bill upon your table, would have obtained the unanimous assent of the committee. The principles upon which it is based, and the justice and equity of its provisions are so obvious, that I was unwilling to anticipate opposition to them from any quarter.

The early movements, however, of that portion of the senate who claim to be the friends of the executive, has undeceived me in this particular ; and sensible that resistance was, at all events, determined on, I have thought it proper to call on those, who, notwithstanding they supported the act of the last session, were thus determined to vote against the present law, to assign the reasons for their objections to the facts, and deductions of the committee who reported it. And I hoped that they would at least state some ground, other than the changed state of political relations, to justify the vote they were about to give ; believing that by this course, I might be able to shorten the discussion of this question, by answering at once, all the objections which might be raised to the bill, and vindicate, at the same time, its justice and propriety.

I have, however, made this call in vain. Save a few desultory remarks from the honourable member from the western district, [Mr. Barstow,]—remarks which, with all deference, I cannot consider deserving a serious refutation ; because they assume no tangible shape,—have no definite bearing,—and do not seem intended to support any particular principle for the government of the committee. We are thus driven to the necessity of carrying the bill by a silent vote ; or by anticipating all objections existing here ;—by refuting such as may have arisen elsewhere, and which may have weight in the minds of any of the committee, to establish the justice of the provisions of the bill upon your table, and vindicate it from the aspersions which have been, or may be cast upon it. I cannot hesitate in adopting the latter course, and shall, as briefly as the subject will permit, proceed to its execution.

The questions necessarily raised by the act under consideration, are within narrow compass ;—being confined to the construction of the act of the last session,—the amount of the loans effected by the late governor, embraced by that construction, and the rate of premium to be allowed on them.

But the circumstances under which we act, will justify, if they do not absolutely require, a more extended discussion. It will be remembered, that when it was first moved to go into committee of the whole on this bill, a pressing application was made by its opponents for de-

lay. Although it was not distinctly avowed, it was well understood, that the object of that delay, was to wait for the report of the committee of ways and means of the Honourable the Assembly on the same subject. Willing to receive all the light which could be thrown on the matter, and anxious that the Senate should be possessed of all the information which could be derived from any source, before they acted finally, the claim for delay was acquiesced in by the friends of the bill.

That report has now been made, and laid upon our table; and in addition to the questions raised by the bill on which we are acting, the committee of ways and means have thought it their duty, to extend their inquiries to a variety of other subjects,—among the most prominent of which are the following.

1st. The previous accounts between the late governor and the state, and the correctness of the balance finally certified by the comptroller.

2d. The claims suggested to the commissioners and the joint committee. And

3d. The fitness and propriety of the act of the last session as it was connected with the respective liabilities and duties of the general and state governments.

If we consider this examination with reference to the merits of the controversy, or to the avowed causes for the enquiry, we are equally at a loss to discover the motives of it. The committee assign, as the grounds of their report—

1st. The disputed construction of the act.

2d. Complaints of the late governor, “in regard to the auditing and settling of his accounts.”

In what respect the question of the construction of an existing law, could be aided by the examination of the accounts of the late governor, when he, for the sake of a settlement under that law, had consented to assume the utmost balance which has ever been claimed against him, cannot be imagined. Nor can I conceive why, in order to vindicate the conduct of the comptroller, it could be deemed necessary to examine into the relative duties of the general and state governments; or into the justice of claims which, if even they had ever been made, were precluded by the law, and with which it is not pretended that the duties of the comptroller were, in any degree, connected, or his conduct censured. These matters have, however, been made the subject of the severest scrutiny, and as it is impossible for me to know the extent of the impression which may have been made upon the minds of the members of this committee,—I hope, therefore, I shall be justified in subjecting the report of the committee of ways and means of the honourable the assembly, to a brief review in its prominent particulars; keeping steadily in view, the respectful deference which is due from one branch of the legislature to the proceedings of the other; the proper observance of which is of primary and vital importance.

The first and leading point which will be the subject of our consideration, is the one which the adversaries of the late governor consider their strongest intrenchment. It is the alleged balance of \$119,629.50 reported against him by the comptroller, on the books of his office.

I have already stated that the late governor had consented for the purpose of settlement, to assume even that balance, although he has

throughout protested against its justice ; and why he consented to this measure it may be proper to explain to the committee. It has been stated by the committee of ways and means, that the late governor has admitted that a balance was due from him of \$120,000, when before the joint committee of last session ; but they have not considered it material to inform us under what circumstances and qualifications the fancied admission was made.

It was the intention of that committee to recommend, and it is satisfactorily proved that it was the intention of the legislature at the last session, to allow the late governor a balance of from ten to twenty thousand dollars, over and above the claims of the state against him ; for the purpose of meeting particular losses to that amount, which had been occasioned by peculiar hardships, and the responsibilities for which have still continued.

Among the suspended items of the account reported by the comptroller, in February, 1819, were some for advances to certain subordinate agents of the government, who were deceased, and from that cause it had been impossible to satisfy the comptroller of the propriety of admitting them as charges against the state. Some payments also to living officers, which were so embarrassed in the complex nature of the accountability, that much dispute and litigation might have grown out of them ; and other expenses, which, although necessarily incurred by the late governor, in extraordinary public service, were doubted by the comptroller as being legally chargeable to the state.

In the contemplated passage of the law of the last session, the operation of which would have been to carry to the late governor's account a credit of at least \$131,250 ; he consented to withdraw such charges against the state as were likely to lead to any controversy, and to suffer others to be suspended, which increased the balance on the comptroller's book, to \$119,629.50, as appears by his final audit of 27th August, 1819. It was under the firm conviction that the principles of the law of 13th April, 1819, were fixed, and that the fulfilment of it would have constituted him a *creditor* of the state, and under that conviction alone, that the late governor ever tacitly recognised the balance of \$119,629.50, as above stated.

That the supposed admission of the late governor, in regard to the balance of \$119,629.50, was a matter of compromise, the following facts will prove.—

1st. On the 17th February, 1819, the comptroller reports, that the balance of the late governor's accounts, deducting *the suspended items*, was, \$54,534.04

2d. The committee assembled *early in April*, 1819.

3d. No audit or examination of the accounts, by the comptroller, took place in the intermediate time, a space of **SIX WEEKS ONLY**.

It is incredible, therefore, that without any new suggestion of doubts or difficulties on the part of the comptroller, or any further examination on his own part, that the late governor should consent to strike out \$65,465.96, *without an equivalent*.

Yet is he reported a debtor to the whole amount of \$119,629.50, by the committee of ways and means, notwithstanding all allowance is refused under the law ! It is the cruelest injustice, Sir, thus to take ad-

vantage of this compromise, and while the terms which produced this ideal balance against the late governor, have been withheld by the comptroller, to hold him up to the community as a defaulter,

It is claimed by the late governor, that in justice, no balance whatever is due by him to the state; that he has honestly and faithfully expended in the public service, all the public monies which came into his hands; but his inability to account for a portion thereof, has arisen from the loss of vouchers,—the infidelity of agents,—the mistakes in settlement, and the omission to take receipts, incident to all public disbursements, and especially during the hurry and casualties of a state of war,—in the expenditure of the enormous sums which passed through his hands without the aid of competent agents and accountants, to adjust and methodize such expenditures. On the other hand, it is not denied, that the alleged balance of \$119,629.50, is the utmost limit to which his indebtedness could be extended after the severest and most critical scrutiny of the disbursement of three millions of dollars;—and that there are yet to be deducted therefrom rising of fourteen thousand dollars, which are suspended in the final audit, (which the committee of ways and means have not thought proper to notice,) principally on the ground of informality, but of the justice of which no reasonable doubt is entertained.

I will now proceed, Mr. Chairman, to examine and discuss the justice and propriety of the balance reported by the comptroller, on the 27th August, 1819.

On the 6th March, 1818, the comptroller made an audit of the late governor's account, according to vouchers then rendered. This he corrected on the 17th February, 1819, (page 458 Journals,) and reported to the legislature on that day, that there was due from the late governor, to the state, \$54,534.94, after crediting the suspended items referred to in the following extract, (Journals, 1818, p. 464,) “ In this balance, however, is included \$131,105.74, which from vouchers produced by Governor Tompkins, he appears to have advanced to sundry officers, and other individuals, to be afterwards accounted for; the charges for which advances have been suspended, as by the rules of the office the person originally debited with public monies drawn from the treasury, is kept charged until he produce evidence of the actual expenditure, according to law; and in the said balance there is included a sum of \$12,340.09, composed of a variety of charges for expenditures, which stand suspended until further vouchers, or explanations, shall be furnished to show that they are properly chargeable to the state, which cannot be determined from the documents already produced.”

Thus it will be shewn, that while in February, 1819, the balance absolutely certified by the comptroller, against the late governor, was only,

\$54,534 04

In the audit of the 27th August, 1819, it was increased to \$119,629.50; this increase is thus produced,—

1st. Balance of sundry items found to have been erroneously charged to both governments, after deducting sundry credits since 6th March, 1818,

5,566 52

2d. By not passing to his credit, in August, 1819, the items suspended in February of that year, on the grounds I have stated, 59,528 94

Making the balance stated by the comptroller, \$119,629 50

To disprove the correctness of the audit of 27th August, 1819, and to repel the idea that, in truth and justice, there was any balance due from him to the state, the late governor contends,—

1st. That he ought, if the accounts were to be settled without reference to the act, to be credited with the suspended charges against the state, of 1818 and 1819, amounting to \$59,528 94.

for which he has had no credit.

2d. That the residue of the balance ought not to be claimed of him by the state, because the monies have been actually expended by him in the public service, and because he has been deprived of the evidence of that expenditure, by the casualties incident to transactions of the kind, and inseparable from a state of war ; and of the evidence in support of the ground he has taken, and of the allegation that he was not a debtor to the state, previous to the passage of the act of the last session, the committee will judge.

I will call its attention, first, to the \$59,528.94 of the suspended credits. That these monies were actually paid out by the late governor in the public service, and that he produced regular vouchers for the payment thereof, no doubt exists, and it has been twice distinctly admitted by the comptroller in his official reports. With the exception of about twelve thousand dollars, they were refused to be absolutely passed to his credit before the act of the last session, on the sole ground that he was unable to prove that those to whom the monies had been entrusted had faithfully applied them. This ground was taken by the comptroller, in consequence of a rule in his office, requiring such proof at the hands of a public officer to whom was committed the disbursement of public monies.

It is not my intention to question the propriety of this rule in ordinary cases ; where the agent so receiving, has no delegating power, or has no subordinate officers, whose duty of necessity it becomes to expend the monies drawn by the principal. But it does appear to me, that its application in the case of the late governor, was not only contrary to the intentions of the legislature who directed the appropriations, but subjected him to a responsibility rigorous beyond measure, and unavoidably leading to the grossest injustice and oppression.

The laws directing these appropriations, required that the monies should be drawn from the treasury on the late governor's warrants. In some instances the persons whose official duty it was to expend the money, received it on those warrants ; and in others, it was immediately paid to them by the late governor, to be disbursed under the law.

These subordinate agents consisted of more than forty-eight persons, in the various situations of civil and military affairs, many of whom had been employed under the government for years, and part of the time, during a state of war. Some of them his personal and political enemies,

who were thrust upon him by the revolutions of party, and whose conduct he could not control.

Many of these agents have descended to the tomb, and others scattered over the union,—and for the fidelity, correctness and integrity of all in the expenditure, and for the production of the evidences thereof, the late governor, in the audits of which I have spoken, was held responsible to the comptroller. This, Sir, was manifestly wrong; the legislature never contemplated that the late governor should be required to take upon himself the actual expenditure and accountability of the monies, as was the case of inferior officers and agents; and the rule which might be expedient and just, as it respected them, should never have applied to him who had no immediate power to coerce a settlement. This rule, Sir, was as dangerous in practice, as unjust to the late governor, in its operation,—for by this mode of making the subordinate agents of the government accountable to him, they were placed beyond the supervision of the comptroller, whose especial duty it is to compel a prompt attention to their several duties; and I am bold to say, that by the imposition of the labours of his department upon the late governor, the comptroller has not consulted the interests of the state.—For had those agents been held directly accountable to the treasury, and under the immediate cognizance of the comptroller, many sums, now difficult of collection from the lapse of time or death of agents, by the timely interposition of the law, might have been saved. Had not this course been adopted by the comptroller, all those monies, except twelve thousand three hundred and forty dollars, and nine cents, would have been finally passed to the late governor's credit, as early as March, 1818, and he would never have been held up to the community as a defaulter for those immense amounts.

With respect to the twelve thousand three hundred and forty dollars, and nine cents, I do not contend that the comptroller is censurable for refusing to pass it to the late governor's credit, or at least to its whole extent. But I do insist that upon every principle of justice and honour it ought to have been allowed him by the state. It was for expenses of his command in New-York, in the fall of 1814, and for a great variety of small expenditures during that and the preceding campaigns, which were rendered necessary by the exigencies of the occasion, but which were authorised by no particular law. That the monies were actually paid out, was fully proven; that they have ever been refunded from any quarter is not pretended; that they were expended for the protection of this state, at the most critical period of our affairs, is most certain; and to make him suffer the loss of these expenditures, would be the rankest injustice.

It appears, however, Mr. Chairman, that the late governor, notwithstanding the act of the last session, directing the comptroller to pass to his credit all such sums as he should make it appear had been advanced by him in the public service, has not, to this day, received credit for the \$59,528.94,—for the advance of which he produced satisfactory vouchers as early as 1818. The grounds of this omission have not been so fully discussed by the comptroller, as the other matters which have been drawn into scrutiny between them. It was certainly in the power of the comptroller, however, to have exhibited a schedule of those charg-

es, and have stated the grounds on which they were disallowed ; and it is to be regretted that, in the great variety of statements and elucidations he has made on the occasion, this important subject has been substantially overlooked. The late governor alledges that for the reasons he has assigned, (the same which induced him to assume the balance of \$119,629.50,) and to prevent difficulties and embarrassment in settlement with the persons charged with advances,—difficulties greatly multiplied by the length of time for which many of them had remained unsettled, the death of the parties, and other causes, he voluntarily withdrew vouchers to a large amount, advanced to commissaries and others ; and that he struck from the account all the charges for the expenses of his command in New-York, journies, &c. with the same general view. This is denied by the comptroller, who, on the contrary, asserts that he never did withdraw a single item which he did not compel him to do, by shewing him clearly and unequivocally that he was not entitled to it.

By reference to the journals of 1819, pages 223 to 245, these items, thus withdrawn, will be found specified. They consist of payments to the commissary of military stores, the assistant commissaries, superintendants of arsenals, commissioners for erecting public buildings,—for the superintendance of public services,—to commandants of regiments and companies,—for sundry articles of eatables and groceries, consumed by the sick troops on the Niagara frontier,—to prisoners of war to enable them to get home,—to James Henderson, the father and administrator of James Henderson, jun. for clothes of the son, who died in the service,—sundry expenses to Washington, and elsewhere, for the public service, &c. &c. &c. amounting to \$59,528.94, as before stated. Had the charges thus suspended, and which have not since been allowed to the late governor, been passed to his credit, it would have reduced the balance against him, (independent of the item of \$5,566.00, growing out of distinct transactions,) to the amount claimed as the absolute balance of \$54,534.04, reported in 1818, for which no vouchers were then produced, by reason of the loss of those vouchers and other causes, which I have before referred to.

Before I proceed to the examination of the evidence corroborating the allegation of the late governor in this respect,—derived from the reports of the comptroller, and the circumstances proved by the late governor in relation to the transactions between them,—I must beg the indulgence of the committee for a moment, in submitting to their consideration a few general remarks on this head.

By the papers submitted to us it appears, that the amount of monies drawn from the treasury of the state, on the warrants of the late governor, as required by law, and for the expenditure of which he was called upon to account, in March, 1818, is *one million and seventy-five thousand dollars*—that these monies were drawn at different periods, from the summer of 1807 until the year 1817, when he left the government of the state, making a period of nearly ten years. The expenditures of these monies was for the various disbursements of building arsenals, powder magazines, and erecting fortifications ; for the purchase of ordnance, camp equipage, and munitions of war ; for the ordinary and extraordinary disbursements of the commissary departments, &c. &c. and

upwards of half a million of dollars of it, was expended during the war for the pay and subsistence of the militia of the state in the service of the United States, forage, hospital stores, transportation and expenses, with the necessary disbursements for the troops on their march and in quarters. The monies were paid out in small sums, and under every variety of circumstances.

As the practice of holding the executive responsible for the accounts of all the expending agents under the government, has, as far as I know, had its origin with the present occasion. Governor Tompkins, when he came into office, found no books of receipts and expenditures of monies disbursed in the public service by his predecessors, and not anticipating the difficulties into which the accumulated responsibilities, thrown upon him by the comptroller, was likely to involve him, he kept no books of accounts: Every thing, therefore, depended on loose vouchers, taken during the course of ten years, for expenditures made as well in war as in peace; and at all times without allowance for the regular compensation of any officer whose duty it was to keep the accounts thereof.

In addition to the arduous duties of administering the government of the state during a period of war, and the military command of the troops and militia levied for the defence of the city of New-York and our Atlantic frontier, imposed upon him by the general government, were added the labour and responsibility of disbursing and accounting for nearly two millions of dollars in behalf of the United States, in the particular defence of this state, and vouchers for the expenditure of which have been produced to the general government.

I put it to the candour of this committee, whether, under circumstances like these, so extremely embarrassing in their nature, so utterly without precedent as to the extent, it is not reasonable to suppose that very great losses must necessarily have been sustained from the casual loss of receipts, from the omission to take them, from errors in the payment to and settlements with agents, and from a vast variety of other causes necessarily growing out of such complicated and extended transactions. I ask, was there ever an instance of the kind in which similar losses did not occur? There never has been. And any man, who in view of those facts, would demand an entire and technically correct account of those immense sums of money, who without evidence of mal-appropriation has not sufficient candour to admit the utter impracticability of avoiding losses of that description, or sufficient charity to admit their probability, must be influenced by the bitterest prejudice against the distinguished individual whose claims we are now canvassing. Rest assured, sir, that the object of that man cannot be the pursuit of truth and the fulfilment of justice; but that he is influenced by far different motives.

Turn, sir, to the reports which are from year to year made to congress, and you will find, that if to have accounts standing open at the treasury, is evidence of defalcation—if to be unable to account according to law for the expenditure of public monies, is evidence of the mal-appropriation of them—the most distinguished men in your country are speculators and defaulters. But no sir, in most of the cases to which I refer, government is well satisfied that the monies have been faithfully applied, notwithstanding the inability of the officers charged with those

expenditures to produce legal vouchers therefor. They are not held obnoxious to public suspicion; they are not hunted down by the depraved instruments of ambition, and loaded by party virulence with all the opprobrium which personal malignity or political intolerance can devise. No, sir, the general government extends towards its officers thus situated, that liberality and justice which faithful public servants have a right to expect at their hands.

Again, I ask, is the situation of Governor Tompkins, in regard to his public accounts, unprecedented? No, sir! the brightest page in the history of your independence is evidence of the contrary. Even the father of his country, the great, the immortal WASHINGTON himself! at the close of the revolutionary war, was unable to account for the monies entrusted to his charge. By a memorandum, made by himself, he explains the deficiency in his accounts in the following words: "*Through hurry, I suppose, and the perplexity of business, I have omitted to charge the same, while every debit against me is here credited.*"

If, sir, a man of general Washington's known prudence and attention to business, was unable to produce vouchers for the expenditure of a considerable part of so small a sum as sixty-four thousand dollars, it surely should excite no suspicion, and still less lay the foundation of the most dishonourable imputations, that Governor Tompkins, whose duties were infinitely more diversified, and far more liable to the same accidents, should be alike deficient in comparatively a small part of *three millions of dollars*.

The situation of that gentleman was peculiarly severe. A majority of the assembly were his political opponents, and averse to the war—the arduous task of administering the government of one million of people, at that critical juncture, devolved wholly upon him—he could not expect, and he could not receive, from the second officer of the state, the venerable president of this body, that co-operation and assistance in the discharge of important responsibilities, which could have been expected, had not age and infirmities chilled those energies which in youth were conspicuous, and shone forth with such lustre in our revolutionary struggle—alone, unaided, with an ill-organized and inexperienced staff, pressed with official duties, and harrassed with others which exigencies had compelled him to assume—what human power could escape the difficulties into which he has been driven? and what but miraculous interposition could have enabled him to produce vouchers for the minute expenditure of the monies which passed through his hands?

At the close of our revolutionary war, the same causes produced the same embarrassments in the settlement of the accounts between the government and its officers, and between the general and state governments: Vast sums had been expended, which, although not authorized by the resolves of congress, became indispensable to meet the ever changing exigencies of war; vouchers to a great extent had been lost, and those which existed, were in many respects defective: To meet this state of things, commissioners were appointed by law to settle those accounts upon principles of general equity, making provision to guard against injury from the loss of vouchers, as well as from their irregularity: Upon these principles the accounts were settled to the satisfaction of all who felt friendly to the cause in which those monies had been

expended. There were not wanting, however, at that day, men, who, humbled by the course they had pursued in that ever glorious contest, and anxious to regain their lost influence, laboured to excite the public jealousy against every measure having for its object indemnity to those who had suffered in the public cause. That there are now also, men who carp at legislative justice and liberality, and who bitterly revile Governor Tompkins with the same views, arising from similar causes, is, unfortunately for the welfare of the community, too apparent: But I am unwilling to doubt that those just and liberal principles of settlement would fail, at this day, to meet the approbation of the patriotic and enlightened citizens of this state, many of whom have been lavish of their blood; and what is still dearer, the blood of their children, in defence of their firesides and their altars, under the administration of the man whose services and sacrifices are now decried by his enemies.

The time has been, sir, when even the man who has brought about this controversy, appeared to feel the force of these general considerations. When this subject was before the commissioners, Colden and Bogardus, when the settlement of the accounts had been taken out of the hands of the comptroller by the legislature, and when better feelings towards Governor Tompkins appeared to influence all, no doubt existed that the affairs between him and the state would be settled on terms both honourable and just. The comptroller, to use the language of the commissioners, stated to them that "HE WAS WELL PERSUADED THAT THE LATE GOVERNOR MIGHT HAVE SUSTAINED GREAT LOSSES IN CONSEQUENCE OF MISLAYING OR LOOSING VOUCHERS."

Although the comptroller has thought it necessary to correct what he supposed the possible misconstructions of the report of the senate in small matters, he does not question this assertion of the commissioners. It is then conceded by him, that such were his opinions and feelings on this subject. What has changed them? Were they founded on particular evidence of loss? He did not pretend it. Whence then this unceasing solicitude, this unwearied industry on his part, to repel every presumption in favour of an allegation which obtained confirmation from his own declarations? Then, the belief that losses had arisen from that source was common to all: Now, it is sought to be stigmatized as a false and fraudulent pretence, and the whole vocabulary of billingsgate is exhausted to heap upon it terms of reproach.

I ask again, sir, whence this change?—does it not indicate an unseen hand? does it not point to the dark and dismal clouds in our political atmosphere, which ought not, but which it is to be feared has had a most appalling influence in these matters?

But to stamp the utmost verity on the presumptions thus arising, to rivet the conclusion beyond the reach of refutation, the late Governor refers us to the report of the Comptroller in 1813, and a comparison of it with the allowances which have been made to him on the final audit of his accounts by the same Comptroller. I will detain the committee by a simple statement of these important particulars, and a brief discussion of the attempts which have been made by the Comptroller to resist the strong conclusions which have been, and which may, I think justly, be drawn from them.

On the 12th June, 1812, in anticipation of a state of war, an act

was passed further to provide for the defence of the frontiers of this state, authorising the expenditure of large sums of money, for purposes connected with the general object of defence, directing that the monies should be drawn from the treasury on the warrant of the governor. Under this act large sums of money were received and expended by the late governor, which is now included in the account stated against him.

During the session of 1813, a period of great party excitement, arising from the difference in political sentiment between the executive and the house of assembly, and the different grounds taken by them in relation to the war, in which the country was then involved, a resolution was passed, calling on the comptroller to report to that house a detailed statement of monies drawn from the treasury by virtue of the act further to provide for the defence of the frontiers, passed 12th June, 1812, and of the expenditures thereof, *according to the vouchers returned and filed in his office.*

In obedience to that resolution, the comptroller, on the 3d of April after, made a report to the assembly, in which he stated "that the various expenditures made under the different sections of said act, according to the accounts and vouchers exhibited by the governor, and then on file in his office," amounted to \$155,863 56—classing them as far as practicable under the different sections of the act; but not stating the dates or sums of the vouchers. These vouchers not having been passed to the absolute credit of the late governor, were, according to his statement, in the spring of 1814 returned. The comptroller, however, contends that it was in 1813 that the return was made; the difference is not very important, but from the comptroller's admission that part was retained until 1814, the probabilities incline to the governor's declarations.

The withdrawal was made for the purpose of better arrangement, and to add supplemental charges for final settlement; but upon the return of the messenger who had been sent for them, it is ascertained by the late governor that a considerable part are missing, and he sends immediate notice thereof to the comptroller, who is unable to find more than a few scattering and detached papers. The vouchers thus lost, must have borne date subsequent to the 12th June, 1812, and previous to the 3d of April, 1813, the date of the comptroller's report.

In the course of the last fall, the late governor caused the several audits of his accounts with the state made by the comptroller, to be examined by four able accountants, viz. Jonathan Thompson, Thomas Morris, James B. Murray, and F. Q. Leake, Esquires, who after diligent scrutiny thereof, certified that upon a careful examination of all the credits received by the late governor, down to the last audit of his account in August, 1819, he had been allowed for expenditures under the act of 12th June, 1812, bearing dates between the passage of the bill and the date of the report, only \$99,188 11, making a difference between what had been produced in 1813, and what was actually credited at the final audit, of \$56,756 45, a sum corresponding within one or two thousand dollars with the amount of the balance reported against Governor Tompkins by the comptroller in 1818 and 1819, for which no vouchers were rendered.

The remarkable coincidence in these sums, and the obvious fairness

of the inference drawn from the statements by which they are produced, cannot fail to strike every unprejudiced mind with peculiar force; uncontradicted or unrefuted, they can bear no reasonable doubt, that the greater part, if not the whole of the deficiency in the late governor's accounts accrued from the loss of vouchers on these occasions.

It has been so considered by the comptroller, and assuming the imputation of an intentional suppression of them, against himself, which was never made by the late governor,—thus adding strong personal feelings to what he might consider the obligations of duty, he has left no effort untried, no industry spared, to repel the deductions which were made from the facts I have stated.

I will trespass upon the patience of the committee by a brief examination of the various grounds which have been assumed by the comptroller on this point; and if the facts disclosed, make the same impression upon their minds, which on a careful consideration of them, they do on mine, they must be perfectly satisfied, that the conclusions of the late governor are confirmed, and the position of the comptroller throughout untenable.

When this statement was first laid before the public, it was immediately reported by the enemies of Gov. Tompkins, that the vouchers which were thus missing, had been transmitted by him to Washington, and there allowed to him.

An article under the signature of "Economy," appeared in one of the papers of this city, which was twice published in the Register; and the public mind, (with how much truth, I know not) impressed with the belief that it originated from a high official source, requesting a suspension of public opinion; and assuring them, that in a short time, the reports which were so industriously circulated, that those vouchers had been thus transmitted to Washington, would be amply verified.

The attempt to redeem this pledge has been made, but except as to a few trifling and unimportant particulars, it has most grossly failed. To the abortive attempt, and the reasons assigned for its failure, I shall hereafter call the attention of the committee.

The ground which is now taken upon this subject, and that upon which the committee of ways and means have placed their principal reliance, is, that the items of credit included between the dates before mentioned, amount to a greater sum than is stated in the certificate of Messrs. Thompson, Morris, Murray and Leake, and therefore that the deficiency does not exist to a greater extent than \$22,300; and in to the examination of this position, I will first proceed.

To show that a larger amount of the credits reported in 1813, have been allowed to the late governor, in the final audit of his account, than is certified as above, the comptroller has furnished the committee of ways and means with a statement which accompanied their report,—marked No. 1.

Independent of the many objections which exist to particular parts of this statement, our attention cannot fail to be excited by the very general and unsatisfactory manner in which it is constructed. Instead of giving us an account for what each enumerated voucher was expended, that we might be able at one view to see whether the disbursement

was warranted by the act of the 12th June, the dates, numbers, and amounts of the vouchers are alone set forth; thereby rendering it necessary, in order to detect any error it may contain, not only that we should perfectly understand the various particulars of that act, but that we should recur to the original vouchers in his office, or to the different statement of allowances made by him in 1818 and 1819, scattered over the journals of the legislature at that period; I do not say that these circumstances render it impossible, with labor and care to test this statement; but I do say it is thus rendered so difficult and complex as to make it in the last degree impracticable, and situated as we are, it could not reasonably be expected, that such examinations would be made; nor is it unworthy of notice, that this statement contains under this single act, all the allowances for expenditures made to the late governor of every description, between the periods referred to, except about \$5000.

But there are objections to this statement which, to my mind, are unanswerable, appearing on its very face.—They are

1. On referring to the reports of the comptroller to the legislature, in 1813, and 1816, and to the list of warrants, it will clearly be seen, that no monies were drawn out of the treasury under this act, (except for camp equipage and fortifications which are included in his statement to the full amount,) before the 11th day of August, 1812; of consequence all vouchers bearing date between the 12th June and the 11th August (except for camp equipage and fortifications) cannot with any propriety, be considered as included in the report of 1813.— Upon referring to the statement under consideration, it will be found that vouchers subject to this objection, are included, to a large amount. (here Mr. Van Buren read the items to the committee.)

2. The comptroller, in his report to the assembly, in 1816, says, that the vouchers on which his report of 3d April, 1813, was founded, were delivered to him by the late governor in January or February, of that year: Of course no items of credit, included in the statement I am examining, after that period, can possibly have been in the report of 3d April, 1813: And upon referring to this statement, it will be found to include vouchers subject to this objection. [Here Mr. V. B. specified the items and the amount.]

3. This statement contains an item including payments made to John Vervor, which upon reference to the report of 1816, page 531, the comptroller has himself officially excluded from the expenditures under the act of 12th June, 1812: It is absurd, therefore, that in order to swell the statement he should include this sum.

4. There are also various items of payments included, for the erection of arsenals, pay of keepers, to commissaries, &c. which appear to have been expenditures under the act of February, 1808.

5. Into this estimate is also taken the whole of statement No. 2, of vouchers bearing date between 12th June, 1812 and 3d April, 1813, which the comptroller says *have not been allowed to the late governor, and were probably included in the report of 1813*; which statement appears to have been compiled from the rejected and suspended items of the audits of 1818 and 1819. This attempt to account for the lost vouchers, by impeaching the correctness of his official statements in

1813, is certainly extraordinary in an officer whose peremptory conclusions are always in favour of his own accuracy, and who draws such uncharitable commentaries upon the mistakes of his adversary. It is certainly arrogating too much to set up his audits and reports as infallible, and whenever it is found convenient for his purpose, to prove them erroneous. Against this, sir, I protest; and the whole of the statement No. 2, amounting to 16,204 60, is manifestly included without a shadow of reason.

If they were vouchers for expenditures warranted by that act, why does not the comptroller affirm it? and why have they not been allowed to the late governor? If they were not, why is it *probable* that they were included in it? Did that report include what it ought not? and was it an imposition on those who called for it?

That I am correct in my conclusion, is evident from the doubting manner in which the comptroller speaks of it; exhibiting an unwillingness to commit himself in the positive assertion that it was included in the report of 1813. Were these vouchers, thus erroneously included in the statement under consideration, which I have enumerated, in the hurried examination I have been able to give the subject, added to the deficiency which the comptroller admits, the vouchers rendered in 1813, it will be increased to upwards of 57,000 dollars.

Having thus endeavoured to satisfy the committee that this recently adopted method, of accounting for the deficiency of the credits contained in the report of 1813, was erroneous; and, as I hope, succeeded to the satisfaction of every unprejudiced mind,—I will proceed to the discussion of the remaining points which have been urged on this head, by the committee of ways and means, and the comptroller.

First is the allegation, which was heretofore put in the front rank, but which is now brought forward as an auxiliary, that the vouchers, which, by this point, it is conceded were once in the possession of the comptroller, but which are now missing, have been allowed to the late governor at Washington. I have before stated, that the attempt to account for the missing vouchers in this manner, has grossly failed; and that a few moments examination of the subject, will satisfy the committee that the assertion was not lightly made.

The committee of ways and means, Mr. Chairman, has informed us that the whole of the expenditure of the eighth section of the act of 12th of June, 1812, amounting to \$25,379.94 was of a nature to be allowed to the late governor at Washington, if charged there;—admit, for a moment, Sir, that all the disbursements under that section, that were included in the report of 1813, have been carried to Washington, there would still be a deficiency of \$31,376.51, yet unaccounted for. But, Sir, this does not appear to be the case. By a cursory examination of the credits of the late governor, in the various audits I find items which bear date between June, 1812, and 3d April, 1813, properly allowable under the eighth section above mentioned, amounting to upwards of \$14,000. This is of itself sufficient to put at rest the clamor of vouchers at Washington. It is no way probable, Sir, that the missing vouchers comprised all the expenditures under the eighth section of the act of 12th June; they rather, as the preceding fact evinces, were composed of disbursements exclusively chargeable to this state; and in ad-

dition to the incontestible evidence which has already been adduced, to shew that these vouchers, once proved to have been in the comptroller's hands, have never passed to the credit of Governor Tompkins, I will add another fact, which appears to have escaped the notice of that gentleman, and which affords the strongest confirmation of the correctness of his position.

In the report of 3d April, 1813, the comptroller, in his credits to Governor Tompkins, has included the following sums, page 117, Appendix to Journals of Assembly.—

For cannon,	\$1,435 50
For powder,	6,043 00
	<hr/>
Amounting to	\$7,478 50
I have examined the credits with the greatest care, and	
I cannot discover that more than	3,692 50
	<hr/>

has been allowed for those objects—making \$3,786 00 which, under no circumstances, could be considered as proper charges against the United States, and allowed at Washington. Where are the vouchers? It is demonstrated to conviction, that they were once in the comptroller's possession; it is equally certain that they have never been credited to the late governor;—they cannot be in his possession, for he can have no motive for withholding them; and the conclusion irresistibly follows, that they were lost, with others, in 1813.

With regard to the assertion of the committee of ways and means, and the comptroller, in relation to these lost vouchers, a point from which so much has been promised, and so little performed, I will observe,—After the most diligent enquiry and examination; after searching the offices at Washington, and obtaining transcripts of all the late governor's accounts with the general government, it has been discovered that expenditures which appear to have been included in the report of 1813, to the amount of one thousand and fifty-six dollars, being justly chargeable to the general government, have been allowed there, and never credited to the late governor by this state, viz.

Paid to David Parish, damages to his lands for fortifications,	\$200
Purchase of cannon ball picked up, and ammunition taken from the enemy,	131
Wages to armorers and quarter-masters' sergeants,	122
Paid for boat industry and bark canoe,	503
Paid for secret service, &c.	100
	<hr/>

\$1056

These, Sir, are the charges, and they are all the charges of expenditure embraced by the report of 1813, the vouchers for which appear to have been transmitted to Washington, out of nearly sixty thousand dollars which are missing;—as they have never been allowed to the late governor by this state, and as no man who knows any thing about it, pretends that there is any impropriety in the transmission, I will not, therefore, occupy the time of the committee, by noticing them farther,—nor can it be necessary, with intelligent men, to enter into a discussion to prove the extreme weakness of the presumption, that be-

cause these few trifling items were, by mistake, included in the report of 1813, that therefore the vouchers for \$56,756 of expenditures under that act, FORTY-FOUR THOUSAND DOLLARS of which, at least, were not chargeable to the United States, and could not, in any event, be allowed to Governor Tompkins at Washington.

But we are told that even if losses of vouchers had taken place, at the period referred to, no pecuniary losses could have been sustained ; that duplicates must have remained to the late governor, ready to be produced in the absence of the originals. However specious this assertion may be, Mr. Chairman, or with whatever confidence it may be urged, it can only deceive the ignorant, or delude the unwary. The only duplicates which could have been in the possession of the late governor, must have receipts of the sub-agents of the government, for advances made to them ; but in regard to expenditures by them, it is the constant practice of sub-agents to *retain one set of the vouchers*, and render the other to the principal ; of course, if any duplicates existed at all, in the nature of things, they would not have been in the late governor's hands. As, however, the voucher for the boat Industry, has been rendered so conspicuous in the intemperate discussions which have been had on this subject, the committee will, I hope, pardon me for submitting, in a few words, the fact in regard to it. When the comptroller made his report in 1813, this voucher, which was probably chargeable to the general government, was mixed with the vouchers of expenditure under state authority, and included by the comptroller in his report. After it was returned to the late governor, it was, as it ought to have been, with his accounts up to that period, charged to the United States, and passed to his credit by them. Nothing more was heard about it, until the meeting of the commissioners, in March, 1818, when in confirmation of the late governor's allegation of the loss of vouchers, the COMPTROLLER HIMSELF stated that he and Mr. Ely, remembered a voucher for the purchase of a vessel on Lake Ontario, which was among the credits reported in 1813, but which had not been included in any subsequent account. The circumstance was regarded at the time as corroborative of the presumption that the late governor had sustained losses in vouchers at that period. Upon discovering that it had been charged to the general government, it was entitled to no further consideration ; still, strange as it may appear, this circumstance, so innocent and unimportant in itself, has been bandied through the state, as a matter of grave and serious import, and as affording ground for the severest crimination. Thus it is, Sir, that in periods of great excitement, when strong passions and prejudices, are afloat, trifles, light as air, swell into importance, to fill the mouth of slander, for a moment, and excite contempt and ridicule for the future.

But we are told that the comptroller's inability to trace the other vouchers, arises from the refusal of the late governor to furnish him with a list of the vouchers supposed to have been lost, and with certain abstracts which are alleged to be necessary to that end ; the utter impracticability of furnishing such list, when it is believed that abstracts, as well as vouchers, are missing, further than they are contained in those preserved, must be obvious to every person.

The allegation of the late governor, in his letter to the comptroller,

is, that *part only* of those abstracts were returned to him ; it cannot be expected from these partial sources, can be extracted an ample list of the missing vouchers ; and it appears, that although the late governor declined to permit to the comptroller any further familiarity with his papers, he evinced a willingness to see him in the presence of friends, and give him any information required. This invitation, it appears, the comptroller declined. It is not my intention, sir, to discuss at large, the relative grounds taken by the parties to this controversy, in that particular—to examine particularly into the sufficiency of the reasons of the late governor for refusing to the comptroller and his agents, all access to his papers, except in the presence of indifferent persons ; or of those alledged by the comptroller, for declining the appointed mode for obtaining the information, he claims to have been of such vital importance, not only to elicit the truth, but as he supposes, to vindicate his own character.

But I cannot forbear remarking, that from the manner in which the private papers of the late governor were published, in 1818, by the comptroller, with his offensive remarks upon them,—from the transmission of his papers to Washington by Col. Pell, without his knowledge or consent,—from the use which has been made of the schedule attached to the opinion of his counsel—the comptroller could not have anticipated less than a peremptory refusal, and his declining the qualified permission which he requested, is evidence of his disappointment on that occasion.

To have complied with this request in its fullest extent, under circumstances so extraordinary, would have exhibited another striking instance of the unsuspecting mind of the late governor ; and he appears to have gathered caution from experience, in regard to his papers.

Had the object of the comptroller, been a fair adjustment of his accounts with the state, he undoubtedly would have furnished any information in his power. But if he had reason to believe, and did believe, that such were not the views which actuated the comptroller ; but that on the contrary, if they had appeared to his advantage, they would have remained unnoticed,—and if they could be tortured and perverted to his prejudice, they would be seized upon with avidity for that purpose, few men living, would have hesitated in declining, even the qualified permission which was granted.

But is it true, sir, that the production of the few abstracts which were returned to the late governor, at the period referred to, were indispensably necessary, to enable the comptroller, or those employed under him, for this purpose, to ascertain whether those monies had been allowed at Washington ? I deny that they were so. The reasons which are assigned for this position, are unsatisfactory.

The allegation of the comptroller, is, that the expenditures authorized by the 8th section of the act of June, 1812, were so like those authorized by the general government, that monies actually expended by the state, might have been allowed at Washington. That the expenditures included in his report, of 1813, of that description, amounted to \$25,379 94, and that because he has found a few hundred dollars, he very charitably concludes, that all the others are there, also. We have before remarked, that if even the comptroller's surmises were ad-

mitted, and that the whole \$25,379 94, had been transmitted to Washington, the deficiency of the credits, would still amount to \$31,378 51.

But, sir, the allegation, that it is impossible to discover whether these credits have been allowed at Washington or not, without the transcripts referred to, is, in my judgment, utterly destitute of foundation. Look at the report of expenditures under that section, and let any candid man answer me whether it is possible, that those sums could have been credited in the late governor's accounts, and that the comptroller, and the committee of ways and means, with those accounts before them, could not have discovered it. (Mr. Van Buren here read the items of the report of 1813, under that section; among which were the following: "Transportation of a number of uniform companies to Staten Island, including boarding and transportation of baggage, \$2406. Forage, \$1012. Fire wood and straw, \$1240," &c. &c. and commented on each item separately.)

Let me not be told, sir, when the very particular manner in which the payments to the late governor, are entered at Washington, is considered, that those credits could escape the comptroller's vigilance, if they had in truth been so allowed. It is not credible! The comptroller's own letter to the committee of ways and means, bears on its face an ample refutation of this assumption: to prove this, let two items only be referred to. In the report of 1813, the comptroller reports the expenditure of \$131 for the purchase of caannon ball picked up, and ammunition taken from the enemy; on referring to the late governor's accounts at Washington, he makes out that this charge is allowed, by combining seven vouchers of that description, making the amount. Again, in the same report, is included a charge of \$122— for wages to armourers, and quarter master sergeants, and he finds two vouchers for expenditures of that description, amounting to the precise sum. These items, sir, form a part of the \$1056 of that report, which has been allowed at Washington: and I submit it to the intelligence and candor of the committee, whether, if the other expenditures under that section had been disposed of in like manner, there is room to doubt that the fact might have been discovered by the statements.— The comptroller might at least have shewn, had the facts accorded with his representations, that allowances for similar expenditures, to nearly the same amount, had been credited to the late governor, at Washington. But he has not attempted it—nay, more, although the most voluminous communications have been made to the legislature, these abstracts from Washington, form no part of them; but are returned to him, at his instance. Why are they not communicated? they are of no use to the comptroller, except as evidence upon this point. I have not seen them; but I entertain not a doubt, if they were before us, the inspection of them would demonstrate the falsity and the injustice of his imputations. In every point of view, therefore, in which I have been able to regard this bold attempt to account for the deficiency of the report of 1813, I am constrained to regard it, not only as abortive in its execution, but highly unjustifiable in its design.

The next effort which is made by the comptroller, to obviate the deduction made from his report of 1813,—deductions which have put his ingenuity to the severest test, and which meet him at every point to which

he may lead the discussion ; is, his allegation, that the late governor has drawn monies out of the treasury, under the different appropriations, since the return of his vouchers in 1814, for the expenditure of which he has rendered no account, and that consequently, his inability to account in 1818, cannot have arisen from the loss of vouchers on that occasion. The appropriations he refers to, are the following, viz.

Under the act of April, 1815, for arms, &c.	22,200
October, 1814, payment of volunteer militia,	24,743
for fortifications,	13,368
rec'd. from the U. States,	6000

§66,511

I am no great accountant, sir, and the examination of this matter, which a sense of duty required at my hands, has been painful to me : unwilling, however, to condemn or approve, without understanding the subject, (as is too often the case,) I have probed the truth of this assertion, as far as is practicable : and if I have not egregiously deceived myself, I shall be able to demonstrate to the committee, that the attempt to subject the late governor, to the imputation of mal-appropriation of the public monies, ought, in justice, to recoil on the head of its inventor. The amount appropriated by the 5th section of the act of June 12, 1812, for the purposes contemplated by it, was twenty-five thousand dollars : and that by the 6th section, fifty thousand dollars. When, however, it became necessary to expend these monies, it was discovered that the amounts appropriated, were greatly inadequate. The legislature not being in session, and a majority of the assembly strenuously resisting all appropriations to support the war ; the only alternative presented to the late governor, was to let the public cause suffer, or on his own responsibility, exceed the appropriations authorized by those sections, and to apply other sums appropriated by the legislature, for certain purposes of defence, to other and more pressing objects, necessary for the general protection ; ever anxious to promote the general good, and regardless of his individual embarrassments, he chose the latter course. In due season, he communicated his doings in this particular, to the legislature ; who, by law, authorized the allowance of the excess of expenditure, out of any unexpended "appropriations made for purposes of defence."

In March, 1816, the comptroller was again called upon by the assembly, to report the monies which had been drawn from the treasury by Governor Tompkins, and the expenditure thereof.—The report of the comptroller, in pursuance to that call, will be found in the journals of that session, (page 526,) and on referring to it, the committee will find,

1st. That the late governor's expenditures under the 5th and 6th sections of the act, June 12th, 1812, had exceeded the appropriation \$50,991 :

2d. That the very monies constituting the two first items, refer-

red to by the comptroller, (excepting about \$2000,) amounting to \$46,000, are there reported to have been drawn from the treasury, by the late governor.

3d. That no particular account of the expenditure is given ; and

4th. That the reason why this had not been done, is given by the comptroller himself, in these words, Journals 1816, page 532—3 :

“ It will be seen, that the Governor’s expenditures, under
 “ some of the sections of the said act of 12th June, 1812, exceed
 “ the appropriations made by those sections respectively ; and it
 “ will also be seen, that *other appropriations have been drawn, and*
 “ *no account rendered of the expenditure of such appropriations.* The
 “ 3d section of the act to provide for the repayment of certain sums of
 “ money, advanced by the corporation of the city of New-York, for
 “ the defence of this state, and for other purposes, passed 24th Oct.
 “ 1814, and the 3d section of the act for the payment of certain of-
 “ ficers of government, and for other purposes, passed 18th April,
 “ 1815, authorises the allowance and payment of the said excess of
 “ expenditures.

“ BUT AS THE GOVERNOR HAS NOT DRAWN ANY MONEY UNDER
 “ THIS AUTHORITY, THE EXCESS MUST HAVE BEEN SATISFIED
 “ OUT OF THE SAID APPROPRIATIONS, FOR WHICH NO ACCOUNTS
 “ HAVE BEEN RENDERED.”

Here then, sir, is demonstration, that what is now alleged to be wrong, was, in 1816, officially accounted for to the legislature ; and that the comptroller is willing, for the purpose of stigmatising the late governor, to urge as a charge of mal-appropriation, that, which he himself acknowledged innocent, and has solemnly and satisfactorily *explained*.

In regard, Sir, to the sum included for fortifications, amounting to \$19,368, it is proper to remark, that it contains \$6,000, received from the United States, which is actually charged by them to Governor Tompkins, in the books of the war department at Washington. He being thus held accountable to the general government for its expenditure, cannot, with any kind of propriety, be *charged again by the state*. And I am at a loss to discern the cogency of the reasons assigned by the committee of ways and means, for persisting to hold him accountable here, “ until he shall have discharged himself at Washington.” To be held to pay the money once is surely enough, and if it is properly due there, it is not chargeable here. But to the remaining sum of \$13,368.21, which is stated to have been drawn for the completion of fortifications on *Staten Island*, I must be permitted to call the attention of the committee. From the location of this expenditure, in the county of Richmond, the residence of the late governor, and to give additional venom to the slanders in circulation, much industry has been used to inculcate the idea, that this sum was drawn directly from the treasury, and that no part of it has ever been appropriated or accounted for.

The late governor, on the 26th March, 1816, received a credit for \$144,772.95, of expenditures, for fortifications, as appears by the journals of the assembly of 1816, page 531 ; including a balance

of \$1,366, in the hands of the commissioners, and the whole balance received by him for that object, then unaccounted for, was \$9,674 94. This balance, Mr. Chairman, beyond all doubt, has been faithfully expended, and is included in the sums advanced to agents, credited to the late governor by the act of the last session, amounting to upwards of \$80,000, which have not yet been distributed under the different heads of expenditure; and I make no doubt but part, if not all, will be found, whenever they shall be investigated, in the accounts of John M'Lean, which, by the journals of the assembly, were lodged for examination, and to which the late governor has had, as yet, no access.*

Since the account of the 26th March, 1816, was audited, Sir, the late governor has received for fortifications, as follows, viz.—

Journals 1819, 465,	1816, April 3,	\$5,000
466,	May 10,	2,000
"	Dec. 19,	3,500
"	Dec. 27,	5,500
"	1817, Feb. 22,	7,000
	For timber sold,	668 78

\$23,668 78

And he has accounted for and received credit as follows, viz.—

Journals 1819, 465,	1817, July 23,	\$18,424 40
466,	1818, Jan. 15,	135
469,	1818, Jan. 25,	1,101 75
471	1819, Jan. 29,	336 98
Appendix to } 99	1819, Aug. 27,	416 11
four. 1820, } 105	" "	1,000

\$21,414 24

Thus it appears that the amounts drawn since 3d April, 1816, including the appropriations last made, independent of such part of the 80,000 dollars not yet arranged under its proper head of expenditure, there is but little more than two thousand dollars which is not recorded on the journals of the Assembly as duly accounted for! And yet, Sir, the committee of ways and means have reported, that under the act of 12th November, 1816, the late governor is deficient the sum of \$13,368.21. Even the comptroller was not willing to

* This suggestion of Mr. Van Buren has been verified. A slight inspection of those accounts has been obtained by a friend of Governor Tompkins, and they are found to contain, among specific charges for labour at Fort Richmond, Staten Island, receipts from the same individuals, for the same services and expenses, as were allowed by Mr. M'Intyre, in the fortification account, of 26th Mar. 1816. Application was made, in behalf of Governor Tompkins, for abstracts of the vouchers, but it was refused, on the ground that the account, not having been audited, was liable to be taken away by Mr. M'Lean,—which has since been done, in consequence of that application. And yet have Mr. M'Intyre and his deputy positively certified, that this money remained unaccounted for, notwithstanding accounts have been in that office for examination, for more than two years, which absolutely contain expenditures for those objects.

go thus far, although he was not backward in certifying positively that certain appropriations were unsatisfied, when there were in his books acknowledged credits of upwards of 80,000 dollars, which had been advanced to agents in different departments, and which, without recourse to the details of expenditure, he could not know had not been applied on those very appropriations ! Did the committee of ways and means, Sir, properly pursue the facts which an ordinary degree of diligence would have disclosed to them, or blindly adopting the information of the comptroller, transcend even him in the unholy work of misrepresenting the late governor ? It is indeed to be feared, Sir, that in entering into this investigation they did not discard all former prepossessions, and listened too credulously to careless statements or interested misrepresentations.

It is proven, Sir, that these sixty thousand, three hundred and eleven dollars, which, in 1820, the comptroller would have us believe, were appropriated by Governor Tompkins to his own use, were expended in the public service, and that the fact, that forty-seven thousand dollars had been so expended, was known to the comptroller in 1816, and thus solemnly reported by him to the legislature.

I am satisfied that no possible answer can be given to the position I have taken, in regard to these monies. There will, however, be sufficient time before this discussion closes, to advise with the comptroller, and to correct me if I am wrong ; but if that is not done, which I am persuaded cannot be, I trust I shall neither be deemed uncharitable or illiberal, in regarding this third attempt to account for the lost vouchers, as evincing an overweening anxiety to heap reproach on the late governor, and disclosing motives of a character wholly different from a mere discharge of official duty.

I have thus, Sir, as I hope, fully and impartially examined the various grounds which have been taken by the comptroller to account for the deficiency of *upwards of fifty-six thousand dollars*, of the vouchers acknowledged to have been rendered by the late governor to the comptroller, in 1815 ; and I trust, satisfied the committee that those grounds are, one and all, untenable. They are so in fact ; and upon a careful review of all the circumstances, I am thoroughly convinced that the late governor sustained a very serious and extensive loss by the accidental mislaying, or fraudulent suppression of his vouchers, at the period referred to. That they were separated from each other, is proved by the fact of their not being all returned when first demanded by Governor Tompkins. And when complaint was made by him of the loss, in searching for, and returning a few more papers, the comptroller himself was not prepared to say they were all sent back, but qualifies his letter, which accompanied them, by saying that *he believed* they were all.

When I say, however, that those vouchers were either mislaid, or *fraudulently suppressed*, I must not be understood as insinuating that they were so suppressed by the comptroller, or his deputy ; much as my opinion of that officer has changed, I have never sup-

posed him guilty of so foul an act ; nor has he, to my knowledge or understanding, been charged with it by the late governor. Had he not chosen to assume to himself that imputation, and accompanied his refutation with an attack on the late governor, in point of invective and scurrility without precedent in a correspondence of the kind,—I am well satisfied that it would have given that gentleman pleasure to have disavowed the imputation ; but, Sir, the obviousness that the assumption was made to justify the virulence of the comptroller, and the outrageous indecency of his letter of the 13th December, 1819, has put it out of the power of Governor Tompkins, without derogating from his own dignity, to notice it in any manner.

It by no means follows, sir, that if these vouchers were destroyed, that it must have been done by the comptroller or his deputy.—There were not wanting men, at that period, who had the strongest possible inducements, to break through every consideration of integrity and honour, to annoy the late governor. It cannot be forgotten, that he had the preceding spring, been called upon to exercise the strongest attribute of power, with which he was invested by the constitution, to save the bleeding honour of the state, and protect its dearest interest from the mercenary grasp of a most unprincipled combination. It is well known, that by so doing, he exposed himself to the malice of a band of veterans in iniquity, possessed both of capacity and the disposition, to inflict upon him the severest vengeance. Men who were withheld by no ties of honour, no obligations of conscience ! who bartered thier own integrity for gold, and lent themselves the depraved instruments of corruption, to pollute the fountains of our laws, and destroy the palladium of our liberties !

The scenes which were arrested by the prorogation in 1812, were renewed in 1813, when the BONUS OF THE BANK OF AMERICA was relinquished ; between many of the actors in those nefarious schemes, and the comptroller, there existed a strong political affinity ;* they had free access to his office ; they were actuated by a spirit of resentment against the late governor, which has, to this day, lost none of its virulence, and which will doubtless pursue him to his grave ;—and how far he may have been made a victim at the unhallowed shrine of political vengeance, and disappointed cupidity, remains to be developed by the progressive hand of time.

The threats and execrations of those men, at that day, were clamorous and vindictive,—but their anathemas and denunciations were never more deep or loud than at the present moment ; and, shame on the degeneracy of the times, (notwithstanding the indelible disgrace inflicted upon the character of the state, by their flagitious machinations,) some of these very men, who were driven by the late governor, in exercise of the constitutional energies, dis-

* The letter of David Thomas, to Edward Savage, published in the Albany Argus, of 24th March, speaking of Archibald McIntyre, as engaged in the same political projects, is evidence of the truth of this declaration. EDITOR.

comfited and dismayed, from the hall of our legislature, by new union of interests, and new combinations of party, are enabled, in that very hall, to thunder forth declamatory invective and calumny against him.

If, in the two positions I have taken in regard to these accounts, I am correct ;—and, if wrong, let my errors be pointed out, and I will be the first to yield my firm conviction to the force of truth. But, Sir, if these positions shall remain unanswered, then is it conclusive that the balance of \$119,629.50, claimed by the state from the late governor, is wholly unjust. That it is so in a very great degree, is beyond all question ; and the probability that such is entirely the case, is greatly increased, by the manner in which these accounts have been settled, and the principles which have governed the comptroller in his audit.

Permit me, Sir, to illustrate this position by reading to the committee the items still suspended, with the reasons for their suspension by the comptroller. [Here Mr. Van Buren read that part of the comptroller's report, and undertook to shew, that of the large sums still suspended by him, many of them were so on grounds of informality, when no rational doubt could exist as to their justice.]

It was in view of claims like these, Sir, on the part of the state, against the late governor, and of a balance thus produced, that the legislature were called upon to prescribe an equitable mode of settlement ; but these, Sir, were not the only considerations which were presented, calling for the display of the justice and liberality of the state, but others forcibly demanded attention.

The time will not permit me, however, to discuss these matters at large, desirable as their discussion is rendered by the gross misrepresentations which are made in regard to them. They consisted of great advantages and positive pecuniary gain to the state, in consequence of the assumption of personal responsibilities by the late governor, in the disposition and acquisition of arms and munitions of war ; responsibilities which, if he had been unfortunate, would have involved him in irretrievable ruin.—Of a great variety of sacrifices and expenditures required by the state of the country, though not authorized by law, and for which it is not pretended that he has been in any way remunerated.—Of the entire prostration, for years, of his individual credit, and the consequent prejudice to his private affairs.—The destruction of his health by unremitting labours in the public service, and of his peace of mind, by enormous and long continued responsibilities. Considerations, which, although founded on no *legal* claim against the state, addressed themselves to the hearts and understanding of every man not poisoned by prejudice, or constitutionally insensible to the claims of merit ; nor did they address themselves in vain. Then the venomous spirit of political rivalry had not connected itself with the question ; all seemed anxious to be foremost in doing justice to a meritorious citizen, who, as acknowledged by all, had done the state a service, which ought never to be forgotten.

A resolution was passed in the Assembly unanimously, and in the Senate nearly so, appointing commissioners with powers similar to those appointed to settle the accounts of the revolutionary war. By consent of Governor Tompkins, gentlemen were named who had always been his political opponents; they met, heard and discussed his claims with impartiality, and decided on terms of settlement which would have left him a balance of upwards of \$60,000. Accident rendered this decision inoperative: their report was, however, communicated to the legislature, and referred to a joint committee, composed again, in a great degree, of his most violent political opponents. They also assembled and deliberately considered his case; the comptroller was consulted in their deliberations, and after the most mature consideration, they became satisfied of the difficulty, if not impracticability, of arriving at a correct adjustment of the accounts; and by the advice of the comptroller, they decided on making an allowance of premium to the late governor, for services eminently valuable to the state, which would discharge the accountability of the late governor and create a balance in his favor; and a bill, containing those provisions, was reported and passed into a law.

By the passage of this law, so honorable to the state, and so just to the late governor, all difficulties between them seemed to be settled, and his numerous friends were relieved from their anxieties on account of the multiplied and distressing embarrassments in which his devotion to his country had involved him. But alas! their satisfaction was of short duration. Notwithstanding the general good will which was professed by all, a disposition, covertly, but decidedly hostile to the provisions of the bill, upon its passage in the Assembly, was evident to those who, without regard to professions, look deeper into the views of men. Several abortive attempts were made by distinguished members of that body, to curtail and substantially defeat the operations of the law; that disposition, however, manifested itself too late, and the bill passed as it was reported.

The execution of this law devolved upon a single officer; within ten days after its passage, the comptroller discovered difficulties in its construction, which had neither been anticipated by its friends, or avowed by himself, and after a tedious but fruitless negotiation, he finally resolved to defeat the law altogether, by refusing to allow a single dollar under it. It is not for me to say or insinuate what were the inducements which led to this sudden and unexpected change; to do that might require a deeper scrutiny into the hearts of men, than the policy of the times allow. I leave the justification of this decision to those who produced, it and their motives to the judgment of an enlightened public.

The feelings of the late governor were, as they could not fail to be, much excited by this unlooked-for measure, and he fancied then he was made a victim to political designs, and that conviction contributed to a discussion of much warmth and acrimony, of which the committee, as well as the public, are fully advised. It is in consequence of the stand thus taken by the comptroller, that the bill upon your table has become necessary, and this brings us to the discussion of the merits, and of the various objections which have been made to the allowance claimed under the act of the last session, as well by the comptroller as by the committee of ways and means of the hon. the assembly.

Upon this subject, sir, I cannot help observing, that I know of no instance, nor do I believe that any has existed, in which a bold attempt to mislead the public mind from the real point in controversy, to one which never had existence, has met with more success. From the commencement of this dispute down to this very moment, the most unwearied industry has been exercised to show that it was on account of the *large sums of money which had been claimed out of the treasury, that the comptroller refused the allowance contemplated by the act.* And it is more than probable that thousands of honest but deluded men still labor under that impression.

IT IS FALSE, SIR, IN ALL RESPECTS FALSE, THAT THE RATE OF PREMIUM OR AMOUNT CLAIMED BY THE LATE GOVERNOR, HAD ANY THING TO DO WITH OR IN ANY SENSE LED TO THE GROUND TAKEN BY THE COMPTROLLER.

When, sir, was that ground taken? *In April*, within ten days after the passage of the law, when Mr. Bronson's letter had not existence; when the certificate of Prime, Ward and Sands, had not been produced; when not a word had been said on the subject of premium. I hold in my hand, sir, and I submit it for the inspection of the committee, the original letter of the comptroller to the late governor, which gives his final answer. *It says not a word about the extent of the demand or the rate of premium;* HE PUTS HIMSELF ON THE CONSTRUCTION OF THE ACT, AND ON THAT ALONE.

But, sir, why waste our time on that subject? If the late governor has ever made this extensive claim, when, where, and how was it done? Let any man put his finger upon the proof of it. But in the name of all that is decent, let us not hear of what *might have been done*, and what the comptroller *might have apprehended, might have been claimed.*

Of reasoning like this, whatever success it may have met with elsewhere, I trust in God it is not calculated for this meridian.

If, as the committee of ways and means say, that the comptroller might well have "understood" that such were the claims of the late governor, why, in the name of common sense, did he not put that matter at rest, by simply asking him whether he did in fact claim that amount? That, sir, would have decided the question. Subsequent events have clearly shewn what the answer would have been, and I fear as clearly *the reason why the inquiry was not made.* As early as August last, the late governor distinctly informed the comptroller, that he claimed but 13 per centum, and that he would receive no balance under the act, over \$25,000. This is admitted by the comptroller; but he says this was after the negotiation was broken off. Indeed, sir! And why did he not then resumé the negotiation? Or was the state to be involved in a controversy, jeopardizing its quiet and subjecting its character for justice to question, on a point of etiquette raised by its comptroller? If the amount claimed was the difficulty, why did not that officer express to the late governor his satisfaction at finding that he had misunderstood his views on that head, and seize on the opportunity thus presented, to terminate the controversy? If that *was not the difficulty*, why has it been dragged into the discussion? I will tell you, sir. It has happened that laws deeply exciting the public interest, after a lapse of years, when those

individuals who knew the objects of the legislature, had passed away, have been perverted by the quibbles of casuists, and their operation defeated. But in cases like the present, where the intent and meaning of the legislature, was fresh in the recollection of every member of that body, some device was necessary in order that the motives which have dictated the construction of an act which defeats its original designs, should be guarded from public scrutiny. The people of this state knew well what was the intention of the legislature in regard to that law; they knew that the construction put upon it by the comptroller, was contrary to that intention: no sophistry could convince them otherwise, and they would not stoop to consider the tinselled logic resorted to, to prove that they did not *know legally*, what their entire judgment approved. It was to bolster up that construction adopted without reason to conceal its fallacy, and by alarming the public jealousy for the interests of the treasury, that their attention was diverted from the real point in controversy. But, sir, I will pursue this topic no farther, and I desist, because I trust there is not one man in this committee so wretched in intellect, or so wilfully blind, as to be really deceived in regard to it.

It is therefore the correctness of the Comptroller's construction, "*that the law was not intended to apply to loans, when in addition to the late Governor's personal responsibility, he likewise deposited treasury notes,*" which is alone the subject of dispute, and should, in reviewing the merits of that dispute, be the only subject of discussion; and in entering into the investigation, I confess myself embarrassed by the apprehension, that it cannot be otherwise than wearisome to the committee. I feel, sir, that the mind of every intelligent man, must have long since become satisfied of the fallacy of the construction, set up by the Comptroller: But I must beg the indulgence of the committee, while I attempt to establish the fact beyond controversy. [Mr. Van Beuren here entered into a minute discussion of the various reasons, which have been assigned for and against the Comptroller's construction, and of the principles which ought to govern in the case, but which, under a full conviction, that no intelligent man doubts that the interpretation of the act, by the Comptroller, was, to say the least of it, manifestly wrong. It is not thought necessary to publish his arguments. He proceeded.]

There is one circumstance, Mr. Chairman, which has not failed to produce feelings of surprise and regret in my mind, and I trust it can have no other operation in the minds this committee. It is, sir, that while on the one hand, the late governor had taken the written opinions of nine counsellors, who, together, form a constellation of talent and a body of professional character, not to be exceeded in this or any other country; the comptroller had taken this important step, had assumed ground which went wholly to defeat a solemn act of the legislature, before the ink with which it was signed, was scarcely dry, without the acknowledged sanction of a single responsible opinion!

I will not, for obvious reasons, ask why he did not, as was usual to him on such occasions, take the opinion of the then law officer of the government; but I will ask why, when that officer was removed, and another, in whose opinions he undoubtedly reposed implicit confidence appointed, he did not consult him; that his conduct in this affair, might at

least have the appearance of being guided by no other motives than considerations of business. Or if he became entangled by his first step on this head; or if he was fearful, that by consulting the present attorney general, he would expose the motives which had led to the appointment of that distinguished officer, to suspicion, why did he not take the opinion of other professional men, at the expense of this state? It is to be regretted that he did not do so, much good might have resulted from it. It would at least have served to vindicate the public justice; to have repelled the suspicion, difficult of suppression, that every thing, in this devoted state, is made to bend to the purposes of party, and to have removed the impression which exists abroad, that the highest and most sacred offices of our government, are too often prostituted in the service of faction. These considerations have, however, been wholly disregarded, and no justifiable reason has yet been assigned, why either of these courses was not pursued, and I fear that the case will not admit of any.

The next objection raised by the committee of ways and means, to the allowance claimed by the late governor, is the alleged deficiency of proof, that his personal responsibility was subjected for the loans in question. I will examine this part of that report in detail, and I pledge myself to demonstrate that (with the single exception of the loan from the Mechanics' bank, in New-York, the evidence of which is lost by the death of the then cashier of that institution,) that committee are wholly wrong in this part of their report, and in most respects grossly so. [Mr. Van Buren then read the various documents relating to each loan, and commented on their import and legal effect. Their length renders the publication of them impracticable.

1. As to the loan from the Manhattan company, the original agreement by which the late governor made himself expressly liable for the loan.

2. That from the New-York State bank, a similar agreement.

3. From the bank of America, a similar agreement.

4. From the Farmers' and Mechanics' bank of Albany, a similar agreement.

5. From the City bank of New-York, a certificate from the cashier, that the late governor had made himself personally responsible for the loan, and he shewed also, from the report of the committee of ways and means, that he had become so, by consenting to a sale of the treasury notes for what they would fetch, contrary to the act of congress, by which all officers entrusted with treasury notes, were held liable for their par value, and prohibited the disposal of them for less.

6. Corporation of New-York of \$400,000: A certificate from T. R. Smith, Secretary of the committee of defence of said corporation, that the said loan was made upon the promise of the late governor, that he would indorse the treasury notes to be delivered in his individual capacity.

7. A second loan from the Manhattan company: A certificate from the President, that this loan was effected on the same security as the first, and a consent also, to dispose of the treasury notes, as they might think proper.

8. A second loan from the corporation of New-York of \$100,000

A certificate from the secretary of the committee of defence, that the late governor had made himself personally responsible by indorsing the treasury notes; and concluded by saying]

I have thus, sir, I hope, to the satisfaction of every member of this committee, redeemed my pledge to demonstrate the palpable mistakes into which the honorable committee of the other house have fallen on this point, and of proving, that the personal responsibility of the late governor was pledged for the repayment of these loans, and will therefore abstain from farther remarks on that head. There is, however, one circumstance, connected with the last certificate of the secretary of the committee of defence, so illustrative of the fine and noble feelings of that day, and affording so melancholy a contrast with those of the present period, that I cannot avoid adverting to it. It appears, sir, that the monies raised upon that loan, were expended in the payment of the Jersey militia— at a moment when the city of New-York was menaced with destruction—when the alarm for its safety was at its height; the attention of our brethren of New-Jersey was directed to our protection, and notwithstanding the danger to which their own coast was exposed, she sent a gallant and patriotic band of her citizen soldiers, for the defence of New-York—In common with the militia of our state, they were kept out of their pay, and subjected to the greatest embarrassments in obtaining supplies, through the inability of the general government to furnish the means—to afford relief in the pressing emergency, and guard against the disastrous consequences which might have resulted from it to the service;—Gov. Tompkins, on his own responsibility, raised these monies and expended them as I have stated. The feelings which were produced by that noble act, are so well portrayed in a letter from their commander, that I cannot resist the opportunity of submitting it to the committee. It was thus, sir, that the men to whom the country looked for defence at that period, felt and acted.

(COPY.)

Camp, Jersey City, Dec. 9, 1814.

His Excellency Gov. Tompkins —

About leaving the post which has been assigned me by my country, I cannot avoid, in behalf of the regiment under my command, testifying to your excellency, the great satisfaction that has been expressed by all, at the conduct of the state of New-York, through the individual exertions of her commander in chief, in her behalf: And through me, as their commander, to return to your excellency for them and myself, our grateful acknowledgments for the favors conferred in visiting and comforting us, and in paying us our due; and I do not hesitate to declare, in behalf of all, that under every calamitous and dangerous situation, in which your city may be placed, we shall feel a readiness to be among the number who shall act in her defence, and in the defence of our common country.

I am, Sir, yours with esteem,

J. W. FRELINGHUYSEN,

late under your command.

I confess, sir, that it is with difficulty that I can repress my feelings in reviving the recollection of those interesting scenes; and I pity, sir, from my soul I pity the wretch, who, rendered callous by the petty intrigues of the hour, can remain insensible to their influence. Such services ought never to be forgotten; but it would seem that they are no longer regarded. Forgotten, did I say? They are not forgotten! It would be a libel on the honest yeomanry of this state, to suppose that they could ever cease to remember them with sentiments of the warmest gratitude. It is only by those who never in their hearts approved the glorious cause in which they were performed, to whom their author never appeared more offensive, than when in the very act of performing them, that they are now disregarded, ridiculed and reviled.

But we are next told by the honorable committee, that the late governor, in effecting these loans and the expenditure of them, acted as the agent of the general government, and that therefore the allowance ought not to be made to him. After it had been distinctly admitted, as well by the commissioners, Colden and Bogardus, that these services furnished no ground for legal claim against the state; after it had also been stated in terms by the joint committee of the last session, in the report which is in our journals; and after a full view of that matter, the legislature had considered, that although they found no legal claim, they notwithstanding presented considerations of such strong equity, as to entitle them to our consideration; and on that avowed ground, passed the law in question. When these things were considered, it could scarcely have been anticipated by any one, that among all the pretences which might be resorted to, to defeat the operation of that law, this stale and foregone conclusion would have been again pressed into the service. But the honorable the committee of ways and means are not content with this. They go farther, and say, that these services do not "FURNISH THE LEAST PRETENCE FOR A CLAIM UPON THIS STATE." I confess, sir, that I have read this part of their report with pain and with unfeigned regret, and do hope, for the character of the state, for the honor of human nature, that I am not alone in that sentiment—that I am not the only man who apprehends that posterity will look upon our journals in this particular, as upon the record of our ingratitude.

Look, sir, at the state of the country, and of the city of New-York in particular, when the loans from the bank of America, and the other public bodies in that city, were obtained, and reflect on the uses to which they were appropriated. The capitol of the nation had been laid in ashes by a ruthless foe, and the heads of your government driven from their occupations by his victorious arms; Baltimore had been saved by a providential interposition; your frontiers were threatened in all directions; large hostile armaments were known to be on the ocean, and New-York believed by every one to be the destined scene of their operations: the invasion of that city was hourly expected. To meet this perilous crisis, governor Tompkins had declined the honor and the comparative ease of the department of state, tendered to him by the president, called from various and remote parts of the state, its best blood and its noblest spirits, for the defence of New-York; he contributed the advantage of his well deserved popularity and favor with the militia,

and took upon himself the actual command; but "to give the deepest shade to the gloomy aspect of our affairs, and add to the difficulty of their redemption, the national government were literally penniless." Kept without pay, and deprived even of the means to obtain supplies, discontent and murmurs pervaded the camp—discontents which even the warmth of their attachment to their chief, could not subdue. At this critical moment, he applied for these loans; he offered to deposit with those banks, the most valuable securities of the government, to amounts larger than the loans which were asked, securities which could only fail with the government itself. But, "tell it not in Gath, publish it not in the streets of Askalon," that under circumstances like these, when the city of their fathers was threatened with destruction, and the ashes of those fathers exposed to indignity—when the venerable institutions, the monuments of the arts and the proud improvements of ages, were exposed to the hands of violence and the torch of the incendiary—when the excesses of Hampton and of Havre de Grace, were staring them in the face, and their wives and daughters were to be protected from pollution,—at such a time, sir, so eminently calculated to rouse into action, the strongest feelings of their nature, these loans were refused, unless this individual, who was, as it were, a stranger in their city, would bind his body and his estate for their repayment. *They would not trust the government of their country, unless he would give his bond for its solvency.* He did it, and the danger passed by.

Turn your attention, sir, for a moment, to the north. By the ever glorious achievement of the gallant M'Donough, your northern frontier had been rescued from the grasp of the enemy: that enemy had retired discomfited and disgraced before a vastly inferior force, a force which, under the command of Generals Mooers, Strong and Macomb, had done all that men could do, but which from its numbers and its organization, afforded no adequate security against the numerous and well-disciplined bands by which they were again to be attacked. The pride of the enemy had been humbled, but his power remained unsubdued: The most vigorous exertions were making by his commanders to effect the redemption of their lost honor in the ensuing campaign, and "the busy note of preparation" resounded along our borders. The gallant army of Niagara was on the point of disbandment from the want of supplies, and the quarter masters and contractors were without funds. In this state of things, the contractor, Cheever, sought governor Tompkins at New-York, and informed him that the troops at Sacket's Harbor, would inevitably be disbanded, unless instant relief was afforded. Funds for that purpose could not be obtained in that city: Gov. Tompkins repaired to Albany. He applied to the two banks in this city; he represented to them the state of affairs: and notwithstanding the exposed state of our frontiers, the danger which threatened their fellow citizens in those quarters, the deep interest which this city had in the events of the ensuing campaign,—notwithstanding one of those was your State bank, a very great proportion of the funds of which belonged to the very people whose homes and firesides were to be defended—notwithstanding many of those to whom the management of that institution had been committed, had, at that very moment, contracts pending with the government, grow

ing out of the war, upon which they were the gainers to rising of \$300,000, and by which they have amassed splendid fortunes—they too were deaf to the application, unless this injured individual would, by a formal instrument in writing, make himself personally responsible for the repayment of those monies. They too refused the security of the government unless he would become its incosser. He complied, and the wants of your soldiers were relieved. And yet, sir, we are told that services like these “furnish no pretence of claim upon this state.” Nay, more; some of those men have the hardihood to trifle with public sensibility, by presiding at public meetings, and putting their names to addresses to the people, heaping the severest censure and the foulest reproaches on the devoted head of the man whom they know to be so well entitled to the lasting gratitude of the state.

Others, sir, may look on sentiments and proceedings like these with indifference, and even with complacency; but I cannot—I acknowledge, sir, that they fill my mind with feelings of strong, but I hope honest indignation: Nor can I listen, sir, to the declaration that services such as we have been contemplating, “furnish no pretence of claim upon us,” without feeling for the reputation of this great and flourishing state: But I console myself, however, with an abiding hope, that the time will yet arrive, when better and milder feelings will prevail—When the records of those proceedings will be viewed in their true light, and we saved from the reproaches of posterity, by blotting them out forever.

The next and closing objection raised to the claims of the late Governor, under the act of the last session, remains to be considered; and I sincerely wish that I could, consistent with what I deem my duty, omit the notice of it. It strongly exemplifies the ravages which highly excited political feelings make upon the brightest intellects, and the extent to which they may pervert the best intentions. We are told by the committee of the honorable the Assembly, that the act of the last session makes an allowance to the late governor of a premium on all monies raised by him, and expended in “the public service,”—that by the public service, “must manifestly mean the public service of this state;” and they add, if such is not the construction, the act would equally apply “to the public service of any other state or government whatever;” and as the monies in question were expended, technically, in the service of the U. S. it is supposed that no premium can, on that account, be allowed. I am embarrassed, sir, by the respect which is justly due to the proceedings of a co ordinate branch of the government, in animadverting on this part of the report, and prevented from subjecting it to the scrutiny which, under different circumstances, it might deserve. To suppose that the act which this committee have exercised so much labor to expound had never been read by them, would be, to the last degree, disrespectful to that honorable body. But when I consider that the very section which authorises the allowance of this premium, directs that it *shall be charged by this state to the United States*, the ground on which they fancied that the “public service,” contemplated by the bill, was embarrassed by difficulty, or involved in doubt, are, I confess, to my mind, inexplicable. But I forbear, in charity, to press the discussion further—I am apprehensive that by doing so, I might

break through that deference and respect I owe to this report, and which I have promised to observe.

One word more and I dismiss the subject. Did even the ambiguity so appalling to the committee of ways and means, but which I confess, Mr. Chairman, I cannot discover, really exist; were it necessary to establish claims under the law, to prove, that "public services," other than those of salvation to our cities and protection to our frontiers, have been rendered by Governor Tompkins, have they not been performed? Suppose, sir, instead of calling your militia, upon his own responsibility, directly into the service of the United States, he had ordered it into service under the laws of this state, *as it would have been his bounden duty to have done, in case of failure by the U. States to furnish the means*, what, in that case, would have been the unavoidable consequence? Why, sir, the faith of the state would have been pledged for their payment: The public coffers would have been drained by heavy expenses—Forced loans, of at least a million of dollars, at exorbitant premiums, would have been necessary—Taxes would have burthened your citizens—And at the end of the war, with an exhausted treasury, you would have had an unliquidated account against the general government of more than a million of dollars. Look, sir, at those states who chose to call out their militia under state authority! Have their expenses been allowed by the general government? I think not. But, sir, by the wise policy of governor Tompkins, and his fearless assumption of responsibilities, when others shrunk in dismay, the burthen of the war, of which this state has been the principal theatre, has been borne by the general government; and the losses sustained by raising monies for sudden emergencies borne by the United States.

It has struck me, Mr. Chairman, as not the least unpleasant feature in this production, that in the minute and extensive view which it professes to take of the conduct of the governor during the late war, not a lip of commendation has escaped the committee on any point. Was his conduct censurable in all respects? Did he do no act in the hour of trial which entitled him to our thanks or our favor? It would seem so. I am sorry to be obliged to notice this evidence of jaundiced feeling in the report under consideration; and it is with mingled feelings of mortification and pain that I mention it: Not, sir, that I could have expected much of indulgence, or even charity, on this head from a venerable and conspicuous member of that committee; for however much I respect his private worth and general sense of justice, I know, too well, his feelings on this subject, to have expected that the tenacity of his temper would yield to ordinary means of conviction, or his inflexible hostility be made to bend to considerations of public gratitude for the individual in question. I had the honor of sitting with him on this floor, during that period of the war, when he occupied a seat in this house, and while a great portion of these monies were expended. I remembered well the vigorous exertions he had made to defeat the appropriations by which those expenditures were authorised—the great losses to the state, which he has so often anticipated from her support of the country, during the war, and knew too well his great anxiety to palliate, if not justify, the course he then pursued, by proving that his denunciations on this head were prophetic. To have expected aught of favor or indulgence from that source would have been

visionary; but I did think there was at least one member of that committee whose feelings beat as high in the public cause as those of any man, at the interesting period of which we have been speaking. I was loath to believe that the paltry interests of the hour could dispel those noble feelings of patriotism and quench the glow of gratitude towards the benefactor of his country—But no more of this—*Tempora mutantur, &c.*

There are a great variety of other matters connected with this subject, which would admit of profitable discussion, but our time will not allow it. I cannot, however, refrain from bestowing a passing remark on one feature in the last letter of the comptroller to the committee of ways and means. I allude to his remarks on the \$200 paid to capt. Magher: To my mind, the conduct of the comptroller in relation to this business, is more offensive than it has been in any other, because, sir, to me, it evinces deep rooted and rancorous hostility, and serves to illustrate the temper which has governed him throughout this controversy. Take his own statement for true, and what is it? The late governor has received a credit of \$200, from the general government, for monies which had been repaid to him, and which he ought to have credited to them, but which it is supposed by the comptroller has not been done: the same monies were once included in his accounts against the state, but have never been allowed. The state has no longer any interest in respect to this matter. The comptroller therefore stands as a volunteer in this business, without the pretence of official duties to palliate his conduct. In this character he gets abstracts of the vice president's accounts with the U. States, amounting to between *one and two millions of dollars*, and after a critical scrutiny, he finds ground to believe that a mistake has been made against that government, to the amount of \$200, and he wishes us to believe that the late governor intended to practise a deliberate fraud on the government for that trifling amount. You, sir, and the members of this committee, all know the late governor; some of you have known him from his cradle; and I put it to you and to them, is there a man of you, who can lay his hand upon his heart, and tell me that, supposing all that is said by the comptroller be true, he believes the late governor intended basely and contemptibly to cheat the government out of these \$200? Can you even think that the comptroller can have really believed that such was his design? I know you cannot!

The comptroller himself is not infallible. The late governor has shown that he has neglected to credit him \$2,200. accounted for seven years ago, and twice since has he officially reported him a defaulter for this very money. If, sir, he whose special business it is to keep the accounts of the state, justly and properly, whose life has been principally spent in the intricacy of accounts, and whose fiat is made the standard of correctness, can commit errors more gross and palpable than those he so rigidly condemns, common charity should admonish him to cast no stone at his neighbor, and the world will reverse the harshness of his strictures, when they reflect upon the manifold difficulties and perplexities under which the late governor has labored.

I have done ~~str~~; but before I sit down I hope the committee will bear with me, while I submit a single remark in regard to myself; they will

do me the justice to admit, that it is not often that I trouble them on that subject. It is true, sir, that I have taken no common interest in this controversy, and that I have sometimes evinced a warmth of feeling in regard to it, justified, I hope, by circumstances. But I feel that I have a right to ask, at the hands of this committee, that they should exempt me from the imputation of being in any degree influenced by personal considerations. I know not why I should be, for I can say with truth, that I never in my life received either a personal or a political favor, from the distinguished individual whose case is under consideration. When those, sir, who now assail him with such rancorous virulence, were basking in the sunshine of his favor, and feeding on his particular patronage, I knew him but as the head of that political family of which I was a humble member. In the day when these men were thronging around him, each endeavoring to outdo the other in professions of devotion and friendship, I had not even the satisfaction of regarding him among the number of my personal friends. It was only, sir, after his exertions for his country had involved him in difficulties, which seemed insurmountable; when he was deserted by those, who no longer considered him as the fountain of patronage they enjoyed or expected, that I felt myself called upon to take a particular interest in his affairs. I have done so, sir, and in a course dictated by private feeling and a sense of public gratitude, I trust no undue acrimony has been exhibited towards his opponents. True it is, sir, that occasionally, when I have found him surrounded by harpies, worming themselves into his unsuspecting confidence, and collecting, with the industry of bees, every little circumstance, through which they may hope to blast, not only his character and lacerate his feelings, but destroy the happiness of his family, I have experienced sensations of strong resentment, but I hope my judgment has not been perverted nor my sense of justice impaired. Upon a deliberate review of his conduct, I believe him to be the most injured of men, and if my humble efforts have contributed in the smallest degree to sustain him against the unnatural combination with which he is struggling; to have enlivened the sympathies of his friends, or blunted one feeling of malevolence which rankled in the hearts of his enemies, my satisfaction will be complete—and this act of my life, sir, will not be the least pleasant of my reflections, nor the first to be blotted from my memory.

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