

He further deposed *that he did not know that Mr. Hoyt, the succeeding collector, "was aware" of "Mr. Swartwout's deficiencies" until "in the month of October, 1838," when the collector spoke to him "on the subject."*

He further deposed *that the reason for his concealing "the deficiencies or delinquencies of Mr. Swartwout" for so long a time was that he "was Mr. Swartwout's clerk, and would not betray the secrets" of his "employer."*

For the purpose of giving cogency to several of his assertions, he placed in possession of the treasury department two memoranda. One, which was entitled "*a statement of such sums as I have been enabled to ascertain from the old check-books in the office as were drawn by Mr. Swartwout from the public deposite for his own use,*" was of sums exhibited by checks made between November 20, 1834, and June 23, 1837, inclusive, aggregating \$193,602.20. In explanation of this exhibit, he subscribed the following explanation:

"The above statement has been taken from the old check-books. I have not, however, been able to find that including the checks from June, 1830, to December, 1831.

"These sums I knew particularly to have been used in the manner stated, from marks made by me in the checks. They are not, however, to be understood as embracing all the moneys that were appropriated by Mr. Swartwout. HE WAS, AS I HAVE STATED, IN THE HABIT OF TAKING MONEY AND REPLACING IT, SO THAT IT IS NOW IMPOSSIBLE TO TRACE IT OUT OR GIVE A PARTICULAR ACCOUNT OF EACH SUM. This memorandum is as full as I can now make out from my examination of these books. In the earlier period of these transactions, I was not in the habit of noting the checks used by Mr. Swartwout, and cannot therefore refer to them as accurately as I can subsequently to 1834."

Under oath, he deposed *that the sums presented in the statement, "amounting to \$193,602.20, were drawn by" the collector "from his cash deposites," which were in "the Bank of America, Mechanics' Bank, and Manhattan Company."* HE FURTHER AVERRED THAT HE, THE ASSISTANT CASHIER, "WAS NOT ALWAYS IN THE HABIT OF NOTING THE CHECKS THAT MR. SWARTWOUT USED," AND THAT HE COULD NOT "UNDERTAKE TO SAY WHAT PORTION OF THE ABOVE AMOUNT WAS RETURNED."

Another exhibit, made by him of bonds amounting to \$597,331.63, which had been paid during the years 1837 and 1838, and entitled a "*copy of the statement in the handwriting of Mr. Phillips, the assistant cashier (referred to by Mr. Fleming, in his letter of November 16, 1838), being the list kept by him of a number of bonds which had been paid, and the money received by Mr. Swartwout.*

Respecting this statement, Joshua Phillips, the assistant cashier, averred under oath THAT "THE PROCEEDS OF THE SAID BONDS WERE DEPOSITED IN BANK,