

*“When the report was in circulation that Mr. Swartwout had become a defaulter, before I left the custom-house, I KNEW IT WAS NOT SO; and when the secretary of the treasury said that there were false returns and false accounts prior to July, 1836, I KNEW IT WAS NOT SO. I DENY IT. I MADE ALL THE RETURNS MYSELF; THEY ARE ALL TRUE. THE SECRETARY CANNOT PROVE THE ACCOUNTS AND RETURNS PRIOR TO JULY, 1836, ARE EITHER FALSE OR INCORRECT; IF THEY ARE FALSE, HE OUGHT TO BE ABLE TO PROVE IT. HE CANNOT PROVE IT, FOR THEY ARE TRUE. * * * *”*

To these undisproved declarations of the truthful auditor, may be added those of David S. Lyon, the deputy-collector under Samuel Swartwout, which are pertinent to the allegations made concerning his defalcations.

“The moneys received and disbursed by the collector did not come within the duties assigned me, therefore I could not absolutely know that Mr. Swartwout was a defaulter, and if he was such, when he became so, or to what extent. I always believed, and do still believe, that his weekly, and especially his quarterly, accounts were perfectly correct, so far as to give a true account of all the public moneys (considered by him as such) received by him, or due on bonds, so that the treasury department had, at least quarterly, the true amount with which Mr. Swartwout should be debited, and that, by deducting the outstanding bonds, and the moneys paid by him to the United States treasurer, and those paid by order of the treasury department, *the deficit, if any, would be easily discovered.* * * * *

“I have reason to know that the late collector has demanded duties to be paid, which he had reason to know would not be adjudged legal, and *which he believed could not be retained, because he has frequently stated to me his opinion on this subject; but he could not have done it for the purpose of obtaining the use of the money paid under protest, as he accounted to the treasury for moneys so received.*”

An attempt was made by the Hon. Levi Woodbury, secretary of the treasury, to prove the allegations of Henry Ogden and Joshua Phillips true, by an examination of the first auditor's books, but as will be seen, nothing was obtained to substantiate the assertions of the confederated cashier and assistant cashier.

In answer to a letter of inquiry, dated November 19, 1838, from the secretary of the treasury, Jesse Miller, the auditor of the treasury, that year, on December 1, wrote to him, saying:

“The first inquiry contained in your letter, in reference to ‘the great defalcation of the late collector at New York,’ is in the following words, viz.: ‘I therefore request you to inform me of the causes why it was not in the power of your office to report his defalcation when it first occurred, or at the different settlements afterwards, before his term of office expired.’