

is reason to believe they are intended for exportation in vessels, sleighs, or other carriages, or in any manner apparently on their way towards the territories of foreign nations, or a place whence such articles are intended to be exported.... And, when taken into custody, they are not permitted to be removed without bonds being given for their being relanded in some place, whence in the opinion of the collector there is no danger of such articles being exported.

Without warrant founded on proof, from suspicion only, may this unbounded licence be exercised. Our houses, heretofore our castles, and the secure abodes of our families, may be thrown open to the visits of collectors to search for and seize our money and goods whenever instigated by suspicion, prejudice, resentment or party spirit.

No place is to be protected; the people may every where be exposed, at home, on the way, and abroad. Specie and goods thus seized without warrant, and on suspicion only, are not to be removed unless and until bond with sureties shall be given, for landing or delivering the same in some place of the United States, whence in the opinion of the collector, there shall not be any danger of such articles being exported. These provisions strike at the vital principles of a free government: And are they not contrary to the 4th and 5th articles of Amendments to the Constitution? Are not these *searches and seizures*, without warrant, on the mere suspicion of a collector, *unreasonable searches and seizures*? And is not a man thereby to be deprived of *property without due process of law*.

Such is the unprecedented nature and enormous extent of the powers given to collectors by this bill, and by what means, and in what manner, are they to be exercised? By the 11th section it is enacted, "That the powers given to the collectors, either by this or any other act respecting the embargo, to detain any vessel, or to take into their custody any articles for the purpose of preventing violations of the embargo, shall be exercised in conformity with such instructions as the President may give,

and such general rules as he may prescribe for that purpose, made in pursuance of the powers aforesaid; which instructions and general rules the collectors shall be bound to obey: nor shall they be liable to any action, suit, or judgment on account of any detention of vessel, or for having taken articles into their custody in conformity with such instructions and general rules."

Here presidential instructions receive their last seal and stamp of Authority.... They are made binding on collectors; and, for acts done in pursuance of those instructions, they are to be irresponsible.

These instructions, according to the terms of the bill are to become the supreme law of the land, and obligatory on the courts of the United States and of the states. It may be said, that, to render them authoritative, the instructions must be in pursuance of the powers granted by the bill to the collectors, and that they are mere executive directions given for the purpose of producing a uniform and systematic course of proceedings among collectors. If indeed this be their object and intendment, why is the clause inserted? Since the establishment of the treasury department, it has been the practice of the secretary of the treasury to issue instructions to subordinate officers; but this favourite embargo, to which all considerations are made to bend, offers the first instance of an attempt to give to them the force of laws. And a critical attention to the section shews, that such is its intendment. Although it is declared, that, to have the effect, of laws, the President's instructions must be in pursuance of the powers granted by the bill to the collectors, it is to be remembered that collectors are to act in particular cases on their discretion, under the President's instructions, which are to be general; and neither the one nor the other are defined or limited by any precise rule. Both are arbitrary within the spheres of their general authorities. And the President's instructions are absolute on the collectors, and attempted to be made absolute on the court for their