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ABRIDGMENT
OF THE
DEBATES OF CONGRESS,
FROM 1789 TO 1856.

FROM GALES AND SEATON'S ANNALS OF CONGRESS; FROM THEIR
REGISTER OF DEBATES; AND FROM THE OFFICIAL
REPORTED DEBATES, BY JOHN C. RIVES.

BY
THE AUTHOR OF THE THIRTY YEARS' VIEW.

VOL. I.

NEW YORK:
D. APPLETON & COMPANY, 346 & 348 BROADWAY.
CHICAGO:
S. C. GRIGGS & CO., 111 LAKE ST.
1857.

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ENTERED according to Act of Congress, in the year 1856, by

D. APPLETON AND COMPANY,

In the Clerk's Office of the District Court for the Southern District of New York.

PREFACE.

The title-page discloses the sources from which this abridgment is made, and shows them all to be authentic, and reliable,—well known to the public, and sanctioned by resolves of Congress. Of the latter of these authorities—"Gales and Seaton's Register of Debates," "The Congressional Globe and Appendix, by Blair and Rives," and the same afterwards by "John C. Rives"—it is not necessary to speak, further than to remind the reader, that they are original reports, made either by the publishers or their special reporters, and revised by the speakers, and accepted as authority by Congress; and therefore needing no historical elucidation to show their correctness. But of the first—"The Annals of Congress by Gales and Seaton"—being a compilation, a special, but brief notice is necessary to show the credit to which they are entitled. And first, of the qualifications of the compilers for their work. To education and talent, and a particular turn for political disquisition and history, they added, at the time, more than forty years' personal connection with the Debates of Congress, as reporters and publishers of the speeches and proceedings in that body. Both of these gentlemen reported, on extraordinary occasions; and both with great aptitude and capacity for the business, and Mr. Gales especially, (under whose particular care the compilation of the Annals was made,)—of whom Mr. Randolph, a most competent judge, was accustomed to say, that he was the most perfect reporter he had ever known—a perfection which resulted not merely from manual facility in noting down what was said, but from quickness and clearness of apprehension, and a full knowledge of the subject spoken upon.^[1] To this capacity for the work, these gentlemen added peculiar advantages for knowing and reaching the sources of information. The father of one of them, and the father-in-law of the other,—(Mr. Joseph Gales, Senior,)—had been an early reporter of the Debates of Congress;—in the time of Washington and the first Mr. Adams,—and, of course, a collector and preserver of all contemporary reports. These came into their hands, with ample knowledge of all the sources from which further collections could be made. To these capabilities and advantages, were added the pride of character which exults in producing a perfect work;—and they spared neither pains nor cost to produce such a work—and succeeded. The following extracts from a letter of the late Mr. Justice Story, of the Supreme Court of the United States, dated January 14th, 1837—and from one from Mr. Justice McLean, still of that high court, dated 24th of February, 1843—sufficiently attest the value of the Compilation, and the excellence of its execution. Mr. Justice Story says:

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"I have examined these volumes with great attention, and I am entirely satisfied with the plan and execution of them. I have, for many years, deemed the publication of the Debates in Congress, interwoven as they should be, and as they are in your plan, with the proceedings explanatory of them, one of the most important and valuable enterprises for public patronage. In an historical view, it will reflect the strongest and best lights upon the nature and operations of the Government itself, its powers, its duties, and its policy. As a means of expounding and

interpreting the Constitution itself, it can scarcely be over-estimated. When I was employed in the task of preparing my Commentaries on the Constitution I constantly had recourse to this source of information in all cases within my reach. I had occasion then deeply to regret, however, that many of my researches terminated in disappointment from there not being any complete collection of the debates in print, or at least none in any one repository, or without large chasms, which it was difficult if not impossible to supply. If any such collection had existed, I am satisfied that it would have enabled me to make my own work far more accurate, full, and satisfactory than it now is. The Parliamentary Debates of England have been long since published, and constitute, in a political and historical view, some of the most authentic and useful documents for statesmen and jurists which have ever issued from the press. They are an indispensable part of the library of every real British statesman. A similar publication of all the Debates in Congress would be, if possible, of more permanent and extensive value to us, since questions of constitutional law and general public policy are more frequent topics of public debate here than in England. Indeed, I do not well see how American statesmen, seeking a profound knowledge of the nature and operations of our Government, can well do without them. At all events, if published, they would and ought to be found in the library of every American statesman, lawyer, and judge, who should aspire to an exact or thorough knowledge of our Constitution, laws, or national policy."

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Mr. Justice McLean says:

"I have read with much interest your proposal to publish the Debates in Congress from the adoption of the Constitution. This is an undertaking of great magnitude, and will require large expenditures: but the work will embody a mass of information in regard to the history and policy of the Government, which can be found nowhere else. There is no subject within the action of the Government, which will not be found discussed in these volumes. They will contain materials rich in facts and talent for the writer of history, and will reward the researches of all who may wish to acquire a thorough knowledge of our system of government. This work when completed will become, I think, more interesting and valuable to this country, than are the Parliamentary Debates in England. The questions considered, (from the nature of our Government, and especially in regard to our domestic relations,) are more diversified than the Debates in Parliament; and I have no doubt, that the general ability displayed in the American Congress, will not suffer in comparison with that of the British Parliament. Our statesmen and jurists will find in these Debates much to guide them in the performance of their public duties; for it is from the history of that time that knowledge is acquired for an enlightened public action. If our Government is to be handed down to those who come after us, these volumes will increase in value with the progress of time, and will be one of the richest memorials of our early enterprise and patriotism, and the best evidence of our national advancement."

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And to these opinions of these two eminent jurists of the value of these Annals, and the qualifications of the publishers for their task, and the merits of their work, is to be added the encouraging opinion of Mr. Madison, given at the commencement of the enterprise, in the year 1818,—near forty years ago,—when, in a letter to *Messrs.* Gales and Seaton, he said:

"The work to which you have turned your thoughts, is one which justly claims for it *my* favorable wishes. A legislative history of our country is of too much interest not to be at some day undertaken; and the longer it is postponed, the more difficult and deficient the execution becomes. In the event of your engaging in it, I shall cheerfully contribute any suggestions in my power as to the sources from which materials may be drawn; but I am not aware, at present, of any not likely to occur to yourselves."

Such is the value which these eminent men place upon these annals of our earlier Congresses, and these annals embrace the whole period during which our Government was presided over by those who helped to make it—the whole period from Washington to Monroe inclusive—a period of thirty-five years, and covering more than half the time that our Government has existed. The two Justices of the Supreme Court who gave their opinion of the work, and who were then (as one of them still is) in the actual discharge of great public duties, have declared the personal benefit which they derived from the compilation—one of them (Mr. Justice Story) going so far as to say that his own work—the Commentaries upon the Constitution—(deemed faultless by others)—would have been "more accurate, full and satisfactory," if the Annals had been published before them. With such opinions in favor of the Annals, no more need be said to show their value to the rising generations; and in abridging them, the author feels that he is only making accessible to the community what is now inaccessible to it, on account of quantity and price; and useless (nearly), if accessible, on account of the obsolete or irrelevant matter which overlays and buries the useful. As late as the year 1840, the publishers of the Annals say, in a Memorial to Congress, that they had sold to individuals but twenty sets of their work; and the present enterprising and faithful publisher of the Congress Debates, (Mr. John C. Rives,) says he sells but some three or four sets a year of his valuable and voluminous work;—and these, not to individuals, but to institutions. It is the Congress subscription alone, that has enabled the publishers of all these works to bring them out; and no public money was ever more worthily applied: but still Congress cannot supply the community.

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Mr. Madison, in his letter of characteristic modesty to *Messrs.* Gales and Seaton, speaks of their (then) intended work, as one which justly claimed *his* favorable wishes. And well it might! for nowhere, in all the just and impressive eulogiums which have been pronounced upon him, does he appear to such advantage as in his own modest, temperate, luminous, and patriotic speeches during his service in Congress—putting that new Government into operation, of which he was one of the founders, and giving to all its machinery, a smooth, clean, and harmonious working.

And so of innumerable others—illustrious men, and his compatriots—national reputations in their day, but contracting into local names under the progress of time, for want of a record of their patriotic labors, of national circulation, and popular accessibility. Of that character, it is the desire of the author to make this Abridgment. It is to him a labor of love and of pride—resuscitating the patriotic dead, putting them in scene again, passing them in long procession over an extended domain—no one skipped, and each in his place, with the best of his works in his hand. It is a work of justice to them, and may be of advantage to the present age, and to posterity, by reproducing for study and imitation, the words and conduct of the wise, just, modest, patriotic, intelligent, and disinterested men, who carried their country through a momentous revolution—moulded that country into one brotherly Union—and then put the Government they had formed into operation, in the same fraternal spirit of "*amity, mutual deference and concession*," in which they had made it

INTRODUCTION.

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The debates of Congress have been accruing for near seventy years, and fill more than an hundred volumes, and cannot be purchased for less than \$500, nor advantageously used, on account of the quantity of superfluous matter which they contain. They are printed in full by Congress, and ought to be so, and a small distribution is made among the members; but this distribution cannot reach the community, and would be nearly useless if it did, from the quantity of obsolete, local and transient matter which overloads them. In the mean time, these debates contain the history of the working of our Government from its foundation—preserve and hand down to posterity the wisdom of ages—show what has been done, and how it was done—and shed light upon the study of all impending questions; for there is not a question of the day, and will not be while the Government continues, which will not be illustrated by something previously said in these debates.

All works consisting of periodical accumulations require periodical abridgment, in which, being relieved of what is superfluous, the residuum becomes more valuable from the disencumbrance—of easier use to the reader—and more accessible to the community, from the diminution of price and quantity. Even the reports of the Supreme Court of the United States, though comparatively free from redundant or obsolete matter, have undergone abridgment—three volumes reduced to one—and become more valuable from the reduction. The same may be done with these debates, and with a far greater license of reduction, from the very nature of popular debating. Some fifteen or sixteen octavo volumes, double columns, are expected to contain all that retains a surviving interest in the (more than) one hundred volumes, now surcharged with the full debates.

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The abridgment will not be restricted to the speeches of the celebrated orators, but extend to those of the business men, and to the plainest speakers—who are often the members who give the most useful information. Full speeches are not expected to be given, there being none, after a short time, which do not contain much matter that has lost its interest. Many entire heads of reported proceedings and discussions would be omitted: as—The morning presentation of petitions, often the same for ten or twenty years, and presented in both Houses at the same time: discussion on private bills, which have no general interest: mere personalities: the endless repetition of yeas and nays, sometimes recorded an hundred times in contests about the same bill, when three or four sets would be sufficient to show the opinion of every member upon every material point: repetitions of speeches, for it is impossible that a member speaking for ten or twenty sessions on the same subject, (tariff, internal improvement, national bank, &c.) should not repeat the same thing over and over again.

The work is intended to be national, such as would commend itself to the study, and come within the reach, of all who aspire to a share in the public affairs, either State or Federal; or who wish to understand the history and working of their own Government. It is the only way in which the wisdom of the earlier generation of our statesmen who put the Government into operation—the Madisons, Gallatins, John Marshalls, William B. Giles, the Fisher Ames, Roger Shermans, &c.—can be made known to the present or future ages; and it is the best way in which the speeches of those who have lived in our own day, even the most eminent, can be diffused. For the speeches of no one, published in mass and alone, can have more than a local circulation; while judicious selections from a whole debate, enlivened by the vivacity of contention, going into a general work of this kind, must have a general circulation, and carry the name of the speaker, and the best of his speaking, into every part of the Union.

Some notes, or commentaries, will be added by the author, discriminated from the text, to mark great starting, or turning points, in our legislative history, with a view to assist the reader in making the practical applications which give utility to knowledge. For example: At the beginning of the first tariff debate in the first session of the first Congress, he will show that Mr. Madison compressed into twenty-two short lines, of eight or nine words each, all the principles of impost and tonnage duties which have governed all wise legislation upon the two subjects from that time to the present—namely: Specific duties the rule—*ad valorem*s the exception: revenue the object—incidental encouragement to home industry the incident: specifics on all the leading and staple articles—*ad valorem*s on the inferior remainder: discrimination between articles of luxury and necessity, so as to put the burthen on the former—and between articles made, or not made, at home, so as to give encouragement to the home article: and all these duties moderate, so as not to shackle trade or agriculture. These were his principles on impost duties. Those on tonnage

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consisted of discriminations in favor of our own ships, and in favor of nations having treaties of commerce with us, so as to encourage our own ship-building and navigation, and also to stimulate all nations to make commercial treaties with us. And thus, every object of impost legislation was provided for:—revenue for the Government, encouragement to home industry, exemption from burthen to trade and agriculture.

Then, at the end of that debate, (which began in April, and ended in May,) it will be shown that a rate of duties was established, corresponding with these principles—all moderate, and adapted each to its object: five per centum on the lowest class of *ad valorem*s, seven and a half on the next, and fifteen for the highest, and it of luxuries. The specific duties, applicable to the mass of the importations, at the same low rate; and this low rate, on the small importation of that time, and with the economy of that time, producing seven times the amount of revenue necessary for the "*support*" of the Government! leaving six sevenths to go to the public debt and Indian wars. The same rates of duty, with the same economy, ought to be equally sufficient now upon a sevenfold importation of dutiable goods.

The Emperor Justinian, in compiling his Institutes, commended their study to the liberal-minded youth of the empire who aspired to employment in the government; for that emperor, although a great and victorious general, yet placed the arts of peace and government above the exploits of war, and wished to see law and order, more than arms, studied and cultivated in his dominion. The great Emperor Napoleon had the same appreciation of legal and civil studies; and hence the Four Codes, at the digest of which he personally assisted, and the conception and execution of which do so much honor to his memory. In our own government the career of public employment is open to all, and should be prepared for by all who aspire to enter it. Of elementary political works we have many, and excellent; but most of them only teach principles, and that abstractly, without practice. Practical works are wanted to complete the study, and of these the most ample and least ungrateful may be a well-considered and impartial abridgment of the Debates of Congress.

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And here the Author discharges an obligation of gratitude and justice to the earlier generation of our statesmen. He owes what he is to them. His political principles were learnt in their school—his knowledge obtained from their works—his patriotism confirmed by their example—his love of the Union exalted by their teaching.

THE AUTHOR.

WASHINGTON CITY, May, 1856.

FIRST CONGRESS.—FIRST SESSION.

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HELD AT THE CITY OF NEW YORK, MARCH 4 TO SEPTEMBER 29, 1789.

PRESIDENT OF THE UNITED STATES,—GEORGE WASHINGTON.

PROCEEDINGS^[2] IN THE SENATE.

WEDNESDAY, March 4, 1789.

This being the day for the meeting of the new Congress, the following members of the Senate appeared and took their seats:^[3]

From New Hampshire, JOHN LANGDON and PAINE WINGATE.

From Massachusetts, CALEB STRONG.

From Connecticut, WILLIAM S. JOHNSON and OLIVER ELLSWORTH.

From Pennsylvania, WILLIAM MACLAY and ROBERT MORRIS.

From Georgia, WILLIAM FEW.

The members present not being a quorum, they adjourned from day to day, until

WEDNESDAY, March 11.

When the same members being present as on the 4th instant, it was agreed that a circular should be written to the absent members, requesting their immediate attendance.

THURSDAY, March 12.

No additional members appearing, the members present adjourned from day to day, until

WEDNESDAY, March 18.

When no additional members appearing, it was agreed that another circular should be written to

eight of the nearest absent members, particularly desiring their attendance, in order to form a quorum.

THURSDAY, March 19.

WILLIAM PATERSON, from New Jersey, appeared and took his seat.

FRIDAY, March 20.

No additional member appeared.

SATURDAY, March 21.

RICHARD BASSETT, from Delaware, appeared and took his seat.

A sufficient number of members to form a quorum not appearing, the members present adjourned from day to day, until

SATURDAY, March 28.

JONATHAN ELMER, from New Jersey, appeared and took his seat.

No other member appearing, an adjournment took place from day to day, until

MONDAY, April 6.

RICHARD HENRY LEE, from Virginia, then appearing, took his seat and formed a quorum of the whole Senators of the United States.

The credentials of the members present being read and ordered to be filed, the Senate proceeded, by ballot, to the choice of a President for the sole purpose of opening and counting the votes for President of the United States.

JOHN LANGDON was elected.

Ordered, That Mr. ELLSWORTH inform the House of Representatives that a quorum of the Senate is formed; that a President is elected for the sole purpose of opening the certificates, and counting the votes of the electors of the several States, in the choice of a President and Vice President of the United States; and that the Senate is now ready, in the Senate Chamber, to proceed in the presence of the House, to discharge that duty; and that the Senate have appointed one of their members to sit at the clerk's table, to make a list of the votes as they shall be declared; submitting it to the wisdom of the House to appoint one or more of their members for the like purpose.

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Mr. ELLSWORTH reported that he had delivered the message; and Mr. BOUDINOT, from the House of Representatives, informed the Senate that the House is ready forthwith to meet them, to attend the opening and counting of the votes of the electors of the President and Vice President of the United States.

The Speaker and the members of the House of Representatives attended in the Senate Chamber; and the President elected for the purpose of counting the votes, declared that the Senate and House of Representatives had met, and that he, in their presence, had opened and counted the votes of the electors for President and Vice President of the United States, which were as follows:

[Transcriber's Note: Legend Created to make table fit.]

- A = George Washington, Esq.
- B = John Adams, Esq.
- C = Samuel Huntingdon, Esq.
- D = John Jay, Esq.
- E = John Hancock, Esq.
- F = Robert H. Harrison, Esq.
- G = George Clinton, Esq.
- H = John Rutledge, Esq.
- I = John Milton, Esq.
- J = James Armstrong, Esq.
- K = Edward Telfair, Esq.
- L = Benjamin Lincoln, Esq.

STATES.

A B CDEFGHIJ KL

New Hampshire, 5 5
Massachusetts, 10 10

Connecticut,	7	5	2
New Jersey,	6	1	.. 5
Pennsylvania,	108	...	2
Delaware,	3 3
Maryland,	6 6
Virginia,	105	.. 1	1 .. 3
South Carolina,	7 1 6
Georgia,	5 2 1 1 1
Total,	69342	94636	2111

Whereby it appeared that GEORGE WASHINGTON, Esq. was elected President, and JOHN ADAMS, Esq. Vice President of the United States of America.

Mr. MADISON, from the House of Representatives, thus addressed the Senate:

MR. PRESIDENT: I am directed by the House of Representatives to inform the Senate, that the House have agreed that the notifications of the election of the President and of the Vice President of the United States, should be made by such persons, and in such manner, as the Senate shall be pleased to direct.

And he withdrew.

Whereupon, the Senate appointed CHARLES THOMSON, Esq. to notify GEORGE WASHINGTON, Esq. of his election to the office of President of the United States of America, and Mr. SYLVANUS BOURN, to notify JOHN ADAMS, Esq. of his election to the office of Vice President of the said United States.

A letter was received from James Duane, Esq. enclosing resolutions of the mayor, aldermen, and commonalty, of the city of New York, tendering to Congress the use of the City Hall.

James Mathews was elected doorkeeper.

TUESDAY, April 7.

MESSRS. ELLSWORTH, PATERSON, MACLAY, STRONG, LEE, BASSETT, FEW, and WINGATE, were appointed a committee to bring in a bill for organizing the Judiciary of the United States.

MESSRS. ELLSWORTH, LEE, STRONG, MACLAY, and BASSETT, were appointed a committee to prepare rules for the government of the two Houses in cases of conference, and to take under consideration the manner of electing chaplains, and to confer thereupon with a committee of the House of Representatives.

The same committee were also to prepare rules for conducting the business of the Senate.

WEDNESDAY, April 8.

The Senate proceeded to ballot for a Secretary, and SAMUEL ALYNE OTIS, Esq. was elected. Cornelius Maxwell was appointed messenger.

THURSDAY, April 9.

Messrs. LANGDON, JOHNSON, and FEW, were appointed a committee to make arrangements for receiving the President, and were empowered to confer with any committee of the House of Representatives that may be appointed for that purpose.

MONDAY, April 13.

RALPH IZARD, from South Carolina, CHARLES CARROLL, from Maryland, and GEORGE REED, from Delaware, appeared and took their seats.

The report of the committee to prepare rules for conducting the business of the Senate was read, and ordered to lie for consideration.

Messrs. JOHNSON, IZARD, and MACLAY, were appointed a committee to confer with any committee appointed on the part of the House of Representatives, upon the future disposition of the papers in the office of the late Secretary of Congress, and report thereon.

The committee appointed to make arrangements for receiving the President, were directed to settle the manner of receiving the Vice President also.

Mr. CARROLL and Mr. IZARD were added to the Judiciary Committee.

TUESDAY, April 14.

TRISTRAM DALTON, from Massachusetts, appeared and took his seat.

A letter was written to the mayor of the city of New York, by the President of the Senate, acknowledging the respect shown to the Government, and accepting of the offer made by him of the City Hall for the use of Congress.

MONDAY, April 20.

JOHN HENRY, from Maryland, and JAMES GUNN, from Georgia, appeared and took their seats.

MESSRS. STRONG and IZARD were appointed a committee to wait on the Vice President, and conduct him to the Senate Chamber. [Pg 11]

TUESDAY, April 21.

The committee appointed to conduct the Vice President to the Senate Chamber, executed their commission, and Mr. LANGDON, the Vice President *pro tempore*, meeting the Vice President on the floor of the Senate Chamber, addressed him as follows.

SIR: I have it in charge from the Senate, to introduce you to the chair of this House; and, also, to congratulate you on your appointment to the office of Vice President of the United States of America.

[After which Mr. Langdon conducted the Vice President to the chair, when the Vice President addressed the Senate in a speech of congratulation on the successful formation of the Federal Union, the adoption of the Federal Constitution, and the auspicious circumstances under which the new government came into operation, under the presidency of him who had led the American armies to victory, and conducted by those who had contributed to achieve Independence.]

FRIDAY, April 24.

On motion, to reconsider the commission of the committee appointed the 23d instant, to report what titles shall be annexed to the offices of President and Vice President. Passed in the affirmative.

On motion, that the following words, "What titles it will be proper to annex to the offices of President and of Vice President of the United States; if any other than those given in the Constitution," be struck out. Passed in the negative.

On motion, that the words "style or" before the word "title," be added. Passed in the affirmative.

SATURDAY, April 25.

The Right Reverend SAMUEL PROVOST was elected Chaplain.

A letter from CHARLES THOMSON, Esq., dated the 24th of April, 1789, directed to the President of the Senate, purporting his having delivered to General WASHINGTON the certificate of his being elected President of the United States, was read, and ordered to be filed.

The committee appointed to consider of the time, place, and manner, in which, and of the person by whom, the oath prescribed by the Constitution shall be administered to the President of the United States, and to confer with a committee of the House appointed for that purpose, report:

That the President hath been pleased to signify to them, that at any time or place which both Houses may think proper to appoint, and any manner which shall appear most eligible to them, will be convenient and acceptable to him; that requisite preparations cannot probably be made before Thursday next; that the President be on that day formally received by both Houses in the Senate Chamber; that the Representatives' Chamber being capable of receiving the greater number of persons, that, therefore, the President do take the oath in that place, and in the presence of both Houses.

That, after the formal reception of the President in the Senate Chamber, he be attended by both Houses to the Representatives' Chamber, and that the oath be administered by the Chancellor of the State of New York.

The committee farther report it as their opinion, that it will be proper that a committee of both Houses be appointed to take order for conducting the business. Read and accepted.

Whereupon, Mr. LEE, Mr. IZARD, and Mr. DALTON, on the part of the Senate, together with a committee that may be appointed on the part of the House of Representatives, were empowered to take order for conducting the business.

An order of the House of Representatives, concurring in the appointment of a committee on their part to confer with a committee appointed on the 24th instant, on the part of the Senate, to consider and report, "what style, &c., it will be proper to annex to the offices of President and Vice President," was read, by which it appeared, that Mr. BENSON, Mr. AMES, Mr. MADISON, Mr. CARROLL, and Mr. SHERMAN, were appointed on the part of the House.

MONDAY, April 27.

The committee appointed to take order for conducting the ceremonial of the formal reception, &c., of the President, reported:

That it appears to them more eligible that the oath should be administered to the President in the outer gallery adjoining the Senate Chamber, than in the Representatives' Chamber, and therefore, submit to the respective Houses the propriety of authorizing their committee to take order as to the place where the

oath shall be administered to the President, the resolution of Saturday assigning the Representatives' Chamber as the place, notwithstanding. Read and accepted.

Resolved, That after the oath shall have been administered to the President, he, attended by the Vice President, and members of the Senate, and House of Representatives, proceed to St. Paul's Chapel, to hear divine service, to be performed by the Chaplain of Congress already appointed. Sent to the House of Representatives for concurrence.

TUESDAY, April 28.

Received from the House of Representatives, the report of a joint committee on the ceremonial to be observed in administering the oath, &c., to the President; and a bill to regulate the time and manner of administering certain oaths. The report was read and ordered to lie on the table; and the bill received its first reading.

THURSDAY, April 30.

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Mr. LEE, in behalf of the committee appointed to take order for conducting the ceremonial of the formal reception, &c., of the President of the United States, having informed the Senate that the same was adjusted, the House of Representatives were notified that the Senate were ready to receive them in the Senate Chamber, to attend the President of the United States, while taking the oath required by the Constitution. Whereupon, the House of Representatives, preceded by their Speaker, came into the Senate Chamber, and took the seats assigned them, and the joint committee, preceded by their chairman, agreeably to order, introduced the President of the United States to the Senate Chamber, where he was received by the Vice President, who conducted him to the chair, when the Vice President informed him, that "the Senate, and House of Representatives of the United States, were ready to attend him to take the oath required by the Constitution, and that it would be administered by the Chancellor of the State of New York." To which the President replied, he was ready to proceed; and being attended to the gallery in front of the Senate Chamber, by the Vice President and Senators, the Speaker and Representatives, and the other public characters present, the oath was administered. After which, the Chancellor proclaimed, "*Long live George Washington, President of the United States.*"

The PRESIDENT, having returned to his seat, after a short pause arose, and addressed the Senate and House of Representatives as follows:^[4]

Fellow-Citizens of the Senate, and of the House of Representatives:

Among the vicissitudes incident to life, no event could have filled me with greater anxieties than that of which the notification was transmitted by your order, and received on the 14th day of the present month. On the one hand, I was summoned by my country, whose voice I can never hear but with veneration and love, from a retreat which I had chosen with the fondest predilection, and, in my flattering hopes, with an immutable decision, as the asylum of my declining years: a retreat which was rendered every day more necessary, as well as more dear to me, by the addition of habit to inclination, and of frequent interruptions in my health, to the gradual waste committed on it by time. On the other hand, the magnitude and difficulty of the trust to which the voice of my country called me, being sufficient to awaken in the wisest and most experienced of her citizens a distrustful scrutiny into his qualifications, could not but overwhelm with despondence one, who, inheriting inferior endowments from nature, and unpractised in the duties of civil administration, ought to be peculiarly conscious of his own deficiencies. In this conflict of emotions, all I dare aver is, that it has been my faithful study to collect my duty from a just appreciation of every circumstance by which it might be effected. All I dare hope is that if, in executing this task, I have been too much swayed by a grateful remembrance of former instances, or by an affectionate sensibility to this transcendent proof of the confidence of my fellow-citizens, and have thence too little consulted my incapacity as well as disinclination for the weighty and untried cares before me, my error will be palliated by the motives which misled me, and its consequences be judged by my country, with some share of the partiality in which they originated.

To the preceding observations I have one to add, which will be most properly addressed to the House of Representatives. It concerns myself, and will, therefore, be as brief as possible. When I was first honored with a call into the service of my country, then on the eve of an arduous struggle for its liberties, the light in which I contemplated my duty required that I should renounce every pecuniary compensation. From this resolution I have in no instance departed. And being still under the impressions which, produced it, I must decline, as inapplicable to myself, any share in the personal emoluments which may be indispensably included in a permanent provision for the executive department; and must accordingly pray that the pecuniary estimates for the station in which I am placed

may, during my continuance in it, be limited to such actual expenditures as the public good may be thought to require.

Having thus imparted to you my sentiments, as they have been awakened by the occasion which brings us together, I shall take my present leave; but not without resorting once more to the benign Parent of the human race, in humble supplication, that since He has been pleased to favor the American people with opportunities for deliberating in perfect tranquillity, and dispositions for deciding with unparalleled unanimity on a form of Government for the security of their union, and the advancement of their happiness, so his divine blessing may be equally conspicuous in the enlarged views, the temperate consultations, and the wise measures, on which the success of this Government must depend.

G. WASHINGTON.

April 30, 1789.

The President, the Vice President, the Senate, and House of Representatives, &c., then proceeded to St. Paul's Chapel, where divine service was performed by the chaplain of Congress, after which the President was reconducted to his house by the committee appointed for that purpose.

The Vice President and Senate returned to the Senate Chamber; and,

Upon motion, unanimously agreed, That a committee of three should be appointed to prepare an answer to the President's speech. Mr. JOHNSON, Mr. PATERSON, and Mr. CARROLL, were elected.

THURSDAY, May 7.

The committee appointed to confer with such committee as might be appointed on the part of the House of Representatives, to report what style or titles it will be proper to annex to the offices of President and of Vice President of the United States, if any other than those given in the Constitution, reported.

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Which report was ordered to lie for consideration.

The committee appointed to prepare an answer to the President's speech, delivered to the Senate and House of Representatives of the United States, reported as follows:

SIR: We, the Senate of the United States, return you our sincere thanks for your excellent speech delivered to both Houses of Congress; congratulate you on the complete organization of the Federal Government; and felicitate ourselves and our fellow-citizens on your elevation to the office of President; an office highly important by the powers constitutionally annexed to it, and extremely honorable from the manner in which the appointment is made. The unanimous suffrage of the elective body in your favor, is peculiarly expressive of the gratitude, confidence, and affection of the citizens of America, and is the highest testimonial at once of your merit and their esteem. We are sensible, sir, that nothing but the voice of your fellow-citizens could have called you from a retreat, chosen with the fondest predilection, endeared by habit, and consecrated to the repose of declining years. We rejoice, and with us all America, that, in obedience to the call of our common country, you have returned once more to public life. In you all parties confide; in you all interests unite; and we have no doubt that your past services, great as they have been, will be equalled by your future exertions; and that your prudence and sagacity as a statesman will tend to avert the dangers to which we are exposed, to give stability to the present Government, and dignity and splendor to that country, which your skill and valor, as a soldier, so eminently contributed to raise to independence and empire.

When we contemplate the coincidence of circumstances, and wonderful combination of causes, which gradually prepared the people of this country for independence; when we contemplate the rise, progress, and termination of the late war, which gave them a name among the nations of the earth; we are, with you, unavoidably led to acknowledge and adore the great Arbiter of the universe, by whom empires rise and fall. A review of the many signal instances of divine interposition in favor of this country claims our most pious gratitude; and permit us, sir, to observe, that, among the great events which have led to the formation and establishment of a Federal Government, we esteem your acceptance of the office of President as one of the most propitious and important.

In the execution of the trust reposed in us, we shall endeavor to pursue that enlarged and liberal policy to which your speech so happily directs. We are conscious that the prosperity of each State is inseparably connected with the welfare of all, and that, in promoting the latter, we shall effectually advance the former. In full persuasion of this truth, it shall be our invariable aim to divest ourselves of local prejudices and attachments, and to view the great assemblage of communities and interests committed to our charge with an equal eye. We feel, sir, the force, and acknowledge the justness of the observation, that the foundation of our national policy should be laid in private morality. If individuals be not influenced by moral principles, it is in vain to look for public virtue; it is, therefore, the duty of legislators to enforce, both by precept and example, the utility, as well

as the necessity, of a strict adherence to the rules of distributive justice. We beg you to be assured that the Senate will, at all times, cheerfully co-operate in every measure which may strengthen the Union, conduce to the happiness, or secure and perpetuate the liberties of this great confederated republic.

We commend you, sir, to the protection of Almighty God, earnestly beseeching him long to preserve a life so valuable and dear to the people of the United States; and that your administration may be prosperous to the nation, and glorious to yourself.

Read and accepted; and

Ordered, That the Vice President should affix his signature to the address, in behalf of the Senate.

FRIDAY, May 8.

The report of the committee appointed to determine "What style or title it will be proper to annex to the offices of President and Vice President of the United States, if any other than those given in the Constitution;" and to confer with a committee of the House of Representatives appointed for the same purpose, was considered, and disagreed to.

The question was taken, "Whether the President of the United States shall be addressed by the title of *His Excellency*?" and it passed in the negative.

On motion that a committee of three be appointed to consider and report under what title it will be proper for the Senate to address the President of the United States, Mr. LEE, Mr. ELLSWORTH, and Mr. JOHNSON, were elected.

SATURDAY, May 9.

A message from the House of Representatives informed the Senate that they had accepted the report of the committee appointed to consider what style or title it will be proper to annex to the offices of President and Vice President of the United States, if any other than those given in the Constitution.

Ordered, That Mr. FEW, Mr. MACLAY, and Mr. STRONG, be a committee to view the apartments in the City Hall, and to confer with any committee that may be appointed by the House of Representatives for that purpose, and report how the same shall be appropriated.

The committee appointed to consider under what title it will be proper for the Senate to address the President of the United States, reported; the consideration of which was postponed until Monday next.

The Secretary was charged with a message to the House of Representatives, with the order of Senate passed the 7th instant, on the mode adopted by the Senate in receiving communications from that House.

Ordered, That Mr. LEE, Mr. ELLSWORTH, and Mr. JOHNSON, be a committee to confer with any committee to be appointed by the House of Representatives, on the difference of opinion now subsisting between the two Houses, respecting the title of the President of the United States; and, on motion for reconsideration, the instruction to the committee was agreed to, as follows:

"That they consider and report under what title it will be proper for the President of the United States in future to be addressed, and confer thereon with such committee as the House of Representatives may appoint for that purpose."

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The Secretary carried to the House of Representatives the appointment of a committee, on the part of the Senate, to view the rooms in the City Hall, and to confer upon their appropriation;

The rejection of the report of the committee appointed to consider what style, &c., it will be proper to annex to the offices of President and of Vice President;

And the appointment of a committee on the part of the Senate to confer on a title under which it will be proper to address the President of the United States.

MONDAY, May 11.

Ordered, That the consideration of the report of the committee upon "the title by which it will be proper for the Senate to address the President," be postponed until Tuesday next.

TUESDAY, May 12.

Ordered, That the committee appointed the 9th of May, to consider "by what title it will be proper for the Senate to address the President of the United States", be instructed to confer with the committee of the House of Representatives, agreeably to the proposition in their message of this day.

A motion for the committee, appointed to address the President, to proceed, was postponed to Thursday next.

THURSDAY, May 14.

The committee, appointed the 9th instant, to determine "under what title it will be proper for the Senate to address the President," and to confer with a committee of the House of Representatives "upon the disagreeing votes of the Senate and House," informed the Senate that they had conferred with a committee of the House of Representatives, but could not agree upon a report.

The committee appointed the 9th instant, "to consider and report under what title it will be proper for the Senate to address the President of the United States of America," reported:

That, in the opinion of the committee, it will be proper thus to address the President: "*His Highness, the President of the United States of America, and Protector of their Liberties.*"

Which report was postponed; and the following resolve was agreed to, to wit:

From a decent respect for the opinion and practice of civilized nations, whether under monarchical or republican forms of Government, whose custom is to annex titles of respectability to the office of their Chief Magistrate; and that, on intercourse with foreign nations, a due respect for the majesty of the people of the United States may not be hazarded by an appearance of singularity, the Senate have been induced to be of opinion, that it would be proper to annex a respectable title to the office of President of the United States; but, the Senate, desirous of preserving harmony with the House of Representatives, where the practice lately observed in presenting an address to the President was without the addition of titles, think it proper, for the present, to act in conformity with the practice of that House: therefore,

Resolved, That the present address be "*To the President of the United States*," without addition of title.

A motion was made to strike out the preamble as far as the words "but the Senate;" which passed in the negative:

And on motion for the main question, it passed in the affirmative.

The committee appointed to consider and report a mode of carrying into effect the provision in the second clause of the third section of the first article of the Constitution, reported;

Whereupon,

Resolved, That the Senators be divided into three classes;

The first to consist of Mr. Langdon, Mr. Johnson, Mr. Morris, Mr. Henry, Mr. Izard, and Mr. Gunn;

The second of Mr. Wingate, Mr. Strong, Mr. Paterson, Mr. Bassett, Mr. Lee, Mr. Butler, and Mr. Few;

And the third of Mr. Dalton, Mr. Ellsworth, Mr. Elmer, Mr. Maclay, Mr. Read, Mr. Carroll, and Mr. Grayson.

That three papers of an equal size, numbered 1, 2, and 3, be, by the Secretary, rolled up and put into a box, and drawn by Mr. Langdon, Mr. Wingate, and Mr. Dalton, in behalf of the respective classes, in which each of them are placed; and that the classes shall vacate their seats in the Senate, according to the order of numbers drawn for them, beginning with No. 1.

And that, when Senators shall take their seats from States that have not yet appointed Senators, they shall be placed by lot in the foregoing classes, but in such manner as shall keep the classes as nearly equal as may be in numbers.

The committee appointed to confer with a committee of the House of Representatives, in preparing proper rules to be established for the enrolment, &c. of the acts of Congress, reported; which report was ordered to lie for consideration.

Ordered, That the committee appointed to draft an answer to the President's speech, wait on him, and request him to appoint the time when it will be agreeable to receive the address of the Senate, at his own house.

FRIDAY, May 15.

The committee appointed to draft an answer to the President's speech further reported; whereupon it was

Agreed, That the Senate should wait on the President at his own house on Monday next, at a quarter after 11 o'clock, and that the Vice President then present the address of the Senate, as agreed to on the 7th instant.

The Senate proceeded to determine the classes, agreeably to the resolve of yesterday, on the mode of carrying into effect the provision of the second clause of the third section of the first article of the Constitution; and the numbers being drawn, the classes were determined as follows:

Lot No. 1, drawn by Mr. Dalton, contained Mr. Dalton, Mr. Ellsworth, Mr. Elmer, Mr. Maclay, Mr. Read, Mr. Carroll, and Mr. Grayson; whose seats shall, accordingly, be vacated in the Senate at

the expiration of the second year.

Lot No. 2. drawn by Mr. Wingate, contained Mr. Wingate, Mr. Strong, Mr. Paterson, Mr. Bassett, Mr. Lee, Mr. Butler, and Mr. Few; whose seats shall, accordingly, be vacated in the Senate at the expiration of the fourth year.

Lot No. 3, drawn by Mr. Langdon, contained Mr. Langdon, Mr. Johnson, Mr. Morris, Mr. Henry, Mr. Izard, and Mr. Gunn; whose seats shall, accordingly, be vacated in the Senate at the expiration of the sixth year.

MONDAY, May 18.

Agreeably to the order of the 15th instant, the Senate waited on the President of the United States at his own house, when the Vice President, in their name, delivered to the President the address agreed to on the 7th instant. To which the President of the United States was pleased to make the following reply:

GENTLEMEN: I thank you for your address, in which the most affectionate sentiments are expressed in the most obliging terms. The coincidence of circumstances which led to this auspicious crisis, the confidence reposed in me by my fellow-citizens, and the assistance I may expect from counsels which will be dictated by an enlarged and liberal policy, seem to presage a more prosperous issue to my administration than a diffidence of my abilities had taught me to anticipate. I now feel myself inexpressibly happy in a belief that Heaven, which has done so much for our infant nation, will not withdraw its providential influence before our political felicity shall have been completed, and in a conviction that the Senate will at all times co-operate in every measure which may tend to promote the welfare of this confederated republic. Thus supported by a firm trust in the great Arbiter of the universe, aided by the collective wisdom of the Union, and imploring the divine benediction on our joint exertions in the service of our country, I readily engage with you in the arduous but pleasing task of attempting to make a nation happy.

G. WASHINGTON.

THURSDAY, May 21.

WILLIAM GRAYSON, from Virginia, appeared and took his seat.

Resolved, That all bills on a second reading shall be considered by the Senate in the same manner as if the Senate were in a committee of the whole, before they shall be taken up and proceeded on by the Senate, agreeably to the standing rules, unless otherwise ordered.

MONDAY, May 25.

The Senate to-day, for the first time, entered upon executive business, having received from the President of the United States a communication covering a report from the Secretary of War, on the negotiations of the Governor of the Western Territory with certain northern and north-western Indians, and the treaties made in consequence thereof at Fort Harmar, on the 9th of January, 1789, which was read, and ordered to lie on the table.

THURSDAY, May 28.

The Senate proceeded in the consideration of the bill for laying a duty on goods, wares and merchandises imported into the United States; and, after debate, adjourned.

WEDNESDAY, June 3.

Ordered, That Mr. LANGDON administer the oath to the Vice President; which was done accordingly.

And the Vice President administered the oath according to law, to the following members: to MESSRS. LANGDON, WINGATE, STRONG, DALTON, JOHNSON, ELLSWORTH, PATERSON, MACLAY, MORRIS, READ, BASSETT, CARROLL, HENRY, LEE, GRAYSON, IZARD, FEW, GUNN.

The same oath was, by the Vice President, administered to the Secretary, together with the oath of office.

MONDAY, June 8.

PIERCE BUTLER, from South Carolina, appeared and took his seat.

The Vice President administered the oath to Mr. Butler.

TUESDAY, June 16.

The Senate entered on executive business. A communication from the President informed them that Mr. JEFFERSON wished to return home, and he proposed WILLIAM SHORT, Esq. to take his place

as minister to France. Laid on the table.

WEDNESDAY, June 17.

The Senate went into executive business. They examined into the fitness of Mr. SHORT to supply the place of Mr. JEFFERSON, but came to no conclusion.

THURSDAY, June 18.

The Senate went into executive business, and confirmed the appointment of Mr. SHORT to take charge of our affairs at the court of France, during the absence of the minister.

THURSDAY, June 25.

The Senate proceeded to the consideration of the bill for establishing an Executive Department, to be denominated the Department of Foreign Affairs; which was read the first time, and ordered to lie for consideration.

FRIDAY, July 17.

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On motion, that, on the final question upon a bill or resolve, any member shall have a right to enter his protest or dissent on the journal, with reasons in support of such dissent, provided the same be offered within two days after the determination on such final question:

Passed in the negative.

TUESDAY, July 21.

The Senate entered on executive business, and

Ordered, That the Secretary of Foreign Affairs attend the Senate to-morrow, and bring with him such papers as are requisite to give full information relative to the consular convention between France and the United States.

WEDNESDAY, July 22.

The Senate were to-day mostly engaged in executive business. The Secretary of Foreign Affairs attended, agreeably to order, and made the necessary explanations; and the following resolution was entered into.^[5]

SATURDAY, July 25.

RUFUS KING, from New York, appeared, and took his seat.

MONDAY, July 27.

PHILIP SCHUYLER, from New York, appeared, and took his seat.

TUESDAY, July 28.

On motion, the Senators from the State of New York proceeded to draw lots for their classes, in conformity to the resolve of the 14th of May; and two lots, No. 3, and a blank, being, by the Secretary, rolled up and put into the box, Mr. SCHUYLER drew blank; and Mr. KING having drawn No. 3, his seat shall accordingly be vacated in the Senate at the expiration of the sixth year.

The Secretary proceeded to put two other lots into the box, marked Nos. 1 and 2; and Mr. SCHUYLER having drawn lot No. 1, his seat shall accordingly be vacated in the Senate at the expiration of the second year.

MONDAY, August 3.

The Senate entered on executive business. The President communicated to them a list of about one hundred appointments as collectors, naval officers, and surveyors. The Senate advised and consented to about one-half the list; the rest lay till to-morrow.

TUESDAY, August 4.

A message from the House of Representatives brought up a bill for making compensation to the President and Vice President of the United States, and desired the concurrence of the Senate therein;

Together with the appointment of MESSRS. WADSWORTH, CARROLL, and HARTLEY, a committee, to join with a committee of the Senate to be appointed for the purpose, "to consider of and report when it will be convenient and proper that an adjournment of the present session of Congress should take place; and to consider and report such business, now before Congress, necessary to be

finished before the adjournment, and such as may be conveniently postponed to the next session; and, also, to consider and report such matters, not now before Congress, but which it will be necessary should be considered and determined by Congress before an adjournment."

The Senate again entered on executive business, and advised and confirmed all the remainder of the list of appointments presented yesterday, one excepted.

FRIDAY, August 7.

The Senate, in the absence of the Vice President, proceeded to elect a President *pro tempore*; and the votes being collected and counted, the Honorable JOHN LANGDON was unanimously appointed.

A message from the President of the United States, by General Knox:

Gentlemen of the Senate:

The business which has hitherto been under the consideration of Congress has been of so much importance, that I was unwilling to draw their attention from it to any other subject. But the disputes which exist between some of the United States and several powerful tribes of Indians, within the limits of the Union, and the hostilities which have, in several instances, been committed on the frontiers, seem to require the immediate interposition of the General Government.

I have, therefore, directed the several statements and papers which have been submitted to me on this subject, by General Knox, to be laid before you for your information.

While the measures of Government ought to be calculated to protect its citizens from all injury and violence, a due regard should be extended to those Indian tribes whose happiness, in the course of events, so materially depends on the national justice and humanity of the United States.

If it should be the judgment of Congress that it would be most expedient to terminate all differences in the southern district, and to lay the foundation for future confidence, by an amicable treaty with the Indian tribes in that quarter, I think proper to suggest the consideration of the expediency of instituting a temporary commission for that purpose, to consist of three persons, whose authority should expire with the occasion. How far such a measure, unassisted by posts, would be competent to the establishment and preservation of peace and tranquillity on the frontiers, is also a matter which merits your serious consideration.

GEO. WASHINGTON.

NEW YORK, *August 7, 1789.*

The above message was ordered to lie for consideration.^[6]

Mr. MORRIS, in behalf of the committee on the bill for allowing a compensation to the President and Vice President of the United States, reported an amendment, to wit:

To expunge, in the provision for the Vice President, "five thousand dollars," and insert "six thousand dollars."

On motion to reduce the provision for the President of the United States, from "twenty-five thousand" to "twenty thousand dollars:"

Passed in the negative.

On motion to make the provision for the Vice President eight thousand dollars, instead of five thousand dollars:

Passed in the negative.

The Senate entered on executive business.

The following message from the President was laid before them:

Gentlemen of the Senate:

My nomination of Benjamin Fishbourn for the place of naval officer of the port of Savannah not having met with your concurrence, I now nominate Lachlan McIntosh for that office.^[7]

Whatever may have been the reasons which induced your dissent, I am persuaded they were such as you deemed sufficient. Permit me to submit to your consideration whether, on occasions where the propriety of nominations appears questionable to you, it would not be expedient to communicate that circumstance to me, and thereby avail yourselves of the information which led me to make them, and which I would with pleasure lay before you. Probably my reasons for nominating Mr. Fishbourn may tend to show that such a mode of proceeding, in such cases, might be useful. I will, therefore, detail them.

First. While Colonel Fishbourn was an officer, in actual service, and chiefly under my own eye, his conduct appeared to me irreproachable; nor did I ever hear any thing injurious to his reputation as an officer or a gentleman. At the storming of

Stony Point, his behavior was represented to have been active and brave, and he was charged by his General to bring the account of that success to the head quarters of the army.

Secondly. Since his residence in Georgia, he has been repeatedly elected to the Assembly as a representative of the county of Chatham, in which the port of Savannah is situated, and sometimes of the counties of Glynn and Camden; he has been chosen a member of the executive council of the State, and has lately been president of the same; he has been elected by the officers of the militia, in the county of Chatham, lieutenant-colonel of the militia in that district; and, on a very recent occasion, to wit, in the month of May last, he has been appointed by the council (on the suspension of the late collector) to an office in the port of Savannah, nearly similar to that for which I nominated him; which office he actually holds at this time. To these reasons for nominating Mr. Fishbourn, I might add that I received private letters of recommendation, and oral testimonials in his favor, from some of the most respectable characters in that State; but as they were secondary considerations with me, I do not think it necessary to communicate them to you.

It appeared, therefore, to me, that Mr. Fishbourn must have enjoyed the *confidence* of the militia officers, in order to have been elected to a military rank; the *confidence* of the freemen, to have been elected to the Assembly; the *confidence* of the Assembly, to have been selected for the council; and the *confidence* of the council, to have been appointed collector of the port of Savannah.

GEO. WASHINGTON.

NEW YORK, *August 6, 1789.*

FRIDAY, August 21.

The Senate entered on executive business. They proceeded to consider the report made by Mr. IZARD, yesterday, as follows:

The committee appointed to wait on the President of the United States, and confer with him on the mode of communication proper to be pursued between him and the Senate, in the formation of treaties, and making appointments to offices, reported:

Which report was agreed to. Whereupon,

Resolved, That when nominations shall be made in writing by the President of the United States to the Senate, a future day shall be assigned, unless the Senate unanimously direct otherwise, for taking them into consideration; that when the President of the United States shall meet the Senate in the Senate Chamber, the President of the Senate shall have a chair on the floor, be considered as at the head of the Senate, and his chair shall be assigned to the President of the United States; that when the Senate shall be convened by the President of the United States to any other place, the President of the Senate and Senators shall attend at the place appointed. The Secretary of the Senate shall also attend to take the minutes of the Senate.

That all questions shall be put by the President of the Senate, either in the presence or absence of the President of the United States; and the Senators shall signify their assent or dissent by answering *viva voce*, aye or no.^[8]

Another message was received from the President, viz:

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Gentlemen of the Senate:

The President of the United States will meet the Senate, in the Senate Chamber, at half-past eleven o'clock to-morrow, to advise with them on the terms of the treaty to be negotiated with the Southern Indians.

GEO. WASHINGTON.

NEW YORK, *August 21, 1789.*

SATURDAY, August 22.

The Senate again entered on executive business.

The President of the United States came into the Senate Chamber, attended by General Knox, and laid before the Senate the following statement of facts, with the questions thereto annexed, for their advice and consent:

[Here follows the statement of facts, and the questions thereto annexed, and the answer of the Senate to each question.]

MONDAY, August 24.

The Senate was to-day wholly engaged in executive business.

The President of the United States being present in the Senate Chamber, attended by General Knox,

The Senate resumed the consideration of the state of facts and questions thereto annexed, laid before them by the President of the United States, on Saturday last. And the first question, viz: "In the present state of affairs between North Carolina and the United States, will it be proper to take any other measures for redressing the injuries of the Cherokees than the one herein suggested?" being put, was answered in the negative.^[9]

The third question, viz: "If the commissioners shall adjudge that the Creek nation was fully represented at the three treaties with Georgia, and that the cessions of land were obtained with the full understanding and free consent of the acknowledged proprietors, and that the said treaties ought to be considered as just and equitable: in this case, shall the commissioners be instructed to insist on a formal renewal and confirmation thereof? and, in case of a refusal, shall they be instructed to inform the Creeks that the arms of the Union shall be employed to compel them to acknowledge the justice of the said cessions?" was wholly answered in the affirmative.

The fourth question, and its four subdivisions, viz: "But if the commissioners shall adjudge that the said treaties were formed with an inadequate or unauthorized representation of the Creek nation, or that the treaties were held under circumstances of constraint or unfairness of any sort, so that the United States could not, with justice and dignity, request or urge a confirmation thereof: in this case, shall the commissioners, considering the importance of the Oconee lands to Georgia, be instructed to use their highest exertions to obtain a cession of said lands? If so, shall the commissioners be instructed, if they cannot obtain the said cessions on better terms, to offer for the same, and for the further great object of attaching the Creeks to the Government of the United States, the following conditions:

"1st. A compensation in money or goods, to the amount of — dollars; the said amount to be stipulated to be paid by Georgia at the period which shall be fixed, or in failure thereof, by the United States.

"2d. A secure port on the Altamaha or on St. Mary's river, or at any other place between the same, as may be mutually agreed to by the commissioners and the Creeks.

"3d. Certain pecuniary considerations to some, and honorary military distinctions to other influential chiefs, on their taking oaths of allegiance to the United States. [Pg 19]

"4th. A solemn guarantee by the United States to the Creeks of their remaining territory, and to maintain the same, if necessary, by a line of military posts," was wholly answered in the affirmative. The blank to be filled at the discretion of the President of the United States.

The fifth question, viz: "But if all offers should fail to induce the Creeks to make the desired cessions to Georgia, shall the commissioners make it an ultimatum?" was answered in the negative.

The sixth question being divided, the first part, containing as follows, viz: "If the said cessions shall not be made an ultimatum, shall the commissioners proceed and make a treaty, and include the disputed lands within the limits which shall be assigned to the Creeks?" was answered in the negative.

The remainder, viz: "If not, shall a temporary boundary be marked, making the Oconee the line, and the other parts of the treaty be concluded?"

"In this case, shall a secure port be stipulated, and the pecuniary and honorary considerations granted?"

"In other general objects shall the treaties formed at Hopewell, with the Cherokees, Chickasaws, and Choctaws, be the basis of a treaty with the Creeks?" were all answered in the affirmative.

On the seventh question, viz: "Shall the sum of twenty thousand dollars, appropriated to Indian expenses and treaties, be wholly applied, if necessary, to a treaty with the Creeks? if not, what proportion?" It was agreed to advise and consent to appropriate the whole sum, if necessary, at the discretion of the President of the United States.

The President of the United States withdrew from the Senate Chamber, and the Vice President put the question of adjournment; to which the Senate agreed.

WEDNESDAY, September 16.

The following message from the President of the United States was received by the Secretary of War.

Gentlemen of the Senate:

The Governor of the Western Territory has made a statement to me of the reciprocal hostilities of the Wabash Indians, and the people inhabiting the frontiers bordering on the river Ohio, which I herewith lay before Congress.

The United States, in Congress assembled, by their acts of the 21st day of July, 1787, and of the 12th August, 1788, made a provisional arrangement for calling forth the militia of Virginia and Pennsylvania in the proportions therein specified.

As the circumstances which occasioned the said arrangement continue nearly the same, I think proper to suggest to your consideration the expediency of making

some temporary provision for calling forth the militia of the United States for the purposes stated in the constitution, which would embrace the cases apprehended by the Governor of the Western Territory.

GEO. WASHINGTON.

September 16, 1789.

THURSDAY, September 17.

The Senate entered on executive business.

The following message was received from the President of the United States:

Gentlemen of the Senate:

It doubtless is important that all treaties and compacts formed by the United States with other nations, whether civilized or not, should be made with caution and executed with fidelity.

It is said to be the general understanding and practice of nations, as a check on the mistakes and indiscretions of ministers or commissioners, not to consider any treaty negotiated and signed by such officers as final and conclusive, until ratified by the sovereign or government from whom they derive their powers. This practice has been adopted by the United States respecting their treaties with European nations, and I am inclined to think it would be advisable to observe it in the conduct of our treaties with the Indians; for though such treaties being, on their part, made by their chiefs or rulers, need not be ratified by them, yet, being formed on our part by the agency of subordinate officers, it seems to be both prudent and reasonable that their acts should not be binding on the nation until approved and ratified by the Government. It strikes me that this point should be well considered and settled, so that our national proceedings, in this respect, may become uniform, and be directed by fixed and stable principles.

The treaties with certain Indian nations, which were laid before you with my message of the 25th May last, suggested two questions to my mind, viz: 1st, Whether those treaties were to be considered as perfected, and, consequently, as obligatory, without being ratified? If not, then, 2dly, Whether both, or either, and which of them, ought to be ratified? On these questions I request your opinion and advice.

You have, indeed, advised me "*to execute and enjoin an observance of*" the treaty with the Wyandots, &c. You, gentlemen, doubtless intended to be clear and explicit; and yet, without further explanation, I fear I may misunderstand your meaning: for if by my *executing* that treaty you mean that I should make it (in a more particular and immediate manner than it now is) the act of Government, then it follows that I am to ratify it. If you mean by my *executing it* that I am to see that it be carried into effect and operation, then I am led to conclude, either that you consider it as being perfect and obligatory in its present state, and therefore to be executed and observed; or that you consider it to derive its completion and obligation from the silent approbation and ratification which my proclamation may be construed to imply. Although I am inclined to think that the latter is your intention, yet it certainly is best that all doubts respecting it be removed.

Permit me to observe, that it will be proper for me to be informed of your sentiments relative to the treaty with the Six Nations, previous to the departure of the Governor of the Western Territory; and therefore I recommend it to your early consideration.

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GEO. WASHINGTON.

September 17, 1789.

Ordered, That the President's message be committed to Messrs. CARROLL, KING, and READ.

FRIDAY, September 18.

The Senate entered on executive business.

Mr. CARROLL, on behalf of the committee appointed yesterday, reported as follows:

The committee, to whom was referred a message from the President of the United States of the 17th September, 1789, report:

That the signature of treaties with the Indian nations has ever been considered as a full completion thereof, and that such treaties have never been solemnly ratified by either of the contracting parties, as hath been commonly practised among the civilized nations of Europe: wherefore the committee are of opinion that the formal ratification of the treaty concluded at Fort Harmar on the 9th day of January, 1789, between Arthur St. Clair, Governor of the Western Territory, on the part of the United States, and the sachems and warriors of the Wyandot, Delaware, Ottawa, Chippewa, Pattiwattima, and Sac Nations, is not expedient or necessary;

and that the resolve of the Senate of the 8th September, 1789, respecting the said treaty, authorizes the President of the United States to enjoin a due observance thereof.

TUESDAY, September 29.

The following communications from the President were received by Mr. Jay:

Gentlemen of the Senate:

His Most Christian Majesty, by a letter dated the 7th of June last, addressed to the President and members of the General Congress of the United States of North America, announces the much lamented death of his son, the Dauphin. The generous conduct of the French monarch and nation towards this country renders every event that may affect his or their prosperity interesting to us; and I shall take care to assure him of the sensibility with which the United States participate in the affliction which a loss so much to be regretted must have occasioned, both to him and to them.

GEO. WASHINGTON.

September 29.

Gentlemen of the Senate:

Having been yesterday informed by a joint committee of both Houses of Congress, that they had agreed to a recess, to commence this day, and to continue until the first Monday of January next, I take the earliest opportunity of acquainting you that, considering how long and laborious this session has been, and the reasons which, I presume, have produced this resolution, it does not appear to me expedient to recommend any measures to their consideration at present, or now to call your attention, gentlemen, to any of those matters in my department which require your advice and consent, and yet remain to be despatched.

GEO. WASHINGTON.

September 29, 1789.

A message from the House of Representatives informed the Senate that the House of Representatives had finished the business of the session, and were ready to adjourn, agreeably to the order of the two Houses of Congress.

The business of the session being brought to a close, the Vice President, agreeably to the resolve of the two Houses on the 26th instant, adjourned the Senate to the first Monday in January next, then to meet at the City Hall in New York.

FIRST CONGRESS

LIST OF SENATORS.

New Hampshire.—John Langdon, Paine Wingate.

Massachusetts.—Caleb Strong, Tristram Dalton.

Connecticut.—William S. Johnson, Oliver Ellsworth.

New York.—Rufus King, Philip Schuyler.

New Jersey.—William Paterson, Jonathan Elmer.

Pennsylvania.—William Maclay, Robert Morris.

Delaware.—Richard Bassett, George Reed.

Maryland.—Charles Carroll, John Henry.

Virginia.—Richard Henry Lee, William Grayson.

South Carolina.—Ralph Izard, Pierce Butler.

Georgia.—William Few, James Gunn.

North Carolina.^[10]—Benjamin Hawkins, Samuel Johnston.

Rhode Island.^[11]—Joseph Stanton, jr., Theodore Foster.

LIST OF REPRESENTATIVES.

New Hampshire.—Nicholas Gilman, Samuel Livermore, Abiel Foster.

Massachusetts.—George Thatcher, Fisher Ames, George Leonard, Elbridge Gerry, Jonathan Grout, Benjamin Goodhue, Theodore Sedgwick, George Partridge.

Connecticut.—Benjamin Huntington, Jonathan Trumbull, Jeremiah Wadsworth, Roger Sherman, Jonathan Sturges.

New York.—John Lawrence, Egbert Benson, William Floyd, Peter Sylvester, John Hathorn, Jeremiah Van Rensselaer.

New Jersey.—Elias Boudinot, James Schureman, Lambert Cadwalader, Thomas Sinnickson.

Pennsylvania.—Henry Wynkoop, Frederick Augustus Muhlenberg, Daniel Heister, Thomas Scott, George Clymer, Thomas Fitzsimons, Thomas Hartley, Peter Muhlenberg.

Delaware.—John Vining.

Maryland.—William Smith, George Gale, Daniel Carroll, Joshua Seney, Michael Jenifer Stone, Benjamin Contee.

Virginia.—Alexander White, James Madison, jr., John Page, Richard Bland Lee, Samuel Griffin, Andrew Moore, Josiah Parker, Theodorick Bland,^[12] Isaac Coles, John Brown.

South Carolina.—Thomas Tudor Tucker, Edanus Burke, Daniel Huger, William Smith, Thomas Sumter.

Georgia.—Abraham Baldwin, James Jackson, George Mathews.

North Carolina.^[13]—John Steele, Timothy Bloodworth, Hugh Williamson, John Baptist Ashe, John Sevier.

Rhode Island.^[14]—Benjamin Bourn.

FIRST CONGRESS.—FIRST SESSION.

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PROCEEDINGS AND DEBATES IN THE HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 4, 1789.

This being the day fixed for the meeting of the new Congress, the following members of the House of Representatives appeared and took their seats, viz:^[15]

From Massachusetts, GEORGE THATCHER, FISHER AMES, GEORGE LEONARD, and ELBRIDGE GERRY.

From Connecticut, BENJAMIN HUNTINGTON, JONATHAN TRUMBULL, and JEREMIAH WADSWORTH.

From Pennsylvania, FREDERICK AUGUSTUS MUHLENBERG, THOMAS HARTLEY, PETER MUHLENBERG, and DANIEL HEISTER.

From Virginia, ALEXANDER WHITE.

From South Carolina, THOMAS TUDOR TUCKER.

A quorum of the members not being present, the House adjourned until to-morrow at eleven o'clock.

THURSDAY, March 5.

Several other members attended, viz: from New Hampshire, NICHOLAS GILMAN; from Massachusetts, BENJAMIN GOODHUE; from Connecticut, ROGER SHERMAN and JONATHAN STURGES; and from Pennsylvania, HENRY WYNKOOP; and no other members arriving, a quorum not being present, the House adjourned, from day to day, until the 14th instant.

SATURDAY, March 14.

The following members took their seats, to wit: JAMES MADISON, junior, JOHN PAGE, and RICHARD BLAND LEE, from Virginia.

A quorum not being yet present, the House adjourned, from day to day, until the 17th instant.

TUESDAY, March 17.

SAMUEL GRIFFIN, from Virginia, took his seat.

WEDNESDAY, March 18.

ANDREW MOORE, from Virginia, took his seat.

No other member appearing, the House adjourned, from day to day, until the 23d instant.

MONDAY, March 23.

The following members appeared, to wit:—

From New Jersey, ELIAS BOUDINOT; and from Maryland, WILLIAM SMITH.

No additional member appeared on the 24th.

WEDNESDAY, March 25.

JONATHAN PARKER, from Virginia, appeared and took his seat.

No additional member arrived until the 30th instant.

MONDAY, March 30.

GEORGE GALE, from Maryland, and THEODORICK BLAND, from Virginia, appeared and took their seats.

No additional member on the 31st instant.

WEDNESDAY, April 1.

Two other members appeared, to wit: JAMES SCHUREMAN, from New Jersey, and THOMAS SCOTT, from Pennsylvania, who, forming a quorum of the whole body, it was, on motion,

Resolved, That this House will proceed to the choice of a Speaker by ballot.

The House accordingly proceeded to ballot for a Speaker, when it was found that a majority of the votes were in favor of FREDERICK AUGUSTUS MUHLENBERG, one of the Representatives from Pennsylvania. Whereupon Mr. MUHLENBERG was conducted to the chair, from whence he made his acknowledgments to the House for so distinguished an honor.

The House then proceeded in the same manner to the appointment of a Clerk, when it was found that Mr. JOHN BECKLEY was elected.

On motion,

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Ordered, That the members do severally deliver in their credentials at the Clerk's table.

THURSDAY, April 2.

LAMBERT CADWALADER, from New Jersey, appeared and took his seat.

FRIDAY, April 3.

GEORGE CLYMER, from Pennsylvania, appeared and took his seat.

SATURDAY, April 4.

GEORGE PARTRIDGE, from Massachusetts, appeared and took his seat.

The House proceeded to the election of a doorkeeper, and assistant doorkeeper; when Gifford Dudley was chosen to the former, and Thomas Claxton to the latter office.

MONDAY, April 6.

DANIEL CARROLL, from Maryland, appeared and took his seat.

Ordered, That leave be given to bring in a bill to regulate the taking the oath or affirmation prescribed by the sixth article of the Constitution; and that Messrs. WHITE, MADISON, TRUMBULL, GILMAN, and CADWALADER, do prepare and bring in the same.

On motion,

Resolved, That the form of the oath to be taken by the members of this House, as required by the third clause of the sixth article of the Constitution of Government of the United States, be as followeth, to wit: "I, A B, a Representative of the United States in the Congress thereof, do solemnly swear (or affirm, as the case may be) in the presence of Almighty GOD, that I will support the Constitution of the United States. So help me God."

A message from the Senate, by Mr. ELLSWORTH.

Mr. SPEAKER: I am charged by the Senate to inform this House, that a quorum of the Senate is now formed; that a President is elected for the sole purpose of opening the certificates and counting the votes of the electors of the several States, in the choice of a President and Vice President of the United States; and that the Senate is now ready in the Senate Chamber, to proceed, in presence of this House, to discharge that duty. I have it also in further charge to inform this House that the Senate has appointed one of its members to sit at the Clerk's table to make a list of the votes as they shall be declared, submitting it to the wisdom of this House to appoint one or more of its members for the like purpose.

On motion,

Resolved, That Mr. Speaker, attended by the House, do now withdraw to the Senate Chamber, for the purpose expressed in the message from the Senate; and that Mr. PARKER and Mr. HEISTER be appointed on the part of this House, to sit at the Clerk's table with the member of the Senate, and make a list; of the votes, as the same shall be declared.

Mr. Speaker accordingly left the chair, and attended by the House, withdrew to the Senate Chamber, and after some time returned to the House.

Mr. Speaker resumed the chair.

Mr. PARKER and Mr. HEISTER then delivered in at the Clerk's table a list of the votes of the electors of the several States in the choice of a President and Vice President of the United States, as the same were declared by the President of the Senate, in the presence of the Senate and of this House, which was ordered to be entered on the Journal.^[16]

WEDNESDAY, April 8.

Two other members, to wit: JNO. LAWRENCE, from New York, and THOMAS FITZSIMONS, from Pennsylvania, appeared and took their seats.

Duties on Imports.

On motion, the House resolved itself into a Committee of the Whole on the state of the Union, Mr. PAGE in the chair.

Mr. MADISON.—I take the liberty, Mr. Chairman, at this early stage of the business, to introduce to the committee a subject, which appears to me to be of the greatest magnitude; a subject, sir, that requires our first attention, and our united exertions.

No gentleman here can be unacquainted with the numerous claims upon our justice; nor with the impotency which prevented the late Congress of the United States from carrying into effect the dictates of gratitude and policy.

The union, by the establishment of a more effective government, having recovered from the state of imbecility that heretofore prevented a performance of its duty, ought, in its first act, to revive those principles of honor and honesty that have too long lain dormant.

The deficiency in our Treasury has been too notorious to make it necessary for me to animadvert upon that subject. Let us content ourselves with endeavoring to remedy the evil. To do this a national revenue must be obtained; but the system must be such a one, that, while it secures the object of revenue, it shall not be oppressive to our constituents. Happy it is for us that such a system is within our power; for I apprehend that both these objects may be obtained from an impost on articles imported into the United States.

In pursuing this measure, I know that two points occur for our consideration. The first respects the general regulation of commerce; which, in my opinion, ought to be as free as the policy of nations will admit. The second relates to revenue alone; and this is the point I mean more particularly to bring into the view of the committee.

Not being at present possessed of sufficient materials for fully elucidating these points, and our situation admitting of no delay, I shall propose such articles of regulations only as are likely to occasion the least difficulty.

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The propositions made on this subject by Congress in 1783, having received, generally, the approbation of the several States of the Union, in some form or other, seem well calculated to become the basis of the temporary system, which I wish the committee to adopt.^[17] I am well aware that the changes which have taken place in many of the States, and in our public circumstances, since that period, will require, in some degree, a deviation from the scale of duties then affixed: nevertheless, for the sake of that expedition which is necessary, in order to embrace the spring importations, I should recommend a *general* adherence to the plan.

This, sir, with the addition of a clause or two on the subject of tonnage, I will now read, and, with leave, submit it to the committee, hoping it may meet their approbation, as an expedient rendered eligible by the urgent occasion there is for the speedy supplies of the federal treasury, and a speedy rescue of our trade from its present anarchy.

Resolved, As the opinion of this committee, that the following duties ought to be levied on goods, wares, and merchandise, imported into the United States, viz:

On rum, per gallon, — of a dollar; on all other spirituous liquors —; on molasses —; on Madeira wine —; on all other wines —; on common bohea teas per lb. —; on all other teas —; on pepper —; on brown sugar —; on loaf sugar —; on all other sugars —; on cocoa and coffee —; on all other articles — per cent. on their value at the time and place of importation.

That there ought, moreover, to be levied on all vessels in which goods, wares, or merchandises shall be imported, the duties following, viz: On all vessels built within the United States, and belonging wholly to citizens thereof, at the rate of — per ton.

On all vessels belonging wholly to the subjects of Powers with whom the United States have formed treaties, or partly to the subjects of such Powers, and partly to citizens of the said States, at the rate of —.

On all vessels belonging wholly or in part to the subjects of other Powers, at the rate of —.^[18]

Mr. BOUDINOT.—The necessity of adopting some measure, like the one proposed by the honorable gentleman from Virginia, is too apparent to need any argument in its support. The plan which he has submitted to the committee appears to be simple and sufficiently complete for the present

purpose; I shall, therefore, for my own part, be content with it, and shall move you, sir, that the blanks be filled up in the manner they were recommended to be charged by Congress in 1783. My reason for this is, that those sums have been approved by the Legislatures of every State represented on this floor, and of consequence must have been agreeable to the sense of our constituents at that time; and, I believe, nothing since has intervened to give us reason to believe they have made an alteration in their sentiments.

Mr. WHITE.—I wish filling up the blanks may be deferred until the business is more matured; nor will this be attended with a loss of time, because the forms necessary to complete a bill will require so much as to give gentlemen leisure to consider the proper quantum of impost to be laid, as well on the enumerated articles as on the common mass of merchandise rated *ad valorem*; for, as was hinted by my colleague, something may have occurred to render an alteration in the sums recommended in 1783 in some degree necessary; and if so, time will be given to consider the subject with more attention in the progress of the bill, and no unnecessary delay can arise; wherefore, I move you, sir, that the committee now rise, report progress, and ask leave to sit again.

Mr. MADISON.—I do not consider it at this moment necessary to fill up the blanks, nor had I it in contemplation at the time I offered the propositions. I supposed that most of the gentlemen would wish time to think upon the principles generally, and upon the articles particularly; while others, who, from their situation and advantages in life, are more conversant on this subject, may be induced to turn their particular attention to a subject they are well able to do justice to, and to assist the committee with their knowledge and information; unless such gentlemen are now prepared and disposed to proceed in filling up the blanks, I shall second the motion for the committee's rising.

THURSDAY, April 9.

EGBERT BENSON, from New York, and ISAAC COLES, from Virginia, appeared and took their seats.

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Duties on Imports.

The House again resolved itself into a Committee of the Whole on the state of the Union, Mr. PAGE in the chair.

Mr. LAWRENCE.—The subject of the proposition laid before the committee by the honorable gentleman from Virginia, (Mr. MADISON,) will now, I presume, Mr. Chairman, recur for our deliberation. I imagine it to be of considerable importance, not only to the United States, but to every individual of the Union. The object of the revenue alone would place it in this situation, and in this light I mean now to consider it. If I am not mistaken, the honorable mover of the plan viewed it as a temporary system, particularly calculated to embrace the spring importations; therefore, in order to discover whether the mode laid before you is well calculated to answer this end, it will be proper to consider its operation. The plan consists of certain distinct propositions; one part is intended to lay a specific sum on enumerated articles, the other a certain per cent. *ad valorem*: perhaps simplifying the system may be productive of happy consequences, and it strikes me that confusion and perplexity will be best avoided by such a measure; hence, it may be proper to lay a duty at a certain rate per cent. on the value of all articles, without attempting an enumeration of any; because, if we attempt to specify every article, it will expose us to a question which must require more time than can be spared, to obtain the object that appears to be in the view of the committee. A question, I say, sir, will arise, whether the enumeration embraces every article that will bear a duty, and whether the duty to be affixed is the proper sum the article is able to bear. On this head, sir, I believe that the committee have not materials sufficient to form even the basis of the system, beside being wholly incompetent to determine the rate most advantageous to the article of revenue, and most agreeable to the interest and convenience of our constituents. Knowledge on these points can only be obtained by experience; but hitherto we have had none, at least of a general nature. The partial regulations made by the States, throw but little light on the subject, and its magnitude ought to induce us to use the greatest degree of caution.

A system of the nature which I hinted at, will, in my opinion, be not only less complex and difficult in its formation, but likewise easier and more certain in its operation; because the more simple a plan of revenue is, the easier it becomes understood and executed: and it is, sir, an earnest wish of mine, that all our acts should partake of this nature. Moreover, by adopting the plan I have mentioned, you will embrace the spring importation and give time for digesting and maturing one upon more perfect principles; and, as the proposed system is intended to be but a temporary one, *that* I esteem to be best which requires the least time to form it.

With great deference I have submitted these sentiments to the committee, as what occurred to me to be the better plan of the two; though, I must own, it is a subject on which I am not so fully informed as I wish to be, and therefore hope the indulgence of the committee in considering it.

Mr. FITZSIMONS.—I observe, Mr. Chairman, by what the gentlemen have said, who have spoken on the subject before you, that the proposed plan of revenue is viewed by them as a temporary system, to be continued only until proper materials are brought forward and arranged in more perfect form. I confess, sir, that I carry my views on this subject much further; that I earnestly wish such a one which, in its operation, will be some way adequate to our present situation, as it respects our agriculture, our manufactures, and our commerce.

An honorable gentleman (Mr. LAWRENCE) has expressed an opinion that an enumeration of articles will operate to confuse the business. So far am I from seeing it in this point of view, that, on the contrary, I conceive it will tend to facilitate it. Does not every gentleman discover that, when a particular article is offered to the consideration of the committee, he will be better able to give his opinion upon it than on an aggregate question? because the partial and convenient impost laid on such article by individual States is more or less known to every member in the committee. It is also well known that the amount of such revenue is more accurately calculated and better to be relied on, because of the certainty of collection, less being left to the officers employed in bringing it forward to the public treasury. It being my opinion that an enumeration of articles will tend to clear away difficulties, I wish as many to be selected as possible; for this reason I have prepared myself with an additional number, which I wish subjoined to those already mentioned in the motion on your table; among these are some calculated to encourage the productions of our country, and protect our infant manufactures; besides others tending to operate as sumptuary restrictions upon articles which are often termed those of luxury. The amendment I mean to offer is in these words: I shall read it in my place, and, if I am seconded, hand it to you for the consideration of the committee.

Resolved, As the opinion of this committee, that the following duties ought to be laid on goods, wares, and merchandise imported into the United States, to wit:

[The articles enumerated for duty were beer, ale, and porter; beef, pork, butter, candles, cheese, soap, cider, boots, steel, cables, cordage, twine or pack thread, malt, nails, spikes, tacks, or brads; salt, tobacco, snuff, blank books, writing, printing, and wrapping paper; pasteboard, cabinet ware; buttons, saddles, gloves, hats, millinery, castings of iron, slit, or rolled iron; leather, shoes, slippers, and golo shoes; coach, chariot, and other four wheel carriages; chaise, solo, or other two wheel carriages; nutmegs, cinnamon, cloves, raisins, figs, currants, almonds.]

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This motion was seconded by Mr. SCHUREMAN.

Mr. WHITE.—I shall not pretend to say that there ought not to be specific duties laid upon every one of the articles enumerated in the amendment just offered; but I am inclined to think, that entering so minutely into the detail, will consume too much of our time, and thereby lose us a greater sum than the additional impost on the last-mentioned articles will bring in; because there may be doubts whether many of them are capable of bearing an increased duty; but this, sir, is not the case with those mentioned in the motion of my colleague: for I believe it will be readily admitted on all sides, that such articles as rum, wines, and sugar, have the capacity of bearing an additional duty besides a per cent. *ad valorem*. His system appears to be simple, and its principles I conceive, are such as gentlemen are agreed upon, consequently a bill founded thereupon would pass this House in a few days; the operation of the law would commence early, and the treasury be furnished with money to answer the demands upon it. This law would continue until mature deliberation, ample discussion, and full information, enabled us to complete a perfect system of revenue: for, in order to charge specified articles of manufacture, so as to encourage our domestic ones, it will be necessary to examine the present state of each throughout the Union. This will certainly be a work of labor and time, and will perhaps require more of each than the committee have now in their power. Let us, therefore, act upon the principles which are admitted, and take in the most material and productive articles, leaving to a period of more leisure and information a plan to embrace the whole.

Mr. TUCKER.—In common with the other gentlemen on this floor, I consider the subject which engages our present deliberations as of very great importance as it relates to our agriculture, manufactures, and commerce; I also consider it of consequence that we should give full satisfaction to our constituents by our decision, be that whatever it may; and I think this most likely to be effected by establishing a permanent regulation, although in the interim, a temporary system may be expedient.

I have no objection, sir, to go so far into the matter as to pass a law to collect an impost *ad valorem*, whilst it is understood to be but a temporary system; and likewise to lay a duty on such enumerated articles of importation as have been heretofore considered as proper ones by the Congress of 1783. So far, sir, the matter may be plain to us, and we run no hazard of doing any thing which may give dissatisfaction to any State in the Union. The duties proposed by the Congress of 1783 were, I believe, five per cent. on the value of all goods imported, and an additional duty on a few enumerated articles.^[19] This recommendation of Congress has been so universally received by the several States, that I think we run no risk of giving umbrage to any by adopting the plan; but the other articles which have just been offered, are, I apprehend, to many of us so novel, and, at the same time, so important, as to make it hard to determine the propriety of taxing them in a few hours, or even in a few days.

In order to preserve the peace and tranquillity of the Union, it will become necessary that mutual deference and accommodation should take place on subjects so important as the one I have first touched upon. And, in order that this may take place, it is proper that gentlemen deliver their sentiments with freedom and candor. I have done this in a manner which I conceived it my duty to do, and shall just repeat that I wish to confine the question to that part of the motion made by the honorable gentleman from Virginia, (Mr. MADISON,) which respects laying a general impost on the value of all goods imported, and the small enumeration which precedes it: if it is in contemplation to do otherwise, I shall be under the necessity of moving for a division of the question. If I should lose this, and a high tonnage duty be insisted on, I shall be obliged to vote against the measure altogether; when, if the business is conducted on principles of moderation, I shall give my vote for it to a certain degree.

Mr. HARTLEY.—If we consult the history of the ancient world, we shall see that they have thought proper, for a long time past, to give great encouragement to the establishment of manufactures, by laying such partial duties on the importation of foreign goods, as to give the home manufactures a considerable advantage in the price when brought to market. It is also well known to this committee, that there are many articles that will bear a higher duty than others, which are to remain in the common mass, and be taxed with a certain impost *ad valorem*. From this view of the subject I think it both politic and just that the fostering hand of the General Government should extend to all those manufactures which will tend to national utility. I am therefore sorry that gentlemen seem to fix their mind to so early a period as 1783; for we very well know our circumstances are much changed since that time: we had then but few manufactures among us, and the vast quantities of goods that flowed in upon us from Europe, at the conclusion of the war, rendered those few almost useless; since then we have been forced by necessity, and various other causes, to increase our domestic manufactures to such a degree as to be able to furnish some in sufficient quantity to answer the consumption of the whole Union, while others are daily growing into importance. Our stock of materials is, in many instances, equal to the greatest demand, and our artisans sufficient to work them up even for exportation. In these cases, I take it to be the policy of every enlightened nation to give their manufactures that degree of encouragement necessary to perfect them, without oppressing the other parts of the community; and under this encouragement, the industry of the manufacturer will be employed to add to the wealth of the nation.

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Mr. MADISON.—From what has been suggested by the gentlemen that have spoken on the subject before us, I am led to apprehend we shall be under the necessity of travelling further into an investigation of principles than what I supposed would be necessary, or had in contemplation when I offered the propositions before you.

I am sensible that there is great weight in the observation that fell from the honorable gentleman from South Carolina, (Mr. TUCKER,) that it will be necessary, on the one hand, to weigh and regard the sentiments of the gentlemen from the different parts of the United States; but, on the other hand, we must limit our consideration on this head, and, notwithstanding all the deference and respect we pay to those sentiments, we must consider the general interest of the Union; for this is as much every gentleman's duty to consider as is the local or State interest—and any system of impost that this committee may adopt must be founded on the principles of mutual concession.

Gentlemen will be pleased to recollect, that those parts of the Union which contribute more under one system than the other, are also those parts more thinly planted, and consequently stand most in need of national protection; therefore they will have less reason to complain of unequal burthens.

There is another consideration; the States that are most advanced in population, and ripe for manufactures, ought to have their particular interests attended to in some degree. While these States retained the power of making regulations of trade, they had the power to protect and cherish such institutions; by adopting the present constitution, they have thrown the exercise of this power into other hands: they must have done this with an expectation that those interests would not be neglected here.

In my opinion, it would be proper also for gentlemen to consider the means of encouraging the great staple of America, I mean agriculture; which I think may justly be styled the staple of the United States, from the spontaneous productions which nature furnishes, and the manifest advantage it has over every other object of emolument in this country. If we compare the cheapness of our land with that of other nations, we see so decided an advantage in that cheapness, as to have full confidence of being unrivalled. With respect to the object of manufactures, other countries may and do rival us; but we may be said to have a monopoly in agriculture; the possession of the soil, and the lowness of its price, give us as much a monopoly in this case, as any nation or other parts of the world have in the monopoly of any article whatever; but, with this advantage to us, that it cannot be shared nor injured by rivalry.

If my general principle is a good one, that commerce ought to be free, and labor and industry left at large to find its proper object, the only thing which remains will be to discover the exceptions that do not come within the rule I have laid down. I agree with the gentleman from Pennsylvania, that there are exceptions, important in themselves, and which claim the particular attention of the committee. Although the freedom of commerce would be advantageous to the world, yet, in some particulars, one nation might suffer to benefit others, and this ought to be for the general good of society.

The next exception that occurs, is one on which great stress is laid by some well informed men, and this with great plausibility. That each nation should have within itself the means of defence, independent of foreign supplies: that in whatever relates to the operations of war, no State ought to depend upon a precarious supply from any part of the world. There may be some truth in this remark, and therefore it is proper for legislative attention. I am, though, well persuaded that the reasoning on this subject has been carried too far. The difficulties we experienced a few years ago, of obtaining military supplies, ought not to furnish too much in favor of an establishment which would be difficult and expensive; because our national character is now established and recognized throughout the world, and the laws of war favor national exertion more than intestine commotion, so that there is good reason to believe that when it becomes necessary, we may obtain supplies from abroad as readily as any other nation whatsoever. I have mentioned this, because I think I see something among the enumerated articles that seems to favor such a policy.

Mr. BODINOT.—I believe that it will not be disputed, that the best and easiest way of supplying the

public wants, is by raising a revenue on the importation of goods by way of impost, though the manner in which it should be done, I confess, is a subject on which I stand greatly in need of information. I should, therefore, most cordially comply with the request of the gentleman from South Carolina, (Mr. TUCKER,) in order to obtain time for consideration, and to wait the arrival of the absent gentlemen, in order that we may have that assistance which is to be derived from them. Did I consider the question on the present motion final, I should be at a loss how to act; but this, I take it, is not the case. I presume it is intended by the mover only to lay his motion on the table, with the original propositions open for debate and consideration, till the committee are possessed of sufficient information to proceed. I also confess, that, in general, I am in favor of specific duties on enumerated articles. I shall therefore vote for the amendment; but, in doing this, I shall not consider myself as bound to support the whole, nor, indeed, any particular article which, upon due consideration, I may deem either impolitic or unjust; for I cannot conceive, that, by adopting the amendment, we tie up our hands, or prevent future discussion. No, sir, that is not the case; and as I trust we all have the same object in view, namely, the public good of the United States, so I hope that a willing ear will be lent to every proposition likely to promote this end; nor do I doubt but gentlemen are mutually inclined to sacrifice local advantages for the accomplishment of this great purpose.

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On motion of Mr. LEE, the committee rose and reported progress, and the House adjourned.

SATURDAY, April 11.

Mr. CLYMER submitted it to the consideration of the committee, how far it was best to bring propositions forward in this way. Not that he objected to this mode of encouraging manufactures and obtaining revenue, by combining the two objects in one bill. He was satisfied that a political necessity existed for both the one and the other, and it would not be amiss to do it in this way, but perhaps the business would be more speedily accomplished by entering upon it systematically.

Mr. BOUDINOT.—It appears to me that this business of raising revenue points out two questions, of great importance, demanding much information. The first is, what articles are proper objects of taxation, and the probable amount of revenue from each. The second is, the proper mode of collecting the money arising from this fund, when the object and its amount are ascertained. There are three sources from which we may gain information on the first question, namely, from the revenue laws of the different States, for I believe a partial revenue has been raised almost in every State by an impost. The second source of information, and a very natural one, is the great body of merchants spread throughout the United States; this is a very respectable and well-informed body of our fellow-citizens, and great deference ought to be paid to their communications—they are in a peculiar situation under the present constitution, to which they are generally esteemed sincere friends—they are also more immediately interested in the event of the proposed measure, than any other class of men. To this Government they look for protection and support, and for such regulations as are beneficial to commerce; for these reasons, I think they deserve our confidence, and we ought to obtain from them such information as will enable the Congress to proceed to a general permanent system on more solid principles.

There are gentlemen on this floor well calculated to represent the mercantile interests of this country, and in whose integrity and abilities I have the highest confidence; but it is the duty of the members of this body to see that the principles upon which we act, are those calculated to promote the general good, and not confined to the local interests of a few individuals, or even individual States, so that they will decline trusting alone to this species of information, when another is attainable.

Mr. FITZSIMONS thought it best to make the system as perfect as possible before the committee determined its duration.

Mr. MADISON, that the subject which was under consideration divided itself, as had been observed by the honorable gentlemen from Jersey, into two parts; and hence he concluded that they might very properly be provided for by two separate bills; and while the Committee of the Whole are selecting articles and taxing them, another committee can be employed in devising the mode of collection. This method he thought more likely to reconcile the opinions of the committee than any he had heard suggested.

Mr. SHERMAN gave it as his opinion, that in fixing the duties on particular articles, if they could not ascertain the exact quantum, it would be better to run the risk of erring in setting low duties than high ones, because it was less injurious to commerce to raise them than to lower them; but nevertheless, he was for laying on duties which some gentlemen might think high, as he thought it better to derive revenue from impost than from direct taxation, or any other method in their power. He moved that the article of rum should be charged with fifteen cents per gallon—he used the term cents because it was a denomination of national coin, fixed by the late Congress, ten of which make a *dime* and ten *dimes* one dollar.

Mr. SMITH was apprehensive fifteen cents would be too high, and therefore moved ten cents, which he thought would raise more revenue than the other.

Mr. MADISON advised and moved for the rising of the committee, in order to give gentlemen time to make up their minds respecting the quantum of impost to be laid on each article.

MONDAY, April 13.

WILLIAM FLOYD, from New York; THOMAS SINNICKSON, from New Jersey; JOSHUA SENEY, from Maryland; EDANUS BURKE, DANIEL HUGER, and WILLIAM SMITH, from South Carolina, appeared and took their seats.

On motion,

Ordered, That Mr. BENSON, Mr. PETER MUHLENBERG, and Mr. GRIFFIN, be a committee to consider of and report to the House respecting the ceremonial of receiving the President, and that they be authorized to confer with a committee of the Senate for the purpose.

TUESDAY, April 14.

Duties on Imports.

The House again resolved itself into a Committee of the Whole on the state of the Union; Mr. PAGE in the chair.

Mr. BLAND, from Virginia, thought the committee not prepared to enter on the business of impost in the accurate manner which the form of the propositions seemed to imply. No gentleman on the floor could be more desirous than he was to go into the measure of a permanent system; but he could not agree to proceed at this time, for want of information. When he looked at the list of articles, he saw some calculated to give encouragement to home manufactures. This might be in some degree proper; but it was a well-known fact, that the manufacturing arts in America were only in their infancy, and far from being able to answer the demands of the country; then certainly you lay a tax upon the whole community, in order to put the money in the pockets of a few, whenever you burthen the importation with a heavy impost.

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Mr. SCOTT.—The subject before us naturally divides itself into two heads. First, what article shall be the subject of a particular tax, and what shall remain in the common mass liable to an impost *ad valorem*? The second, what the sum is that is proper for the article we select? For both these points will be necessary, because it can hardly be supposed that all articles can be enumerated, while some certainly ought. This being the case, it leads us to inquire what rule or principle shall be laid down in order to make a proper discrimination; for surely some reason should be assigned for this distinction. I presume the particular article which is to be subjected to an extraordinary duty must either come at so cheap a rate, according to its intrinsic value, as to bear a greater impost without being unreasonably expensive, or it must be one which we do not stand in need of at all, and only used for the purposes of luxury. If an article does not come within one of these descriptions, I see no reason why it should be taxed in an extraordinary manner.

On motion of Mr. GALE, the word *rum* was changed into distilled spirits of Jamaica proof.

Mr. LAWRENCE proposed to lay twelve cents on this article, saying, I believe, Mr. Chairman, it will be necessary to consider, when we are about to lay a duty on any article, how far it is likely to be collected, especially if our main object is to obtain revenue by our impost. I trust it does not require much illustration to prove to the satisfaction of the committee, that if you lay your duties too high, it will be a temptation to smuggling; for, in the proportion which that sum bears to the value of the article, will be the risk run in every attempt to introduce it in a clandestine manner, and, if this temptation is made too strong, the article will furnish no revenue. I believe, if the committee shall impose a duty of fifteen cents, as proposed by the gentleman from Connecticut, (Mr. SHERMAN,) it will be so strong a temptation for smuggling, that we shall lose our revenue altogether, or be compelled to use a mode of collection probably different from what we have been accustomed to—a mode so expensive as to absorb the whole produce of the tax.

I wish to lay as large a sum on this article as good policy may deem expedient; it is an article of great consumption, and though it cannot be reckoned a necessary of life, yet it is in such general use, that it may be expected to pay a very considerable sum into your treasury, when others may not with so much certainty be relied upon. But, when we consider the relative proportion of the first cost of it, and the fifteen cents duty, we shall find it about one third. This, I cannot help thinking, is too high, as the risk of a total loss may be ventured in order to save so great a sum; it is surely a great temptation, and I dread its consequences on more accounts than one.

Mr. MADISON.—I would tax this article with as high a duty as can be collected, and I am sure, if we judge from what we have heard and seen in the several parts of the Union, that it is the sense of the people of America that this article should have a duty imposed upon it weighty indeed. The duty proposed by the gentleman from New York (Mr. LAWRENCE) very little exceeds what is laid in this State, and very little what is laid in some other States, while some have thought it expedient to impose an excise superior. The question then is, whether the highest sum can be collected? I am of opinion that higher duties may generally be collected under the government of the Union than could be under that of the particular States, because it has been the policy of some, not only to decline going hand in hand together, but actually to oppose regulations made in a neighboring State. Being persuaded, likewise, that the highest sum will not exceed the power of the law to enforce the collection of, I shall vote for it.

Mr. BOUDINOT.—I am in favor of taxing this article as high as there is a probability of collecting the duty. I think our doing so will answer two or three good purposes. The present object of the committee is to raise a revenue, and no article on the list before you is more likely to be productive than this one; but a high duty may also discourage the use of ardent spirits; if not, it may discourage the West Indies from turning their molasses into rum. This being the case, they have no other market for molasses than this country, and our own distilleries, with the

advantages arising therefrom, will be able to rival them in the manufacture of that article; so far it may tend to the benefit of the country. I conceive it might be proper, on these accounts, to lay a much higher duty than has been proposed, were it not for the considerations mentioned by the gentleman from New York, that we run a risk of losing all by grasping at too much.

Mr. LAWRENCE.—The sum proposed is higher than the duty collected in this State, which is about eight cents; I fear, therefore, that it cannot be collected. If we are to reason and act as moralists on this point, I am certain it is the wish of every member to prevent the use of ardent spirits altogether, for their influence on the morals of the people is of the most pernicious kind. Nor does the mischief terminate here, as I apprehend it is equally destructive to the health; but we are not to deliberate and determine on this subject as moralists, but as politicians, and endeavor to draw (if I may use the expression) from the vices of mankind, that revenue which our citizens must, in one form or other, contribute. The question is, what shall be the duty on any particular article? To accomplish this purpose, we must determine by the circumstances of that article. Now, if we lay a high duty on Jamaica rum, it is supposed it will prevent the consumption; but then the purpose we have in view is frustrated, either because we cannot collect the tax, or the object of it is no longer imported. The consequence in this latter case would be, that the morals of our citizens are not impaired; yet it does not appear to me that this consequence would certainly flow from a system of high duties. I rather fear it would lead no further than to set men on schemes to evade the duty; and none of us are ignorant of the ingenuity and invention which can be exercised, when interest prompts mankind to an evasion of the law. We know the situation of the different States; the coast disposed by its prodigious extent to favor every means of illicit trade. A cargo of rum could be landed in Jersey, and the whole, reshipped in small vessels, might soon be brought into this city. If this should be the effect of our law, we have no other way to correct the operation, but by adopting a mode of collection odious to all, on account of the numerous train of officers it would require in its execution. But there would also be a danger of vessels running into creeks and small inlets, for the purpose of landing their cargoes, as well as on the sea-shore. Hence a necessity would arise of employing a number of vessels to check and correct such abuses, and the probable event would be, that all the impost collected would go to defray the expense of getting it into the treasury.

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The committee now agreed to tax ardent spirits, of Jamaica proof, fifteen cents; and all other spirituous liquors twelve cents.

On filling up the blank on molasses:

Mr. MADISON.—It is agreed, I presume, that spirits of every kind are proper objects of taxation, but whether we shall tax spirits in the case before us, or whether we shall tax the article from which it comes, is a question worthy of the consideration of the committee for several reasons. I believe it will be best to lay our hands on the duty, by charging this article on its importation, to avoid a more disagreeable measure. I would, therefore, lay such a duty on molasses, as is proportioned to what we have affixed upon rum, making an allowance in favor of our own manufacture. I think eight cents per gallon will allow a sufficient advantage to them, but of this I am not positive, and, therefore, shall not pertinaciously adhere to that sum, if it be thought too high; but I presume I am right in the principle upon which I contend, that we ought to collect the duty on the importation of molasses, in preference to any other way.

Mr. FITZSIMONS.—I think the duty on this article depends, in a great measure, upon what has been already agreed to. If the tax of West India and country rum is not well proportioned, it may be destructive of the end we have in contemplation. If, agreeably to the idea of the gentleman from New York, we affix a low duty, a great deal more rum will, in all probability, be distilled and used, than heretofore; of course, it will effectually rival the Jamaica rum, and the Union will lose the revenue which we calculate upon. Eight cents, I apprehend, is as well proportioned to the other taxes as can be devised.

Mr. GOODHUE considered molasses as a raw material, essentially requisite for the well-being of a very extensive and valuable manufacture. It ought likewise to be considered (as was truly stated) a necessary of life. In the Eastern States it entered into the diet of the poorer classes of people, who were, from the decay of trade and other adventitious circumstances, totally unable to sustain such a weight as a tax of eight cents would be upon them. Moreover, the tax was upon particular States as well as individuals, for it was a fact of public notoriety, that Massachusetts imported more molasses than all the other States together. She imports from 30,000 to 40,000 hogsheads annually. He would make one observation more. It had been the policy of Great Britain, as he well remembered, to encumber and depress the distillation of molasses. To do this, at one time they laid a duty of three pence sterling per gallon. It was conceived to be an oppressive measure, but it had little other effect than to cause heart-burnings and enmity. It produced no revenue, and the Parliament were forced to reduce the duty to a penny. From experience, therefore, as well as from the arguments before urged, he was inclined to believe that the committee would be satisfied with fixing a lower sum. He could not consent to allow more than two cents.

Mr. THATCHER.—It appears to me, that for the want of a certain and fixed principle to act upon, there is a great danger of making some improper establishments. It is for this reason that I wish not to hurry on the business with so much precipitation. Did gentlemen consider, when they agreed to a high duty on ardent spirits, that it would be a pretext for increasing the duties on a necessary of life. I presume a principal reason why a high tax on spirits was admitted, was in order to discourage the use of it among ourselves. If this was the intention of the committee, I have no objection to the burthen; but, even here, I fear difficulties will arise. Did we judiciously examine whether the spirit of the law accords with the habits and manners of the people? and did we assure ourselves of the full execution of the law? If we did not, the act becomes impolitic,

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because a law which cannot be executed tends to make the Government less respectable.

Mr. AMES.—I have not had the advantage of hearing all the arguments in support of the eight cents proposed; but those I have heard I am not satisfied with. The principles on which this tax is founded, I understand to be this: that it is an article of luxury, and of pretty general consumption, so that the duty is expected to fall equally upon all; but that it will not operate in this manner, I think is easily demonstrable. Can a duty of fifty per cent. *ad valorem*, paid, as it were, in an exclusive manner, by the State of Massachusetts, be equal? No, sir. But taking it as a part of the general system, can it be equal unless a proportionable duty, equal to fifty per cent., is laid upon articles consumed in other parts of the Union? No, sir; and is it in the contemplation of gentlemen to lay duties so high as to produce this equality? I trust it is not; because such duties could never be collected. Is not, therefore, eight cents disproportioned to the rates fixed, or intended to be imposed on other articles? I think it is; and, if to these considerations we add what has been said before, relative to its being a raw material important to a considerable manufacture, we cannot hesitate to reject it.

However gentlemen may think the use of this article dangerous to the health and morals of our fellow-citizens—I would also beg them to consider, that it is no more so than every other kind of spirituous liquors; that it will grow into an article for exportation; and although I admit we could export it even encumbered with the duty proposed, yet by it we run the risk of having the manufacture totally ruined, for it can hardly now stand a competition at home with the West India rum, much less can it do so abroad. If the manufacturers of country rum are to be devoted to certain ruin, to mend the morals of others, let them be admonished that they prepare themselves for the event: but in the way we are about to take, destruction comes on so sudden, they have not time to seek refuge in any other employment whatsoever. If their situation will not operate to restrain the hand of iron policy, consider how immediately they are connected with the most essential interests of the Union, and then let me ask if it is wise, if it is reconcilable to national prudence, to take measures subversive of your very existence? For I do contend, that the very existence of the Eastern States depends upon the encouragement of their navigation and fishery, which receive a deadly wound by an excessive impost on the article before us.

I would concur in any measure calculated to exterminate the poison covered under the form of ardent spirits, from our country; but it should be without violence. I approve as much as any gentleman the introduction of malt liquors, believing them not so pernicious as the one in common use; but before we restrain ourselves to the use of them, we ought to be certain that we have malt and hops, as well as brew-houses for the manufacture. Now, I deny that we have these in sufficient abundance to the eastward; but if we had, they are not taxed. Then why should the poor of Massachusetts be taxed for the beverage they use of spruce, molasses and water? It surely is unreasonable. I hope gentlemen will not adopt the motion for eight cents until they are furnished with some better evidence of its propriety and policy than any that has yet been given, or as I suspect that can be given.

Mr. FITZSIMONS was pleased that gentlemen went so fully into a discussion of a subject which they conceived of great importance, but he begged them not to lose sight of an observation that had already been made, that whenever a particular duty was supposed to bear hard on any one member of the Union, it ought to be regarded as a part only of a system bearing equally upon all. He was a friend to commerce, it was his particular profession, and what he had principally devoted his attention to; and therefore it might justly be imagined he was unwilling to fetter it with restraints; but as a member of this body, he considered it proper to forego a pertinacious adherence to that system, when its interest came in competition with the general welfare.

The gentleman from Massachusetts (Mr. Ames) has represented the proposed regulation as tending eventually to the ruin of the commerce, fisheries, and manufactures of that State. I do not believe (added he) such a consequence would result from a duty of eight cents on a gallon of molasses; if I did, I would be one of the last to advocate the measure; but to understand this circumstance more fully, let us proceed to an inquiry of the ground on which we stand. The State of Massachusetts imports a greater proportion of this article than any other in the Union; she will have therefore (say the opponents of the measure) to pay exclusively all the impost upon it. Let us examine this. Some part of the molasses is consumed in the substance, but all the remainder is distilled: this must either be consumed in the State, or exported from it; in the latter case, I would propose that all the rum shipped to foreign nations should draw back the duties it had paid as molasses. This would obviate all that was said relative to the competition between this State and other nations at a foreign market. As to what is exported, but consumed in some other parts of the United States, it is but proper that a duty should be paid, and although it may be advanced in the first instance by the people of Massachusetts, yet it will be ultimately paid by the consumers in other parts.

What is consumed within the State itself, gentlemen surely do not mean to have excluded from a duty. If they consume more country rum than West India, they pay a less duty than those States which consume a greater proportion of the latter. As to what is used in its raw, unmanufactured state, it will be sufficient to observe, that as it is generally a substitute for sugar, the consumers will therefore avoid the tax on that article, and pay it on the other. In Pennsylvania they mostly use sugar; now, if the people there pay a tax on that article, it is but distributive justice that the people of Massachusetts pay one on the article they use for the same purpose.

Mr. GOODHUE.—Fifteen cents, the sum laid on Jamaica spirits, is about one-third part of its value; now eight cents on molasses is considerably more: the former is an article of luxury, as was observed when it was under consideration, therefore that duty might not be improper; but the latter cannot be said to partake of that quality in the substance, and when manufactured into

rum, it is no more a luxury than Jamaica spirits. I cannot see, therefore, why molasses ought to be taxed forty or fifty per cent. when the other pays but thirty-three. Surely the substance ought not to pay at this rate—then what good reason can be offered for the measure?

Mr. BOUDINOT had attended to the arguments of the gentlemen on both sides of the question, and was led to believe the proportion was not properly observed. By the resolution of Congress in 1783, the molasses was fixed upon due consideration at one penny, and West India rum at fourpence. The proposed proportion was two-thirds of what is charged on West India rum. He thought this too high, as it would be an encumbrance on a considerable manufacture; six cents were therefore a more equitable rate than eight cents were; he believed also, that it was as much as the article would bear, especially if it was considered that the whole of the article was not manufactured into rum, but a large proportion consumed in substance. This might also be near what is intended to be charged on sugar; by fixing it at this rate, the necessity of lowering the duty at some future day would be avoided, which he thought an object worthy of the committee's consideration.

Mr. BOUDINOT wished the gentleman to consider the difference in the price; if he did that, he would allow it to be reduced to six cents; if this principle could now be fixed, it would carry them through the whole.

Mr. PARTRIDGE allowed, if all the molasses was distilled into rum, that a small duty might be proper; but when it was considered as an article of sustenance to the poor, and as a requisite to the support of the fisheries and navigation, he hoped the committee would allow but a very small one indeed. He wished it was possible to discriminate between what was manufactured into rum, and what was consumed in the raw state, because a higher duty might be collected in the former case than in the latter.

Mr. FITZSIMONS stated, that there were 327,000 gallons of rum imported into Pennsylvania in 1785, which would tend to show how great a part was consumed by the citizens of the Union; a demand in one State so great as this, proved how likely it was for New England rum to rival the West India. He thought the prices of the two articles gave the country rum a very considerable advantage, and therefore a duty of seven cents could not be very injurious to the manufacture.

The question was put on seven cents and lost.

And it was agreed to fill the blank with six cents.

On filling up the blank on Madeira wine,

Mr. SHERMAN moved fifteen cents.

Mr. GILMAN moved twenty cents, and

Mr. HARTLEY moved thirty cents, in order (as he observed) to make it correspond with the rate per cent. on the value; as the principle of proportion seemed to be admitted by the committee.

Mr. SHERMAN said, it appeared to him to be pretty well proportioned; because those who accustomed themselves to drink wine, consumed two or three times as much as those who used spirits, and consequently paid a due proportion.

Mr. FITZSIMONS.—I shall move you, sir, that the blank be filled with fifty cents. I observed some gentlemen, in their arguments on the last article, laid great stress upon the impropriety of taxing the necessaries of life that were principally consumed by the poorer class of citizens. I do not think any of the members of this committee consider the article of Madeira wine a necessary of life, at least to those whose incomes are only sufficient for a temperate subsistence; therefore no objection of this kind can be made on the present occasion. The propriety of a high tax on wines, I apprehend, is self-evident, whether we consider the price of the article, or the ability of the people to pay who consume it. The value of a pipe of Madeira wine, I believe, is about two hundred dollars, a hogshead of rum is worth about forty dollars. The ability of those who consume the one and the other are, I suppose, in nearly the same ratio. I do not pretend to know what are the intentions of gentlemen on this subject, but my wish is, to raise so considerable a revenue from imposts as to render it unnecessary to apply to any other mode. If this be the wish of the committee also, they will be inclined to raise a great part of it from the consumption of those people who are best able to pay, among whom we may, with great propriety, reckon the consumers of Madeira wine.

Mr. P. MUHLENBERG thought his colleague's observations were very judicious, and said they met exactly his ideas; he therefore seconded the motion for fifty cents.

Mr. BLAND.—I am not against laying any sum on this article which there is a probability of collecting; but I am afraid we are running wild in the business, and although we appear to be in search of revenue, we are pursuing a track that will lead us wide of our mark. I am really suspicious, if we lay a duty of fifty cents upon Madeira wine, we shall not have a single gallon entered in any port of the United States, and we shall fully verify to the world the truth of an old maxim, that two and two, in finance, do not make four. I would therefore suggest to the committee, the propriety of considering well, whether they can, or cannot, collect the high duty proposed. If they are well convinced that it can be done, and will satisfy me only that there is a probability of its being the case, I shall cheerfully concur in the motion; but at present, I am of opinion we shall not be able to obtain any revenue whatsoever if the tax is laid so high.

Mr. BOUDINOT.—I agree entirely with the principle of laying duties according to their relative value, and hope the committee will keep up the line of proportion as near as possible. It is only in the application of this principle on the present occasion, that I differ with the honorable

gentleman from Pennsylvania, for whose opinions I have the highest respect. I confess, too, that he is much better able to ascertain the price of foreign articles than I am; but I believe, with regard to this one of Madeira wine, I have it in my power to ascertain it pretty well. I take it, that a pipe of wine usually costs at Madeira from twenty-five to thirty pounds sterling; but then I would wish the committee to take into consideration that this wine is paid for there in our own produce at a very advantageous rate, which reduces the nominal sterling sum down in value to a like sum of our currency. I therefore look upon it, that we may calculate the cost of a gallon of Madeira wine at one dollar; for I cannot conceive that any gentleman entertains an idea of taxing the risk the merchant runs in importing the wine, or the increased value it obtains during the time it takes to ripen for sale. In laying our duties we ought to apportion it to the value of the article at the time and place of importation, without taking advantage of such adventitious circumstances. Beside, there is a considerable loss attends keeping Madeira. The storage is no inconsiderable expense, and the evaporation is an actual loss in quantity, which the merchant is obliged to replace by filling up the cask. Under these considerations, I think it may be admitted, that twenty or twenty-five cents per gallon is a sufficient tax. Moreover, it may be easily demonstrated, that such a duty would be more productive than fifty cents; because it would be with greater certainty collected. There is another reason that induces me to think twenty cents more proper; fifty cents for a gallon of wine is a large sum for a merchant to lay down in duties; it must abridge his mercantile operations, and consequently tend to discourage the Madeira trade, which, in my humble opinion, is one of the most advantageous America has left to her, from the selfish policy that actuates some foreign Powers; therefore we ought not to burthen it to so great a degree as the proposed duty seems to have in contemplation.

Mr. FITZSIMONS withdrew his motion for fifty cents, and moved thirty-three and one-third cents.

The question was put upon thirty-three and one-third cents as the highest sum, and agreed to, being twenty-one votes for it, and nineteen against it.

The next article "on all other wines," presented itself in order for the consideration of the committee.

Mr. HEISTER observed, there were a great variety of wines included in that general expression, the prices of which were very different; some worth even more than Madeira, and others less; he submitted, therefore, to the committee the propriety of discriminating and taxing them according to their value.

Mr. BOUDINOT acquiesced in the remark.

Mr. FITZSIMONS did not think it worth while, at this time, to engage the committee in making such a discrimination. The rich wines were imported in no very considerable quantities, and if the duty was laid pretty high, it would tend to exclude the most inferior and low wines from being introduced.

It was thereupon agreed to lay twenty cents on all other wines.

The next article on the list was "bohea tea," on which

Mr. FITZSIMONS observed, that he meant this article not only as a revenue, but as a regulation of a commerce highly advantageous to the United States. The merchants of this country have, from a variety of circumstances, and finding their trade restrained and embarrassed, been under the necessity of exploring channels to which they were heretofore unaccustomed. At length they have succeeded in discovering one that bids fair to increase our national importance and prosperity, while at the same time it is lucrative to the persons engaged in its prosecution. I mean, sir, the trade to China and the East Indies. I have no doubt but what it will receive the encouragement of the Federal Government for some time to come. There is scarcely any direct intercourse of this nature, but what requires some assistance in the beginning; it is peculiarly necessary in our case, from the jealousy subsisting in Europe of this infant branch of commerce. It has been thought proper, under some of the State governments, to foster and protect a direct communication with India. I hope the Government of the United States has an equal disposition to give this trade their encouragement.

I wish, therefore, the committee would pass over the article for the present, and permit it to come in at another place in the list, where I mean to move a discrimination in the duty on teas, according as they are imported, directly from China in our own ships, or in any ships from Europe.

The articles of teas and pepper were passed over for the present.

Mr. BOUDINOT proposed one cent per pound on sugar.

Two cents were afterwards proposed, when

Mr. FITZSIMONS remarked, that one gallon of molasses weighed eight pounds; that at six cents it did not pay a cent per pound; could it, therefore, be called anywise equal to such a tax on sugar? Moreover, sugar is an article of as general consumption as molasses, and when it is of this inferior quality, it enters as much or more into the consumption of the poor as the other, while, at the same time, molasses will sweeten more, according to its weight, than even the best sugar; from which considerations, I think gentlemen will be satisfied by putting it on an equality with molasses; therefore I do not oppose the one cent.

On the question, the committee agreed to tax it but one cent per pound, and loaf sugar three cents per pound. All other sugars one and a half cent per pound. On coffee two and a half cents per pound.

On motion of Mr. BLAND, the committee rose and reported progress. Adjourned.

WEDNESDAY, April 15.

A petition of David Ramsay, of the State of South Carolina, was presented to the House and read, setting forth that Mr. William Smith, a member returned to serve in this House as one of the representatives for the State of South Carolina, was, at the time of his election, ineligible thereto, and came within the disqualification of the third paragraph of the constitution, which declares, "that no person shall be a representative who shall not have been seven years a citizen of the United States," and praying that these allegations may be inquired by the House.

Referred to the Committee on Elections.

Mr. BENSON, from the committee to whom it was referred to consider of and report to the House respecting the ceremonial of receiving the President, and to whom was also referred a letter from the Chairman of a Committee of the Senate to the SPEAKER, communicating an instruction from that House to a committee thereof, to report if any, and what, arrangements are necessary for the reception of the President, made the following report:

"That Mr. Osgood, the proprietor of the house lately occupied by the President of Congress, be requested to put the same, and the furniture therein, in proper condition for the residence and use of the President of the United States, to provide for his temporary accommodation.

"That it will be most eligible, in the first instance, that a committee of three members from the Senate, and five from the House of Representatives, to be appointed by the Houses respectively, to attend to receive the President at such place as he shall embark from New Jersey for this city, and conduct him without form to the house lately occupied by the President of Congress, and that at such time thereafter, as the President shall signify it will be convenient for him, he be formally received by both Houses.

"That a committee of two members from the Senate, and three members from the House of Representatives, to be appointed by the Houses respectively, wait on the Vice President of the United States, as soon as he shall come to this city, and, in the name of the Congress of the United States, congratulate him on his arrival."

And a committee of five was balloted for and chosen accordingly, for the purpose of waiting on the President.

Another committee of three was appointed to wait on the Vice President.

Duties on Imports.

The House again resolved itself into a Committee of the Whole on the state of the Union, Mr. PAGE in the chair; the question being on inserting, in the list of dutiable articles, beer, ale, and porter—

Mr. FITZSIMONS meant to make an alteration in this article, by distinguishing beer, ale, and porter, imported in casks, from what was imported in bottles. He thought this manufacture one highly deserving of encouragement. If the morals of the people were to be improved by what entered into their diet, it would be prudent in the national Legislature to encourage the manufacture of malt liquors. The small protecting duties laid in Pennsylvania had a great effect towards the establishment of breweries; they no longer imported this article, but, on the contrary, exported considerable quantities, and, in two or three years, with the fostering aid of Government, would be able to furnish enough for the whole consumption of the United States. He moved nine cents per gallon.

Mr. LAWRENCE seconded the motion. He would have this duty so high as to give a decided preference to American beer; it would tend also to encourage agriculture, because the malt and hops consumed in the manufacture were the produce of our own grounds.

Mr. SMITH (of Maryland) was opposed to such high duties as seemed to be in the contemplation of some members of the committee. He thought enough might be raised if the tax was lowered. He formed this opinion from some calculations he had made with respect to the imports at Baltimore. He stated them to amount for the last year, at the rate now proposed, to £258,163; to this, if he added five other districts in Maryland, the probable amount of which, on the same principle, would be £185,537; then, these two sums multiplied by twelve, the supposed proportion that Maryland ought to bear of the national debt, would produce £5,324,400, a sum exceeding very considerably what the wants of the Union required.

Mr. GALE thought a duty of nine cents would operate as a prohibition upon the importation of beer and porter. He remarked the advantages which America possessed in growing malt and hops for the manufacture of these articles. In addition to this, the risk and expense of bringing it from Europe was to be considered. Upon the whole, he concluded so high a duty as nine cents would give the brewers here a monopoly, defeat the purpose of obtaining revenue, enhance the price to the consumer, and thereby establish the use of spirituous liquors. For these considerations he was against that sum.

Mr. SINNICKSON declared himself a friend to this manufacture, and thought if the duty was laid high enough to effect a prohibition, the manufacture would increase, and, of consequence, the price be lessened. He considered it of importance, inasmuch as the materials were produced in

the country, and tended to advance the agricultural interest.

Mr. MADISON moved to lay an impost of eight cents on all beer imported. He did not think this sum would give a monopoly, but hoped it would be such an encouragement as to induce the manufacture to take deep root in every State in the Union; in this case, it would produce the collateral good hinted at by the gentleman from New Jersey, which, in his opinion, was an object well worthy of being attended to. He observed, that, in the State of New York, the article paid a duty equal to six cents on importation, and if brought in foreign vessels, it amounted to eight cents; and yet quantities of it were still imported, which proved that eight cents would not amount to a prohibition.

The committee agreed hereupon to charge it at eight cents.

On all beer, ale, or porter, imported in bottles, per dozen, twenty-five cents. Agreed to without debate.

On every barrel of beef it was moved to lay a duty of a dollar per barrel.

Mr. BLAND thought that very little revenue was likely to be collected on this article, let the duty be more or less; and as it was to be had in sufficient quantities within the United States, perhaps a tax amounting to a prohibition would be proper.

Mr. THATCHER admitted that there was beef enough to be got in every part of the country, but it was fresh beef. Some States, from local circumstances, were unable to salt and preserve it, therefore a tax on this article would operate as a partial tax upon those States. If there is a sufficient quantity in the other States to answer their own consumption, they will feel no part of the burthen; but it appeared unnecessary to him to lay this restriction, because he found some States capable of exporting beef on terms as reasonably low as any other country could, and it could not, therefore, be contended for as a requisite encouragement to this branch of the agricultural interest.

Mr. GOODHUE did not contend that it was necessary to lay a particular duty on beef, although it was among the enumerated articles admitted by the committee. He was satisfied of the fact, that meat could be put up here cheaper than in Europe, and afforded at a less price, so there was little to apprehend from rivalry.

Mr. MADISON thought that almost every State in the Union had more of this article than was necessary for its own consumption, and consequently there was no danger of its being imported, unless the quality of the foreign beef was superior. He would not object to gentlemen gratifying themselves with this meat, especially as the consumption was neither so great nor general as to affect the revenue, and therefore he judged it might be struck out.

Mr. TUCKER thought with the gentleman from Virginia, that the regulation was unnecessary, and that it would be better to throw it into the common mass, taxable at a certain rate per cent. He therefore moved to have it struck out.

Upon these considerations the articles of beef, pork, and butter, were all struck out.

Mr. FITZSIMONS moved to lay a duty of two cents on all candles of tallow per pound.

Mr. TUCKER observed, that some States were under the necessity of importing considerable quantities of this article also, while others had enough, and more than enough, for their own consumption, therefore the burthen would be partially borne by such States. As the committee had just rejected some articles upon this principle, he would move that this be struck out likewise.

Mr. FITZSIMONS.—I am not for striking out, sir. Every article imported into the State that gentleman represents, from which revenue is to be raised, he moves to have struck out; but I wish the committee to consider a moment before they join in sentiments with him. The manufacture of candles is an important manufacture, and far advanced towards perfection. I have no doubt but, in a few years, we shall be able to furnish sufficient to supply the consumption of every part of the continent. In Pennsylvania we have a duty of two pence per pound, and under the operation of this small encouragement the manufacture has gained considerable strength. We no longer import candles from Ireland or England, of whom a few years ago we took considerable quantities; the necessity of continuing those encouragements which the State Legislatures have deemed proper, exists in a considerable degree; therefore it will be politic in the Government of the United States to continue such duties till their object is accomplished.

Mr. TUCKER would be glad to know what article it was that South Carolina would not contribute her full proportion of tax upon—he saw none; on the contrary, so far as the enumeration went, the impost would bear unequally upon her, and he feared many others in the list would increase the imposition. He thought it the duty of the committee to guard against an unequal distribution of the public burthen in every case, and therefore wished the duty on this article to be a moderate one; not because it affected the State he represented, for it did not do this to any degree, as wax candies were there principally consumed, the material for which was the production of the Southern States, but because other States, not having this advantage, might be oppressed.

Mr. BOUDINOT apprehended most States imported considerable quantities of this article from Russia and Ireland; he expected they would be made cheaper than they could be imported, if a small encouragement was held out by the Government, as the materials were to be had in abundance in our country.

Mr. LAWRENCE thought that if candles were an object of considerable importation, they ought to be

taxed for the sake of obtaining revenue, and if they were not imported in considerable quantities, the burthen upon the consumer would be small, while it tended to cherish a valuable manufacture. He seconded Mr. FITZSIMON'S motion for two cents: which was carried in the affirmative upon the question being put.

On all candles of wax or spermaceti, per lb. six cents; cheese, four cents; soap, two cents; boots, per pair, fifty cents; on all shoes, slippers, or goloshes made of leather, ten cents; on all shoes or slippers, made of silk or stuff, ten cents; on all steel unwrought, per 112 lbs.,—

Mr. LEE moved to strike out this last article, observing that the consumption of steel was very great, and essentially necessary to agricultural improvements. He did not believe any gentleman would contend, that enough of this article to answer consumption could be fabricated in any part of the Union: hence it would operate as an oppressive, though indirect tax upon agriculture, and any tax, whether direct or indirect, upon this interest, at this juncture, would be unwise and impolitic.

Mr. TUCKER joined the gentleman in his opinion, observing that it was impossible for some States to get it but by importation from foreign countries. He conceived it more deserving a bounty to increase the quantity, than an impost which would lessen the consumption and make it dearer also.

Mr. CLYMER replied, that the manufacture of steel in America was rather in its infancy; but as all the materials necessary to make it were the produce of almost every State in the Union, and as the manufacture was already established, and attended with considerable success, he deemed it prudent to emancipate our country from the manacles in which she was held by foreign manufactures. A furnace in Philadelphia, with a very small aid from the Legislature of Pennsylvania, made three hundred tons in two years, and now makes at the rate of two hundred and thirty tons annually, and with a little further encouragement would supply enough for the consumption of the Union. He hoped, therefore, gentlemen would be disposed, under these considerations, to extend a degree of patronage to a manufacture, which a moment's reflection would convince them was highly deserving protection.

Mr. MADISON thought the object of selecting this article to be solely the encouragement of the manufacture, and not revenue, for on any other consideration it would be more proper, as observed by the gentleman from Carolina, (Mr. TUCKER) to give a bounty on the importation. It was so materially connected with the improvement of agriculture and other manufactures, that he questioned its propriety even on that score. A duty would tend to depress many mechanic arts in the proportion that it protected this; he thought it best to reserve this article to the non-enumerated ones, where it would be subject to a five per cent. *ad. valorem*.

Mr. TUCKER considered the smallest tax on this article to be a burthen on agriculture, which ought to be considered an interest most deserving protection and encouragement; on this is our principal reliance, on it also our safety and happiness depend. When he considered the state of it in that part of the country which he represented on this floor, and in some other parts of the Union, he was really at a loss to imagine with what propriety any gentleman could propose a measure big with oppression, and tending to burthen particular States. The situation of South Carolina was melancholy; while the inhabitants were deeply in debt, the produce of the State was daily falling in price. Rice and indigo were become so low, as to be considered by many not objects worthy of cultivation; and gentlemen will consider, that it is not an easy thing for a planter to change his whole system of husbandry in a moment; but accumulated burthens will drive to this, and add to their embarrassments. He thought an impost of five per cent. as great an encouragement as ought to be granted, and would not oppose that being laid. He called upon gentlemen to exercise liberality and moderation in what they proposed, if they wished to give satisfaction and do justice to their constituents.

Mr. FITZSIMONS thought, if gentlemen did not get rid of local considerations, the committee would make little progress. Every State will feel itself oppressed by a duty on particular articles, but when the whole system is perfected, the burthen will be equal on all. He did not desire, for his part, to obtain exclusive advantages for Pennsylvania; he would contend, and undertake to prove, that by the duties already agreed to, that State sacrificed as much as any other. Indeed, if he had said more, he believed himself capable of proving the position. Being of this opinion he hoped the committee would agree to grant her an advantage which would revert back upon the other parts of the Union, without operating even for the present, to the material disadvantage of any. Some States were, from local circumstances, better situated to carry on the manufacture than others, and would derive some little advantage on this account in the commencement of the business. The Eastern States were so situated, perhaps some of the Middle ones also; but will it therefore be insisted upon, that the Southern States pay more of the impost on foreign goods than these? For his part, he never could conceive, that the consumption of those articles by the negroes of South Carolina would contribute to the revenue as much as that of the white inhabitants of the Eastern States. But laying aside local distinctions, what operates to the benefit of one part in establishing useful institutions, will eventually operate to the advantage of the whole. With these considerations, he cheerfully submitted the article to the discretion of the committee, moving to fill the blank with sixty-six cents.

Mr. BLAND considered a tax of sixty-six cents a very heavy duty on agriculture and the mechanic arts, and was averse to granting it.

Mr. BOUDINOT moved fifty-six cents, which motion was agreed to.

On nails and spikes, it was agreed to lay one cent per pound; on tarred cordage, fifty cents per 112 pounds; on untarred cordage, sixty cents per 112 pounds; on twine or pack-thread, one hundred cents per 112 pounds.

Mr. MADISON said, that he was not clear as to the policy of taxing cordage. He thought ship-building an object worthy of legislative attention, and questioned the propriety of raising the price of any article that entered so materially into the structure of vessels. But if it was politic to lay an impost on cordage, would it not be the same with regard to hemp? He thought it would, and therefore moved it.

Mr. BOUDINOT.—Hemp is a raw material, necessary for an important manufacture, and therefore ought not to be subject to a heavy duty. If it was the product of the country in general, a duty might be proper, but this he believed was not the case.

Mr. MADISON.—I said before, I very much doubted the propriety of laying a duty on such articles as entered into ship-building; but if it is necessary to lay a duty on cordage for the purpose of encouraging the manufacture, and making us independent of the world as to that article, it is also politic to endeavor to make us alike independent for the raw material; a great proportion of the land in the Western country is peculiarly adapted to the growth of hemp, and it might be there cultivated to advantage, if the labors of the husbandman were protected by the Government.

Mr. BOUDINOT thought the soil of this country ill adapted to the cultivation of hemp; even the strong low lands which are fit for it, soon became exhausted; it impoverished the lands wherever it grew, and destroyed the agricultural stamina. If he was not mistaken in this opinion, he thought the committee would, with him, disagree to the motion.

Mr. PARTRIDGE thought a duty on hemp would tend to discourage the American navigation, her trade, and fisheries, without any good resulting to warrant such an injury. It was not ascertained whether hemp could be furnished in any tolerable quantities to answer the demand, and if upon experience, it should be found that the quantity was insufficient, what a stab this would prove to all concerned in ship-building.

Mr. AMES expressed a doubt of the policy of taxing either cordage or hemp, because while it tended to encourage the agriculture or manufacture, it discouraged the maritime interest, and therefore the discouragement, in the event, would reflect back upon those interests it was intended to cherish.

Mr. MOORE declared the Southern States well calculated for the cultivation of hemp, and, from certain circumstances, well inclined thereto. He conceived it the duty of the committee to pay as much respect to the encouragement and protection of husbandry (the most important of all interests in the United States) as they did to manufactures.

Mr. FITZSIMONS thought there was a clear distinction between taxing manufactures and raw materials, well known to every enlightened country. He had no doubt but hemp enough could be raised for the home consumption, nay for exportation also, and why it was not done he could not say. He recollected that before the revolution, very little was imported; now, considerable quantities are brought from England. When such a bulky article is capable of paying double freight, first from Russia and then from England, besides its first cost, he conceived that what was produced in America had a very considerable advantage. It could not be urged that the people are unacquainted with the cultivation, because it had been carried to very great perfection in former years. If eight dollars a hundred is not a sufficient inducement to farmers to raise hemp, it is a proof that they direct their labors to more profitable productions, and why should legislative authority be exercised to divide their attention? Or for this purpose, why should navigation and ship-building be necessarily burthened. He concluded with declaring, that no duty which the Congress would agree to lay, could give encouragement to the cultivation of hemp, if the present price of that article was insufficient.

Mr. SCOTT stated a fact or two, being perhaps as well acquainted with the Western country as any member of the committee. The lands along the frontiers, he could assure the committee, were well calculated for the cultivation of this plant; it is a production that will bear carriage by land better than any other, tobacco not excepted. He believed an encouragement of the kind now moved for would bring, in a year or two, vast quantities from that country, at little expense, to Philadelphia, even from the waters of the Ohio; the inhabitants expect some encouragement, and will be grateful for it. Although a gentleman has called it a bulky article, yet as much can be packed upon a horse as a horse can carry, or in a wagon as four horses can draw; so that its bulk will not prevent our countrymen from seeking a market on the waters of the Atlantic.

The committee rose and reported, and

The House adjourned.

THURSDAY, April 16.

The House proceeded, by ballot, to the appointment of a committee of five, to attend, with a committee from the Senate, to receive the President of the United States at such place as he shall embark at from New Jersey for this city.

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The members elected were Messrs. BOUDINOT, BLAND, TUCKER, BENSON, and LAWRENCE.

On motion,

Ordered, That Messrs. GILMAN, AMES, and GALE, be a committee, in conjunction with a committee

from the Senate, to wait upon the Vice President of the United States upon his arrival in this city, and to congratulate him thereupon in the name of the Congress of the United States.

Duties on Imports.

The House again resolved itself into a Committee of the Whole on the State of the Union, Mr. PAGE in the chair.

Mr. MOORE thought it good policy to encourage the manufacture of cordage, but was not convinced that it was bad policy to encourage likewise the growth of the raw material in America, so that we might become as independent of all the world for this article, as we are already for every other used in the structure of vessels. He believed it would be difficult to persuade the farmer that his interest ought to be neglected to encourage particular artisans: he therefore begged the committee to do as much for them as was in their power, believing that the event of such policy would mutually benefit the manufacturer and agriculturist.

Mr. HEISTER remarked, that a heavy duty on hemp would not encourage the raising of it this year, because the time was elapsed for commencing the cultivation; but a duty to take place at some future time, would no doubt be beneficial. He assured the committee of the ability of the land in America to grow hemp equal to any part of the world; and, therefore, joined heartily in giving it legislative encouragement, in order to induce the people to turn their attention more particularly to the subject, but would recommend the duty to be laid so as to commence its operation at a distant day.

Mr. WHITE remarked, what was good policy in England might be the contrary in America. England was a maritime nation, and therefore she gave a bounty on such articles as were requisite to support her maritime importance—America was an agricultural country, and therefore ought to attend to the encouragement of that interest. If the Legislature take no notice of this article, the people will be led to believe it is not an object worthy of encouragement, and the spirit of cultivation will be damped; whereas, if a small duty only was laid, it might point out to them that it was desirable, and would induce an increase of the quantity. Our lands are capable of bearing this plant many years without being exhausted. He could not say exactly what sum would be proper to fill the blank with, but mentioned seventy-five cents for the consideration of the committee.

Mr. PARTRIDGE admitted the propriety of encouraging agriculture, but it ought not to be done at the expense of the ship-builders, especially as the good would not balance the evil. He told the committee that hemp had risen, within three or four years, forty per cent. in Russia, owing, perhaps, to the increased demand which the present northern war occasioned. This naturally operated to encourage the cultivation in America, and perhaps was sufficient, without the aid now intended to be given. If gentlemen were desirous of having it stand among the selected articles, he should not object, but hoped the duty would not exceed five per cent. Forty cents were about equal to that rate, and he moved to fill the blank with that sum.

Mr. WHITE thought with the gentleman from Pennsylvania, that the United States would furnish this article in sufficient abundance, not only for home consumption, but for exportation. The maritime powers of Europe do not raise the article, but obtain it principally from Russia—these powers are as well disposed to take it from us as from Russia. Our back lands are extremely well adapted to its cultivation; a road to bring it to market is opening; the Potomac extends her now navigable waters into the interior country, and a communication will be established with the river Ohio and the western waters. The gentleman from Pennsylvania (Mr. HARTLEY) had hinted at the propriety of settling the western territory; it was his opinion that every encouragement ought to be given them to engage their affection; that the administration of the Government ought to be such as to give satisfaction to all parts of the Union, but it is peculiarly our interest to render that country advantageous; her fertile lands, and streams easy of descent, would pour into the Atlantic States, through the channels he had mentioned, a profusion of wealth, and hemp in abundance. The Shenandoah river disembogues into the Potomac, the South Branch communicates with it also, and a number of other rivers whose lands will produce immense quantities. He considered that this, in a short time, would do more towards encouraging ship-building than a bounty, as had been mentioned by some gentlemen.

Mr. BURKE thought it proper to suggest to the committee what might be the probable effect of the proposed measure in the State he represented, (South Carolina,) and the adjoining one (Georgia.) The staple products of that part of the Union were hardly worth cultivation, on account of their fall in price; the planters are, therefore, disposed to pursue some other. The lands are certainly well adapted to the growth of hemp, and he had no doubt but its culture would be practised with attention. Cotton is likewise in contemplation among them, and if good seed could be procured, he hoped it might succeed. But the low, strong, rice lands, would produce hemp in abundance—many thousand tons even this year, if it was not so late in the season. He liked the idea of laying a low duty now, and encouraging it against the time when a supply might be had from our own cultivation.

Mr. MADISON feared seventy-five cents was too high; he was doubtful whether it would not have been as well to have left out cordage; for if a duty on hemp was impolitic because it burthened navigation, so also was that on cordage. He by no means approved of measures injurious to ship-building, which he considered in a threefold view: first, as it related to vessels employed in the coasting trade; second, as it respected those employed in those channels of trade, the stream of which depends upon the policy of foreign nations; and third, as it was connected with vessels

built for sale. With respect to the first, no doubt but we can prevent any discouragement from the operation of the duty, because we can make such discrimination as will prevent a rivalry; but, in relation to the two other points, and particularly the last, he was sensible that every penny laid upon cordage would enter into the price of the vessel, and, by raising the price, drive the purchasers to seek a better bargain at other hands. Fearful therefore of injuring this interest, he should vote for a small duty at present, in hopes of being able to see, in a little time, sufficient quantities of hemp brought to market, as predicted, at even a less price than is given now for the imported.

Mr. SMITH agreed to forty cents, provided the committee would make it one dollar at the end of two years.

Mr. MADISON could not judge of the alteration in the circumstances of this country two years hence, and therefore did not like the kind of provision mentioned. He preferred making it a positive sum, and moved fifty cents; which was agreed to.

On malt.

Mr. SHERMAN thought this might be struck out, on the same principle that beef and pork had been, there was none imported.

Mr. FITZSIMONS replied, that there had been considerable and recent importations of this article into the United States—30,000 bushels in one year; certainly this interferes with the products of the country. He moved ten cents per bushel, and it was agreed to.

On motion of Mr. AMES, barley was taxed six cents, and lime one hundred cents. He just stated that these articles were imported in considerable quantities from a neighboring State that had not yet adopted the constitution; and, perhaps, said he, our political situation is such as to make some regulation on this head necessary.

On nails, spikes, tacks, and brads.

Mr. LEE did not think we were ripe for such extensive manufactures as some gentlemen seemed desirous of encouraging; but this was particularly objectionable, because it was a tax upon the improvement of estates, unless the articles could be furnished as cheap and abundantly at home as they were by foreign nations. He moved to strike it out.

Mr. MADISON conceived this, like a tax on hemp, would increase the price on ship-building; spikes and nails were necessary for the construction of vessels.

Mr. BLAND thought a duty on nails an unequal tax, burthening the Southern States, but not felt by the Northern, who made only enough for their own consumption; he opposed it also on account of its being an article of indispensable necessity.

Mr. GOODHUE informed the gentlemen who were opposed to a duty on nails, that great quantities of them were manufactured for exportation in Massachusetts and Pennsylvania, and he believed some other States; and, in a little time, enough might be made to supply all North America.

Mr. TUCKER judged, from what was said of the little expense and great facility of manufacturing nails, that it stood in no need of legislative assistance. Why lay a duty on foreign nails, when they cannot rival you if you make them as good and as cheap? Will not the five per cent. duty, with freight and shipping charges, be sufficient encouragement? He thought it would, and therefore was averse to any other duty. He observed also, that it would burthen ship-building, and was, consequently against those employed in that business.

Mr. FITZSIMONS was not very solicitous about the duty. He thought the manufacturer would have but little to apprehend if the Legislature should decide against them; for, the fact was, that nails were at this moment made cheaper and, in the opinion of some judges, better than those coming from England. Before the revolution, the people in America were not permitted to erect slitting mills. They now have several, and are independent of all the world for the materials necessary for carrying on the business in the most extensive manner. So far as the duty respected the manufacture in Pennsylvania, it was his opinion that refusing it would do no material injury, and he believed it would draw but little money into the treasury; yet, nevertheless, he was willing to allow a small one, because it conformed to the policy of the States, who thought it proper, in this manner, to protect their manufactures. He believed neither spikes nor nails for ship-building were imported; they were generally large and heavy, and were made in the country, according to the builder's orders.

On the motion, nails and spikes were taxed one cent per pound, but tacks and brads were struck out.

On salt, per bushel.

Mr. BURKE.—I need not observe to the committee that this article is a necessary of life, nor that black cattle, sheep, and horses do not thrive without it; on these considerations alone I should oppose it; but I know likewise that it is a tax particularly odious to the inhabitants of South Carolina and Georgia, to whom the price is already oppressively great. The back parts of that State are obliged to haul all they consume, two, three, or four hundred miles in wagons, for which they pay about seven shillings sterling. Add this to the first cost, which is about one shilling, though sometimes more, and you will find the burthen sustained by those who live remote from the sea-shore sufficiently unequal. I hope, therefore, the committee will not agree to it.

Mr. LAWRENCE hoped a duty would be laid on the article; it was in general use, and the

consumption so regular, that it was much to be depended upon as a source of revenue; but the duty ought not to be so high as to make it oppressive. He moved to impose a duty of six cents per bushel.

Mr. TUCKER felt an aversion to laying a duty on salt for several motives. It would bear harder upon the poor than upon the rich. The true principle of taxation is, that every man contribute to the public burthens in proportion to the value of his property. But a poor man consumes as much salt as a rich man. In this point of view, it operates as a poll-tax, the most odious of all taxes; it does not operate simply as a poll-tax, but is heavier on the poor than on the rich, because the poor consume greater quantities of salted provisions than the rich. Nor does it bear equally upon every part of the country; for it is consumed in a greater proportion by cattle at a distance, than by those near the sea shores. Moreover, the duty collected on the importation will enter into the price of the article, and the countryman will pay the retailer a profit on the tax, perhaps of four times its amount. For which reasons, he was more averse to this article being taxed than any other whatsoever.

Mr. SCOTT declared himself decisively against the duty, although he admitted a most certain revenue could be drawn from it, on account of its universal demand and utility. But he did not think these considerations alone amounted to a sufficient reason why this necessary article should be taxed; if they did, the argument would prove too much, it would extend to the use of water and common air. He presumed the old arguments often urged by gentlemen in favor of manufactures did not apply, because no encouragement would be sufficient to establish it.

From the nearest part of the Atlantic coast, where salt can be obtained, to the next nearest in the Western territory, is a distance of eight hundred or one thousand miles; all the intermediate space must be supplied from one or the other; over the mountains it must be carried on pack-horses. This of itself is a sufficient tax upon the consumer; how oppressive then must it be to increase the burthen.

Mr. MOORE observed upon the inequality, as it respected the consumption of the article by cattle: some States raised more than others, consequently they consumed more; some parts of the same State were in a like situation. The people on the sea-coast pursued merchandise; those in the back parts raised cattle, which he was bold to say consumed five times as much salt as the lower country, and would pay the tax in the same proportion. It has been said, that if they pay more on salt, they pay less on other articles—agreed to. But there are a number more which may perhaps unequally affect them; yet it is an argument of small weight to say, because we in large commercial cities are regulated in a sumptuary manner for indulging in luxuries, you who are obliged to retrench them shall pay a tax upon the necessaries of life. In short, the tax appeared to him not only unpopular, but unjust likewise, and he would not agree to it.

Mr. SMITH (of South Carolina.)—If any further arguments were necessary to convince the committee of the impropriety of the present measure, more might be urged, though what has been said is certainly sufficient to demonstrate that it will be attended with a great deal of dissatisfaction, and in proportion to that dissatisfaction will be the danger of having your laws contemned, opposed, or neglected in the execution. It is well known, that however small the duty, it will furnish a pretext to the seller to extort a much greater sum from the consumer. Another observation. It is believed that the inhabitants of the interior part of South Carolina are opposed to the new Government; it will be a melancholy circumstance to entangle ourselves, at this time, among the shoals of discontent; yet no stronger impulse could be given for opposition than the proposed tax; conceiving it in this light, he was against the measure.

Mr. SCOTT added, that the price of salt where he lived was four dollars a bushel, the country was settled three or four hundred miles beyond him, and he supposed the price there to be greater.

Mr. LAWRENCE thought it would be better for the committee to take time to examine what had been urged against the tax, and as it was the usual time for adjourning, the committee might rise and defer their decision till to-morrow.

Whereupon the committee rose, and the House adjourned.

FRIDAY, April 17.

BENJAMIN CONTEE, from Maryland, appeared and took his seat.

Duties on Imports.

The House again resolved itself into a Committee of the Whole on the state of the Union, Mr. PAGE in the chair; the question of laying a duty on salt recurred.

Mr. LAWRENCE.—I had the honor yesterday of delivering my sentiments in favor of this duty; but observations were made by gentlemen from different parts of the House against the measure. The principal objection was, that the tax was an odious one. It was admitted by a worthy gentleman from Pennsylvania (Mr. SCOTT) that all taxes are odious; this is certainly true, for the people are not pleased with paying them; nothing but necessity will induce a Government to have recourse to them. It is also true, that some are more odious than others. From what has been said, it may be seen that a tax on salt is not so in general, but only in particular parts of the Union; the remote inhabitants, it is said, will be dissatisfied, because it increases the price of the commodity, and they use more of it than others. It is mentioned as partaking of the nature of a capitation tax, but this kind of tax is odious, more from its manner of operation than its nature.

We find in some States where it is in use, the people live easy under it; for example, it is not complained of in some of the Eastern States. We have not much to apprehend from a tax on salt in this State; the people are satisfied with it; at least the complaints are neither so loud nor so general, as to make us apprehensive for the existence of the Government we live under. Its operations, though the contrary was predicted, go on with as much ease since an impost has been laid, as they did before. I believe, likewise, we have only to try the experiment, to be convinced it would have a similar effect throughout the continent; for I cannot persuade myself that it is generally looked upon in so odious a light as some gentlemen imagine. It was also said, that the tax would be unequal, and the objects of inequality were two. The poor man would pay as much as the rich; but this is not the case; the rich are generally more profuse in their consumption than the poor; they have more servants and dependents also to consume it; consequently the whole amount of their consumption must be in a proportionable ratio. The other inequality was its different operation in different States, and even different parts of the same State. On examination, this objection also may be obviated. Gentlemen tell you the high price of this article at three or four hundred miles distance; is it not hence presumable that there they consume as little as possible, while along the sea-coasts they use it with a liberal hand? But whether it be consumed on the sea-coast, or on the western waters, the tax is the same, or but inconsiderably augmented; for I take it the great addition which is made is in consequence of the charge of carriage. I cannot, therefore, see by what magic gentlemen will prove to you that it is increased four or five fold. We must also take into contemplation the number of persons who consume it; here it will appear, that the weight of population is much greater on the sea-coast than in the western parts of Pennsylvania, Virginia, and Carolina, consequently the consumption must be greater. It was said, the argument I urged was not a good one, because it proved too much, that an article of general consumption was not the best article for taxation; now, I believe the maxim is just, and when examined it will be found so. Taxes, to be just, should affect all, and equally affect them, and not be left to fall partially upon a few. This is more the case with salt than any other article which has yet been taxed, and I believe is the only tax which will get at the pockets of those to whom it is said to be obnoxious. But how comes it, if the other articles are equally consumed in the back countries, that gentlemen did not urge the argument of expense on transportation, and the pretext that a tax would furnish the seller to extort from the consumer.

Mr. MADISON.—From the nature of the arguments made use of on this occasion, it is necessary to proceed with some circumspection, though not to depart from that policy which can be justified by reason and experience. I am willing to trust a great deal to the good sense, justice, and penetration of our fellow-citizens for support; and though I think it might be just to lay a considerable duty generally on imported articles, yet it would not be prudent or politic, at this time, to do so. Let us now proceed to consider the subject before us, on the principles of justice and principles of policy. In the first point of view, we may consider the effect it will have on the different descriptions of people throughout the United States, I mean different descriptions, as they relate to property. I readily agree that, in itself, a tax would be unjust and oppressive that did not fall on the citizens according to their degree of property and ability to pay it; were it, therefore, this single article which we are about to tax, I should think it indispensable that it should operate equally, agreeably to the principle I have just mentioned. But in order to determine whether a tax on salt is just or unjust, we must consider it as part of a system, and judge of the operation of this system as if it was but a single article; if this is found to be unequal, it is also unjust. Now, examine the preceding articles, and consider how they affect the rich, and it will be found that they bear more than a just proportion according to their ability to pay; by adding this article, we shall rather equalize the disproportion than increase it, if it is true, as has been often mentioned, that the poor will contribute more of this tax than the rich. When we consider the tax as it operates on the different parts of the United States, dividing the whole into the northern, middle, and southern districts, it will be found that they contribute also in proportion to their numbers and ability to pay. If there be any distinction in this respect, it will be perceived to be in favor of the southern division, because the species of property there consists of mouths that consume salt in the same proportion as the whites; but they have not this property in the middle and northern districts to pay taxes for. The most important objection is, that the western part of our country uses more salt than any other; this makes it unequal; but, considered as a part of a system, the equilibrium is restored, when you find this almost the only tax they will have to pay. Will they contribute any thing by consuming imported spirits? Very little. Yet, this is a principal source of revenue; they will subsist upon what they procure at home; and will they submit to a direct tax, if they murmur at so light a one on salt? Will they submit to an excise? If they would, I trust it is not in the contemplation of gentlemen to propose it.

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Mr. WHITE, after some doubts, had made up his mind against the article being taxed. We ought to pass no law that is unjust or oppressive in its nature, or which the people may consider as unjust or oppressive; a duty on salt would be considered in that light by a great number. Our constituents expect some ease and relief, particularly the poorer sort of people. It seems to be granted, from all that has been said, that it will affect them in a manner which no other tax can, though, it is said, they will not be affected beyond their proportion, as they pay nothing for the consumption of wine, spirits, &c. because they use none. One reason which influenced the committee to tax those articles, was to abolish the use of them altogether, or prevent the excesses they occasioned. Now will you urge in argument for taxing the poor, that they already practise that temperance which you desire to bring universally about? All taxes, it is admitted, are odious, and some merely from opinion; but if they are odious from opinion, they ought to be carefully guarded against, especially if the Government depends upon opinion for support.

Mr. SMITH, of Maryland, said, they collected eight cents in his State, and it caused no complaint

that he knew of.

The question on imposing six cents on salt was put and carried, as was a motion for a drawback on salted provisions and fish.

On manufactured tobacco.

Mr. SHERMAN moved six cents, as he thought the duty ought to amount to a prohibition. This was agreed to.

On snuff, ten cents per pound.

Mr. CARROLL moved to insert window and other glass. A manufacture of this article was begun in Maryland, and attended with considerable success; if the Legislature were to grant a small encouragement, it would be permanently established; the materials were to be found in the country in sufficient quantities to answer the most extensive demand.

A desultory conversation arose in the committee respecting the propriety of receiving the motion at this time, when it was agreed to add on all window and other glass, except black quart bottles, ten per cent. *ad valorem*.

Mr. CLYMER informed the House of the state of the paper mills in Pennsylvania; they were so numerous as to be able to supply a very extensive demand in that and the neighboring States; they annually produce about 70,000 reams of various kinds, which is sold as cheap as it can be imported. This manufacture certainly is an important one; and having grown up under legislative encouragement, it will be wise to continue it. Thereupon it was agreed to lay an impost of seven and a half per cent. *ad valorem* on blank books, writing, printing, and wrapping paper, and pasteboard; the same, without debate, was laid upon canes, walking-sticks, whips, clothing ready made, on gold, silver, and plated ware, and on jewelry and paste work; upon cabinet ware, buttons of metal, saddles, gloves of leather, all hats of beaver, fur, wool, or mixture of either, all millinery, castings of iron, or slit or rolled iron, all leather tanned or tawed, or manufactures thereof, except such as are otherwise rated.

On every coach, chariot, or other four wheel carriage, and on every chaise, solo, or other two wheel carriage, or parts thereof, fifteen per cent. *ad valorem*.

SATURDAY, April 18.

Mr. WHITE, from the Committee of Elections, reported that the committee had examined the certificates and other credentials of the members returned to serve in this House, and found them entitled to take their seats; which report was concurred with.

Duties on Imports.

The House again resolved itself into a Committee of the Whole on the state of the Union, Mr. PAGE in the chair.

On motion of Mr. GOODHUE, anchors at seven and a half per cent. *ad valorem*, was added.

On motion of Mr. SHERMAN, nutmegs, cinnamon, raisins, figs, currants, and almonds, were struck out.

Mr. AMES introduced wool cards, with observing that they were manufactured to the eastward as good and as cheap as the imported ones.

Mr. CLYMER mentioned, that in the State of Pennsylvania, the manufacture was carried to great perfection, and enough could be furnished to supply the demand. A duty of fifty cents per dozen was imposed on wool cards.

On wrought tin ware, seven and a half per centum *ad valorem*; on every quintal of fish, fifty cents; and on every barrel of pickled fish, seventy-five cents.

Mr. FITZSIMONS moved the following: On all teas imported from China or India, in ships built in the United States, and belonging wholly to a citizen or citizens thereof, as follows: on bohea tea, per pound, six cents; on all souchong and other black teas, ten cents; on superior green teas, twenty cents; on all other teas, ten cents.

On all teas imported from any other country, or from China or India, in ships which are not the property of the United States, as follows: on bohea tea, per pound, ten cents; souchong, and other black teas, fifteen cents; on superior green teas, thirty cents; on all other green teas, eighteen cents per pound.

Mr. FITZSIMONS supported the motion, by observing that one effect of the late glorious revolution was, to deprive the merchants of America of most of the channels of commerce which they had before pursued. This circumstance obliged them to search for other sources to employ their vessels in. It had been discovered that a pretty lucrative trade could be carried on with the countries in the east; the merchants have gone largely into it, and it at present gives employment to some thousand tons of American shipping and seamen; our success has been so great, as to excite the jealousy of Europe, and nothing is left undone to cramp or prevent our commercial operations in that quarter. The Legislature of Pennsylvania, impressed with the importance of the subject, had granted it aid by discriminating in the manner he proposed to the committee; and with the like aid from the Government of the United States, the merchants may no longer fear the machinations of the opulent companies in Europe, who are unwilling to let us partake of a trade

they so long have had a monopoly of. Already the trade to India has had a very happy effect in favor of our inhabitants, by reducing commodities brought from thence to one half of their former price, and yet a sufficient profit is left to enable those concerned to carry it on with advantage.

Mr. MADISON felt a reluctance in being obliged to state his reasons why he doubted the policy of the proposed measure. What, said he, is its object? It is not to add to the revenue, for it will in fact tend to diminish it, in that proportion which the importation from China lessens that from other parts; it is not to increase our commerce, for long voyages are unfriendly to it; it is not to increase the importation of necessary articles, for India goods are mostly articles of luxury; it is not to carry off our superfluities, for these articles are paid for principally, if not altogether, in solid coin. If the trade is beneficial at all to the United States, it must be in this single point of view, that the articles can be imported cheaper through that channel than any other; and, if so, that it is the interest of the people to be supplied as cheap as possible. There are no collateral good purposes to claim our attention in this case. It is not in the nature of things that we should derive any other advantage than the one I have mentioned, without it is that of raising our India commerce from its weak and infant state to strength and vigor; to enable it to continue supplies at a cheaper rate than they could otherwise be obtained.

Mr. GOODHUE replied to Mr. MADISON'S observations, respecting the mode of paying for India goods, by informing the committee that very considerable quantities of ginseng, naval stores, lumber, and provisions, were shipped; other articles were sent also, and disposed of at ports on this side of China, in order to procure the most suitable cargo; so that we do not pay principally for their commodities in solid coin, but send off superfluities to a considerable amount, much more than if we were to procure our teas and nankeens from any part of Europe.

Mr. MADISON had not made the objection merely because the specie was exported, but to show that it did not bring in an equivalent, as the goods were mostly of that kind which are termed luxuries.

Mr. BOUDINOT declared himself a friend to the Indian commerce. He thought it encouraged the employment of shipping, and increased our seamen; he knew its advantages to agriculture. The gentleman from Virginia (Mr. MADISON) supposed but little of our productions were sent in exchange for India goods; but our beef, pork, flour, and wheat, were shipped for this purpose, not to China, yet to ports where proper cargoes were taken in to answer the trade. Encouragement and protection were necessary to prevent the large companies in Europe from underselling our merchants, which they would readily do, at considerable loss, if they could, in consequence, put a stop to our trade. He hoped, therefore, the committee would not hesitate in adopting the motion.

The motion was adopted accordingly.

On coal per bushel — cents.

Mr. BLAND informed the committee, that there were mines opened in Virginia capable of supplying the whole of the United States, and, if some restraint was laid on the importation of foreign coal, those mines might be worked to advantage. He thought it needless to insist upon the advantages resulting from a colliery, as a supply for culinary and mechanical purposes, and as a nursery to train up seamen for a navy. He moved three cents a bushel.

Mr. HARTLEY was willing to admit a moderate duty, but thought three cents would be a great discouragement to those manufactures which necessarily consume large quantities of fuel. He moved one cent.

Mr. PARKER said, that a less sum than three cents would not answer the purpose intended. Coal came from England as ballast, and was sold so low, as almost to prevent the working of their mines in Virginia. He hoped, if the committee were disposed to encourage them, they would proportion the means to the end; a duty of one cent would be void; nothing under what was moved by his colleague (Mr. BLAND) could answer the purpose. He hoped, therefore, the committee would agree to three cents.

On the question, there appeared a majority in favor of three cents. After which the committee rose, and the House adjourned.

MONDAY, April 20.

ABRAHAM BALDWIN and JAMES JACKSON, from Georgia, appeared and took their seats.

Duties on Imports.

The House again resolved itself into a Committee of the Whole on the state of the Union, Mr. PAGE in the chair.

The following clause of the bill was agreed to, viz: "On all other articles, five per cent. on their value at the time and place of importation, except tin in pigs, tin plates, lead, old pewter, brass, iron or brass wire, copper in plates, wool, dyeing woods and dyeing drugs, (other than indigo,) raw hides, beaver, and all other furs, and deer skins."

Mr. FITZSIMONS proposed a drawback of six cents per gallon on all rum distilled in the United States, exported without the limits of the same.

Mr. MADISON asked if the quantity of rum so exported was very considerable? He believed it was not; and he would not, for the sake of encouraging that branch of trade, open a door by which frauds on the revenue could be committed equal to the whole duty collected.

Mr. FITZSIMONS could not say what quantity of rum was exported in that way; but he feared, unless a drawback was allowed, it would be a great injury to the manufacture. At the time the duty of six cents on molasses was laid, he thought it was understood, the committee would allow a drawback on the rum exported. There seems to be an apprehension that the system of drawbacks will operate to the disadvantage of the revenue; but he believed a mode could be devised to prevent frauds, in this case, fully as effectually as on the importation. If this was not done, it would be time enough for gentlemen to oppose it; they would have this opportunity, because a bill, regulating the manner of collection, he presumed, would pass at the same time with the one for levying the duties. If drawbacks were not allowed, it would be a very considerable restraint on commerce, particularly on the India trade, which he believed was likely to be considerably extended. He was sorry the gentlemen from Massachusetts were not there in their places,^[20] to give information to the committee respecting the quantity exported from that State; from Pennsylvania the quantity was but small.

Mr. FITZSIMONS contended for drawbacks generally, but on this article it was particular injustice to omit it. The manufacture of rum was of considerable importance in the Eastern States, but it would not be able to stand a successful competition with West India rum in foreign countries, while loaded with a duty of six cents per gallon. The tax on molasses was that sum, and he looked upon it to be the same thing as if it had been paid on the rum at distillation; one gallon of the former yielding but one of the latter.

Mr. MADISON thought there were very few cases in which drawbacks ought to be allowed, perhaps none but what related to the East India trade. The small proportion of distilled rum exported did not justify so great a risk; but of the small proportion which went abroad, the greatest part went to the coast of Africa. He feared this trade was inconsistent with the good of mankind, and ought to be reprobated instead of encouraged.

Mr. BLAND said the committee had spent several days in encouraging manufactures, by selecting articles for revenue, and were now extending their views to the encouragement of commerce. He thought there was some impropriety in combining the clause proposed in this part of the bill, and even doubted if it was in order; therefore would vote against it.

The question was put on the motion for a drawback on country rum, and lost.

Mr. FITZSIMONS had another clause upon the same subject, only on more general principles; he hoped gentlemen would consider well before they doomed it to share the fate of the former. It was to this purpose: that all the duties paid, or secured to be paid, upon goods imported, shall be returned or discharged upon such of the said goods, as shall within — months be exported to any country without the limits of the United States, except so much as shall be necessary to defray the expense that may have accrued by the entry and the safe keeping thereof. The subjects of duties and drawbacks are so connected by their nature, that he did not see how they were to be separated. Gentlemen did not imagine that what had been done tended to favor commerce; it certainly did not. Every impost which is paid is a disadvantage to the person concerned in trade, and nothing but necessity could induce a submission to it. The interest of the landholder is undoubtedly blended with the commercial interest; if the latter receive an injury, the former will have to sustain his proportion of it; if drawbacks are not allowed, the operations of trade will be considerably shackled; merchants will be obliged, in the first instance, to send their cargoes to the place of consumption, and lose the advantage of a circuitous freight, which alone is a profit of no small magnitude.

Mr. HARTLEY expressed his sorrow for the last decision of the committee; he wished the question had not been put in the absence of the gentlemen from Massachusetts, who were on a business in some degree of a public nature. The present motion was only just brought in; he submitted, therefore, to the committee, if it were not best to pass it over for the present, in order to give time for consideration.

TUESDAY, April 21.

Mr. HARTLEY asked and obtained leave of absence.

WEDNESDAY, April 22.

PETER SYLVESTER, from New York, appeared and took his seat.

THURSDAY, April 23.

JOHN HATHORN, from New York, appeared and took his seat.

FRIDAY, April 24.

Mr. BOUDINOT reported, from the committee appointed to attend with a committee from the Senate, to receive the President of the United States, at the place of his embarkation from New Jersey, that the committee did, according to order, together with a committee from the Senate, attend at Elizabethtown, in New Jersey, on the 23d instant, at which place the two committees met the President, and thence embarked for this city, where they arrived about three o'clock in the afternoon of the same day, and conducted him to the house appointed for his residence.

The Speaker laid before the House a letter from the Vice President of the United States,

enclosing a resolution of the Senate, appointing a committee to consider and report what style or titles it will be proper to annex to the office of President and Vice President of the United States, if any other than those given in the constitution; also to consider of the time, place, and manner in which, and the person by whom, the oath prescribed by the constitution, shall be administered to the President, and to confer thereon with such committee as this House should appoint for that purpose; whereupon,

Ordered, That a committee, to consist of five members, be appointed for the purpose expressed in the resolution of the Senate.

The members elected were Messrs. BENSON, AMES, MADISON, CARROLL, and SHERMAN.

Duties on Imports.

The House then proceeded to consider the resolutions reported by the Committee of the Whole on the state of the Union.

Mr. BOUDINOT complained that the articles were generally taxed too high, not too high for the article to bear, but too high for the due collection of the revenue. Every thing we tax should be considered as it relates to the interest of the importer, as well as other circumstances; now, if it is discovered that the duties are so great as to make it a beneficial trade to the merchant to run his goods, he will do so, and injure the revenue.

Mr. MADISON was sensible that high duties had a tendency to promote smuggling, and in case those kinds of frauds were successfully practised the revenue must be diminished; yet he believed the sum proposed on spirits was not so high as to produce those effects to any considerable degree. If any article is capable of paying a heavy duty, it is this; if the duty on any article is capable of being collected with certainty, it is this; if a duty on any article is consonant with the sentiment of the people of America, it is this; why then should not the article be made as tributary as possible to the wants of Government? But, besides these favorable circumstances, I think the combination of the merchants will come in aid of the law; the people will also lend their aid. These circumstances would do much toward insuring the due collection of the revenue.

Mr. JACKSON seconded Mr. BOUDINOT'S motion for reducing the duties, because he was well convinced they were too high even to be well collected, unless we establish custom-houses every ten or twelve miles, like watch-towers, along the sea-coast. When trade is so unproductive, the Legislature ought to be careful how they make it more worth a man's while to live by committing frauds upon the revenue than by practising honest commerce.

There is another consideration which particularly regarded the Georgia trade. That country, abounding with lumber of the most luxurious growth, could only exchange it for rum; and a very considerable commerce grew out of this intercourse favorable to Georgia. This would be affected by the imposition of heavy duties; but commercial considerations, we shall be told, form only a secondary object in this business. There is another proposition in which he acquiesced; it would be more convenient, and more to the honor of the House, to make their first essay with low duties; because, if they persisted in laying them high, they would be compelled to an inglorious retreat, and the Government would be insulted. In the State he represented, it was next to impossible to collect the revenue, the country was so intersected with navigable creeks and rivers, if the people were disposed to evade the payment of it; and there was no more certain way to produce this disposition than by making it their interest to defraud you.

Mr. BOUDINOT was not ashamed to confess that he wanted the advantages of commercial knowledge on a question where the principles of trade were interwoven; but he opposed high duties on a conviction in his own mind that they could not be collected. He repeated some few of his former arguments to show why he held this opinion; but it was not the particular article of rum that he was opposed to, it was the high scale on which the duties were laid generally, and that only from an idea that greater revenue might be obtained from less duties.

Mr. TUCKER wished the duties to be lowered, and proposed to the committee to strike off seven cents from the fifteen; by varying his motion in this manner, he expected the sense of the House could be taken on his proposition first, notwithstanding the rule that "the question shall be put on the highest sum first." He joined in the opinion that high duties were productive of smuggling; that notwithstanding the powers and vigilance of custom-house officers, and the whole Executive, contraband trade is carried on in every nation where the duties are so high; the facility with which it could be done in America ought to show a prudent Legislature the degree of probability; unless this can be guarded against, what will the law avail? It can avail nothing. Besides, the higher the duty is laid, the more you expose the officer to the temptation of being corrupted; when that is done, the revenue will be very unproductive.

Mr. BLAND would second the gentleman last up, but thought it was not in order to have the question taken first on the lowest sum.

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Mr. FITZSIMONS observed to the House, that the decision of the present question, in his mind, involved some very important alterations in the present measure; the consequences resulting from which ought to be well considered. In order, therefore, to gain time for this purpose, he would move an adjournment; whereupon the House adjourned.

SATURDAY, April 25.

Mr. BENSON, from the committee appointed to consider of the time, place, and manner in which,

and of the person by whom the oath prescribed by the constitution shall be administered to the President of the United States, and to confer with a committee of the Senate for the purpose, reported as followeth:

That the President hath been pleased to signify to them that any time or place which both Houses may think proper to appoint, and any manner which shall appear most eligible to them, will be acceptable to him: that requisite preparations cannot probably be made before Thursday next: that the President be on that day formally received by both Houses in the Senate Chamber: that the Representatives' Chamber being capable of receiving the greater number of persons, that therefore the President do take the oath in that place, and in the presence of both Houses: that after the formal reception of the President in the Senate Chamber, he be attended by both Houses to the Representatives' Chamber, and that the oath be administered by the Chancellor of this State.

The committee further report it as their opinion, that it will be proper that a committee of both Houses be appointed to take order for further conducting the ceremonial.

The said report was twice read; and, on the question put thereupon, agreed to by the House.

Ordered, That MESSRS. BENSON, AMES, and CARROLL be a committee on the part of this House, pursuant to the said report.

MONDAY, April 27.

The SPEAKER laid before the House a letter from the Vice President of the United States, enclosing certain proceedings of the Senate, touching the ceremonial of the formal reception of the President of the United States, by both Houses, which were read, and ordered to lie on the table.

Mr. BENSON, from the committee of both Houses, appointed to take order for conducting the ceremonial of the formal reception of the President of the United States, reported as followeth:

"That it appears to the committee more eligible that the oath should be administered to the President in the outer gallery adjoining the Senate Chamber, than in the Representatives' Chamber, and therefore submit to the respective Houses the propriety of authorizing their committees to take order as to the place where the oath shall be administered to the President, the resolutions of Saturday, assigning the Representatives' Chamber as the place, notwithstanding."

The said report being twice read,

Resolved, That this House doth concur in the said report, and authorize the committee to take order for the change of place thereby proposed.

The SPEAKER laid before the House a letter from the Vice President of the United States, enclosing two orders of the Senate, one of the 13th instant, appointing a committee to confer with any committee to be appointed on the part of this House, respecting the future disposition of the papers, &c. in the office of the late Secretary of the United States: the other of the 27th instant, for the attendance of both Houses, with the President of the United States, after the oath shall be administered to him, to hear divine service at St. Paul's Chapel: which was read, and ordered to lie on the table.

TUESDAY, April 28.

Mr. RICHARD BLAND LEE, from the committee to whom was recommitted the report respecting the mode of communicating papers, bills, and messages, between the two Houses, reported as followeth:

"When a message shall be sent from the Senate to the House of Representatives, it shall be announced at the door of the House by the doorkeeper, and shall be respectfully communicated to the Chair, by the person by whom it may be sent.

"The same ceremony shall be observed when a message shall be sent from the House of Representatives to the Senate.

"Messages shall be sent by such persons as a sense of propriety in each House may determine to be proper."

The said report was twice read, and, on the question put thereupon, agreed to by the House.

A letter from Matthias Ogden, of New Jersey, referring to sundry petitions from citizens of that State, complaining of illegality in the late election of Representatives for that State to this House was read and ordered to lie on the table.

The order of the Senate of the 13th instant was read, appointing a committee to confer with any committee to be appointed on the part of this House, respecting the future disposition of the papers in the office of the late Secretary of the United States; whereupon

Ordered, That MESSRS. TRUMBULL, CADWALADER, and JACKSON, be a committee for that purpose.

WEDNESDAY, April 29.

The House proceeded to consider the report from the Committee of Elections (which lay on the table) on the petition of David Ramsay, of the State of South Carolina, suggesting that William Smith, returned a member of this House, as elected within that State, was, at the time of his election, ineligible; and the said report being amended to read as followeth:

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That in this case it will be sufficient in the first instance, that a committee take such proofs as can be obtained in this city respecting the facts stated in the petition, and report the same to the House—That Mr. Smith be permitted to be present from time to time when such proofs are taken, to examine the witnesses, and to offer counter-proofs, which shall also be received by the committee, and reported to the House—That if the proofs so to be reported shall be declared by the House insufficient to verify the material facts stated in the petition, or such other facts as the House shall deem proper to be inquired into, it will then be necessary for the House to direct a further inquiry, and especially the procuring whatever additional testimony may be supposed to be in South Carolina, as the case may require—That all questions arising on the proofs be decided by the House, without any previous opinion thereon reported by a committee.

Resolved, That this House doth agree to the said report, and that it be an instruction to the Committee of Elections to proceed accordingly.

On motion,

Ordered, That a committee be appointed to prepare and report an estimate of the supplies requisite for the present year, and of the net produce of the impost as agreed to by the House, and that Messrs. GERRY, SMITH, (of Maryland,) and PARKER, be of the said committee.

The House proceeded to consider the following resolution of the Senate, to wit:

"In Senate, April 27.

"*Resolved*, That after the oath shall have been administered to the President, he, attended by the Vice President, and the members of the Senate and House of Representatives, proceed to St. Paul's Chapel to hear divine service, to be performed by the Chaplains to Congress already appointed:" Whereupon,

Resolved, That this House doth concur with the Senate in the said resolution: amended to read as followeth, to wit:

"That after the oath shall have been administered to the President, the Vice President and members of the Senate, the Speaker and members of the House of Representatives, will accompany him to St. Paul's Chapel, to hear divine service performed by the Chaplains of Congress."

Ordered, That the Clerk of this House do carry the said resolution to the Senate, and desire their concurrence.—Adjourned.

THURSDAY, April 30.

JONATHAN GROUT, from Massachusetts, appeared and took his seat.

This being the day on which the President of the United States was inaugurated, no other business, of course, was attended to. The President's address to both Houses appears in the proceedings of the Senate.^[21]

FRIDAY, May 1.

The SPEAKER laid before the House a copy of the speech of the President of the United States, to both Houses of Congress, delivered yesterday in the Senate Chamber, immediately after his inauguration, which being read,

On motion,

Resolved, That the said speech be committed to a Committee of the whole House.

The House accordingly resolved itself into a Committee of the Whole, Mr. PAGE in the chair. And after adopting the following resolution, the committee rose, and reported it to the House, which agreed to it.

Resolved, That it is the opinion of this committee, that an address to the President ought to be prepared, expressing the congratulations of the House of Representatives, on the distinguished proof given him of the affection and confidence of his fellow-citizens, by the unanimous suffrage which has appointed him to the high station which he fills; the approbation felt by the House of the patriotic sentiments and enlightened policy recommended by his speech; and assuring him of their disposition to concur in giving effect to every measure which may tend to secure the liberties, promote the harmony, and advance the happiness and prosperity of their country.

Ordered, That a committee to consist of five members be appointed to prepare an address pursuant to the said resolution. The members elected Messrs. MADISON, CLYMER, SHERMAN, GALE, and BENSON.

A motion was made that the House do come to the following resolution:

Resolved, That — per annum be the compensation to be allowed to the President of the United States, during the term for which he is to be elected.

The said resolution being read, was committed to a Committee of the whole House.

The House then proceeded by ballot to the appointment of a Chaplain to Congress on the part of this House. Upon examining the ballots, it appeared that the Rev. WILLIAM LINN was elected.

SAMUEL LIVERMORE, from New Hampshire, appeared and took his seat.

TUESDAY, May 5.

Mr. BENSON, from the committee appointed to consider of, and report what style or titles it will be proper to annex to the office of President and Vice President of the United States, if any other than those given in the Constitution, and to confer with a committee of the Senate appointed for the same purpose, reported as followeth:

"That it is not proper to annex any style or title to the respective styles or titles of office expressed in the Constitution." [Pg 47]

And the said report being twice read at the Clerk's table, was, on the question put thereupon, agreed to by the House.

Ordered, that the Clerk of this House do acquaint the Senate therewith.

Mr. MADISON, from the committee appointed to prepare an address on the part of this House to the President of the United States, in answer to his speech to both Houses of Congress, reported as followeth:

The Address of the House of Representatives to George Washington, President of the United States.

SIR: The Representatives of the People of the United States present their congratulations on the event by which your fellow-citizens have attested the pre-eminence of your merit. You have long held the first place in their esteem. You have often received tokens of their affection. You now possess the only proof that remained of their gratitude for your services, of their reverence for your wisdom, and of their confidence in your virtues. You enjoy the highest, because the truest honor, of being the First Magistrate, by the unanimous choice of the freest people on the face of the earth.

We well know the anxieties with which you must have obeyed a summons from the repose reserved for your declining years, into public scenes, of which you had taken your leave for ever. But the obedience was due to the occasion. It is already applauded by the universal joy which welcomes you to your station. And we cannot doubt that it will be rewarded with all the satisfaction with which an ardent love for your fellow-citizens must review successful efforts to promote their happiness.

This anticipation is not justified merely by the past experience of your signal services. It is particularly suggested by the pious impressions under which you mean to commence your administration, and the enlightened maxims by which you mean to conduct it. We feel with you the strongest obligations to adore the invisible hand which has led the American people through so many difficulties, to cherish a conscious responsibility for the destiny of republican liberty; and to seek the only sure means of preserving and recommending the precious deposit in a system of legislation founded on the principles of an honest policy, and directed by the spirit of a diffusive patriotism.

The question arising out of the fifth article of the Constitution will receive all the attention demanded by its importance; and will, we trust, be decided, under the influence of all the considerations to which you allude.

In forming the pecuniary provisions for the Executive Department, we shall not lose sight of a wish resulting from motives which give it a peculiar claim to our regard. Your resolution, in a moment critical to the liberties of your country, to renounce all personal emolument, was among the many presages of your patriotic services, which have been amply fulfilled; and your scrupulous adherence now to the law then imposed on yourself, cannot fail to demonstrate the purity, whilst it increases the lustre of a character which has so many titles to admiration.

Such are the sentiments which we have thought fit to address to you. They flow from our own hearts, and we verily believe that, among the millions we represent, there is not a virtuous citizen whose heart will disown them.

All that remains is, that we join in your fervent supplications for the blessings of heaven on our country; and that we add our own for the choicest of these blessings on the most beloved of our citizens.

Said address was committed to a Committee of the Whole; and the House immediately resolved itself into a committee, Mr. PAGE in the chair. The committee proposing no amendment thereto, rose and reported the address, and the House agreed to it, and resolved that the Speaker, attended by the members of this House, do present the said address to the President.

Ordered, That Messrs. SINNICKSON, COLES, and SMITH (of South Carolina), be a committee to wait on

the President to know when it will be convenient for him to receive the same.

Mr. CLYMER, from the committee appointed for the purpose, reported a bill for laying a duty on goods, wares, and merchandise, imported into the United States, which passed its first reading.

Amendment of the Constitution.

[Mr. BLAND presented the application of the Legislature of Virginia, to have a convention called of deputies from all the States, to consider the defects of the Constitution and report amendments; and moved to refer the application to the Committee of the Whole on the state of the Union.]

Mr. BOUDINOT.—According to the terms of the Constitution, the business cannot be taken up until a certain number of States have concurred in similar applications; certainly the House is disposed to pay a proper attention to the application of so respectable a State as Virginia, but if it is a business which we cannot interfere with in a constitutional manner, we had better let it remain on the files of the House until the proper number of applications come forward.

Mr. BLAND thought there could be no impropriety in referring any subject to a committee; but surely this deserved the serious and solemn consideration of Congress. He hoped no gentleman would oppose the compliment of referring it to a Committee of the Whole; beside, it would be a guide to the deliberations of the committee on the subject of amendments, which would shortly come before the House.

Mr. MADISON said, he had no doubt but the House was inclined to treat the present application with respect, but he doubted the propriety of committing it, because it would seem to imply that the House had a right to deliberate upon the subject. This, he believed, was not the case until two-thirds of the State Legislatures concurred in such application, and then it is out of the power of Congress to decline complying, the words of the Constitution being express and positive relative to the agency Congress may have in case of applications of this nature. "The Congress, wherever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution; or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments." From hence it must appear that Congress have no deliberative power on this occasion. The most respectful and constitutional mode of performing our duty will be, to let it be entered on the minutes, and remain upon the files of the House until similar applications come to hand from two-thirds of the States.

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Mr. BOUDINOT hoped the gentleman who desired the commitment of the application would not suppose him wanting in respect to the State of Virginia. He entertained the most profound respect for her—but it was on a principle of respect to order and propriety that he opposed the commitment; enough had been said to convince gentlemen that it was improper to commit—for what purpose can it be done? what can the committee report? The application is to call a new convention. Now, in this case, there is nothing left for us to do, but to call one when two-thirds of the State Legislatures apply for that purpose. He hoped the gentleman would withdraw his motion for commitment.

Mr. BLAND.—The application now before the committee contains a number of reasons why it is necessary to call a convention. By the fifth article of the Constitution, Congress are obliged to order this convention when two-thirds of the Legislatures apply for it; but how can these reasons be properly weighed, unless it be done in committee? Therefore, I hope the House will agree to refer it.

Mr. HUNTINGTON thought it proper to let the application remain on the table, it can be called up with others when enough are presented to make two-thirds of the whole States. There would be an evident impropriety in committing, because it would argue a right in the House to deliberate, and, consequently, a power to procrastinate the measure applied for.

Mr. TUCKER thought it not right to disregard the application of any State, and inferred, that the House had a right to consider every application that was made; if two-thirds had not applied, the subject might be taken into consideration, but if two-thirds had applied, it precluded deliberation on the part of the House. He hoped the present application would be properly noticed.

Mr. GERRY.—The gentleman from Virginia (Mr. MADISON) told us yesterday, that he meant to move the consideration of amendments on the fourth Monday of this month; he did not make such motion then, and may be prevented by accident, or some other cause, from carrying his intention into execution when the time he mentioned shall arrive. I think the subject however is introduced to the House, and, perhaps, it may consist with order to let the present application lie on the table until the business is taken up generally.

Mr. PAGE thought it the best way to enter the application at large upon the Journals, and do the same by all that came in, until sufficient were made to obtain their object, and let the original be deposited in the archives of Congress. He deemed this the proper mode of disposing of it, and what is in itself proper can never be construed into disrespect.

Mr. BLAND acquiesced in this disposal of the application. Whereupon it was ordered to be entered at length on the Journals, and the original to be placed on the files of Congress.

Duties on Tonnage.

The House then resumed the consideration of the Report of the Committee of the Whole on the

state of the Union, in relation to the duty on tonnage.

Mr. JACKSON (from Georgia) moved to lower the tonnage duty from thirty cents, as it stood in the report of the Committee on ships of nations in alliance, and to insert twenty cents, with a view of reducing the tonnage on the vessels of Powers not in alliance. In laying a higher duty on foreign tonnage than on our own, I presume, said he, the Legislature have three things in contemplation: 1st, The encouragement of American shipping; 2ndly, Raising a revenue; and 3rdly, The support of light-houses and beacons for the purposes of navigation. Now, for the first object, namely, the encouragement of American shipping, I judge twenty cents will be sufficient, the duty on our own being only six cents; but if twenty cents are laid in this case, I conclude that a higher rate will be imposed upon the vessels of nations not in alliance. As these form the principal part of the foreign navigation, the duty will be adequate to the end proposed. I take it, the idea of revenue from this source is not much relied upon by the House; and surely twenty cents is enough to answer all the purposes of erecting and supporting the necessary light-houses. On a calculation of what will be paid in Georgia, I find a sufficiency for these purposes; and I make no doubt but enough will be collected in every State from this duty. The tonnage employed in Georgia is about twenty thousand tons, fourteen thousand tons are foreign; the duty on this quantity will amount to £466 13s. 4d. Georgia currency. I do not take in the six cents upon American vessels, yet this sum appears to be as much as can possibly be wanted for the purpose of improving our navigation.

I shall just mention to the House one observation more, to show that the produce of the Southern States cannot bear a high tonnage duty. The value of rice, tobacco, and indigo has fallen so much in foreign markets, that they are no longer worth the exportation. The merchants complain that they lose by those remittances; and they have now got into the practice of sending off specie; forty thousand dollars have been sent in one vessel. This is a daily practice, and we shall shortly have no specie left to pay our debts. The difficulty will be increased, as no money will remain to pay for the duties imposed on the articles imported. I hope the government will not insist upon our walking before we are able to creep, or compel us to make bricks without straw. These are my sentiments on the present question; if they have weight, the House will agree with me in reducing the duty; but if the House persist in continuing the high rates agreed to in committee, I shall content myself with having done my duty by warning them of the danger.

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Mr. AMES.—I hope the reduction moved for by the gentleman who has just sat down will not be agreed to; for I trust the House is not satisfied with the reasons offered in its support. A great deal has been now said respecting the jealousy entertained of the advantages given by this preference to some States; a great deal was also said before the committee adopted the measure. I do not think this doctrine of jealousy is natural to us. I know it has been cultivated by the British, and disseminated through the United States; they had their particular views in exciting such ideas; but I do not believe, that because we have various we have opposite interests. Upon examination there will be found but few of our interests that clash with each other so much as to admit a well grounded jealousy. Nature has so arranged our circumstances, that the people of the several States pursue various employments which support each other. If one end of the continent is employed in manufactures and commerce, the other is attentive to agriculture; so far are they, therefore, from being rivals, that, both in a natural and political sense, they mutually are necessary and beneficial to each other's interests. I wish gentlemen, before they insist upon this jealousy, would point out the causes of its existence. So far from this being the case, I believe the individual interest of each part is compatible with the general interest; and that the public opinion is the same, is clearly demonstrated by the attachment professed by every part to remain in union—it is acknowledged, that on this principle our existence as a nation depends.

This being the case, I do not listen with any great degree of concern to arguments founded on that cause. So far from surveying the affluence or ease of my Southern brethren with the jaundiced eye of jealousy, I contemplate their prosperity with ineffable satisfaction. I look with an equal eye upon the success of every State through the whole extent of United America. I wish their interests to be equally consulted; and if I may judge of the feelings of the people, by those of their representatives on this floor, I may venture to say there was never less reason to apprehend discord or envy than at this time. I believe the fact is so, because I feel it. I appeal with confidence to the gentlemen round me, whether they have not found the disposition of those who were suspected most to favor navigation, ready to concede what was asked for the encouragement of every other interest? Whether a like conciliatory conduct has not been observed by the advocates of manufactures? I ask gentlemen, whether the language they have heard from the several parts of this House has not been much more congenial to their sentiments than they expected, and the measures pursued more coincident to their feelings than what they looked for? I believe, at the moment I am making this observation, the breasts of gentlemen beat in concert with it; I am sure my feelings accord most cordially in the sentiment.

I believe the encouragement of our navigation is looked upon to be indispensably necessary; its importance has never been denied. Now, I ask if gentlemen are inclined to support and extend our navigation, whether they are not willing to proportion the means to the end, and adopt measures tending to increase the quantity of American shipping? It has been often justly remarked, that the Constitution, under which we deliberate, originated in commercial necessity. The mercantile part of our fellow-citizens, who are the firm friends to an equal and energetic government, hope the improvement of our navigation may obtain the attention of Congress; it is but justice that it be early attended to, and it will give general satisfaction to find it considered as an important object by the General Government. The most liberal of the friends of American commerce only wish for such regulations as may put our navigation on a footing with foreigners.

If other nations have restricted our navigation by regulations or charges, we must restrict them by a tonnage, or some other duty, so as to restore an equality; but this will not be found to be the case in the present instance. The moderate and inconsiderable duty of thirty cents on foreigners in treaty, and fifty cents on others not in treaty, will not enable our vessels to go abroad with as much advantage as foreigners can come here; so that the proposed encouragement may perhaps fall short of procuring us a maritime strength equal to our national security.

The observations of gentlemen tending to show that one end of the continent will suffer more by the regulation contemplated by the House than the other, are, I conceive, not well founded. The price of freight will equalize itself. If the people of Carolina or Georgia pay a high freight in consequence of the tonnage duty, the State of Massachusetts must pay the same, or her vessels will go to the southward in search of freight, so that the Eastern States have no peculiar interest in the measure. It has been suggested, that because Massachusetts has foreign vessels in her employ, she cannot transport produce for others—Massachusetts, by reason of that influence which Britain has, is obliged to receive some of her supplies in foreign bottoms, but this is only a proof that the evil requires a remedy. I might here easily draw a picture of the distress to which the Eastern country is subjected for want of a protecting hand: her shipwrights are glad to work for two shillings and sixpence a day, or less, and less will not maintain them and their families. Their lumber is of no value, it lies rotting in the forests, for want of encouragement to frame it into ships; the other artisans are clamorous for employment, and without a speedy relief they will have to desert the country. I believe if this relief is extended to them, it will give a spring to their industry, and a little time will render them serviceable to their fellow-citizens in the South. They will find markets for their tobacco, which is now rotting, and their valuable productions will be transported to all parts of the globe. From these circumstances, I am led to beg gentlemen to consider, that the improvement and extension of our navigation is one of the most important objects that can come before the Legislature; that there are abundant proofs that a regulation in favor of American shipping is absolutely necessary to restore them to an equality with foreigners; and if they are convinced with me of its importance and necessity, they will not think the sums agreed to in committee too high for the purpose of protecting the navigation of the United States.

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Mr. BURKE.—Something has been said relative to a jealousy subsisting in the Southern States respecting the navigation interest; I shall, therefore, make an observation or two on that subject. So far as my own knowledge of that country goes, I believe the citizens look with indignation at the power which foreigners have over their commerce. So far from being jealous of the Eastern States, they look forward to some future day when their navigation will be secured to that part of the Union. They know that it possesses superior maritime advantages, and expect they will hereafter afford security to them. They know, that from the spirit and industry of the people of New England, they may derive commercial and agricultural benefits. This is also my own judgment on the point. I know they cannot now supply us with vessels to transport our produce, but I hope the time will shortly come when they will have the ability; in the mean time, when I consider how much the Southern staples are fallen in price, and the great debts due in that country, I must say, that I fear a heavy tonnage will be attended with very dangerous consequences. There are very few foreigners but British come among us, and a high duty laid upon their ships will fall severely upon the planters. The Southern people are willing to render any assistance to increase the maritime importance of the Eastern States, as soon as they are able; if, therefore, a distant period is fixed for the commencement of the high duties, I shall be in favor of them; but if they are to take place immediately, I fear they will do a great deal of injury in the present deranged and calamitous situation of our country.

Mr. GOODHUE was glad to hear from the several parts of the House, that there was a disposition to give a preference to American shipping. This principle being fixed, it only remained for the House to ascertain the proper degree of encouragement to be given; the rate agreed to in the committee was not more than good policy required. The gentleman from Georgia fears that the people of his State will suffer for want of vessels, or pay a higher freight than their neighbors; but a high duty is not contended for in the first instance, it is only such a degree of encouragement as will enable us to enter into a competition with foreigners in our own carrying trade. The same gentleman has said, Massachusetts has not vessels enough for her own commerce, and, therefore, cannot furnish any for others; although Massachusetts employs 7 or 8,000 tons of foreign shipping; yet it is supposed she supplies the other States with 30,000 tons. The circumstance of 5,000 hogsheads of tobacco lying to rot for want of vessels, when some thousand tons of ours are idle for want of employment, does not prove the want of shipping, so much as that the price of the article is too high for a foreign market. If the produce is held so high as not to bear the expense of transportation, the merchants who import will be obliged to send off money in payment. In order to remedy these inconveniences in future, it will be necessary to hold out sufficient encouragement for the construction of vessels. Perhaps it may be good policy to allow a moderate tonnage duty at this time, to be increased hereafter.

Mr. MADISON.—I believe every gentleman who hears the observations from the different quarters of this House, discovers great reason for every friend of the United States to congratulate himself upon the evident disposition which has been displayed to conduct our business with harmony and concert.

We have evinced a disposition different from what was expected to arise from the different interests of the several parts of the Union. I am persuaded, that less contrariety of sentiment has taken place than was supposed by gentlemen, who did not choose to magnify the causes of variance; every thing we have hitherto done, tends to make this evident. The importance of the Union is justly estimated by all its parts; this being founded upon a perfect accordance of

interest, it may become perpetual. I know that the point before us has often been selected as a proof that there was an incompatibility of interest in the United States. On this opinion I beg leave to remark, that the difference in point of capacity in the several States to build ships, and furnish seamen, is much less than has generally been supposed. From the extremity of the Northern States until we reach South Carolina, materials of all sorts for ship-building can be obtained in abundance from the bounty of nature; even Georgia abounds with materials of superior quality; although their population disqualifies them for ship-building at present, yet their advantages are such as to enable them in a short time to rival the most prosperous State. In the next place, I may remark, that so far as the encouragement of our own shipping will be given at the expense of the people of the United States, it will diffuse and equalize its operations in every part. The ships belonging to one place will, like the people, seek employment in another where better wages are obtained, and this, in its operations, will level any inequalities supposed to arise from legislative interference.

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WEDNESDAY, May 6.

JOHN VINING, from Delaware, appeared and took his seat.

The bill for laying a duty on goods, wares, and merchandises imported into the United States, was read a second time, and ordered to be committed to a Committee of the whole House tomorrow.

On motion of Mr. SHERMAN, the House entered upon the consideration of the amendments of the Senate to the bill for regulating the time and manner of administering certain oaths.

The following amendments being before them, to wit:

"That the members of the several State Legislatures, and all executive and judicial officers of the several States, who have been heretofore chosen or appointed, or who shall be chosen or appointed before the first day of August next, and who shall then be in office, shall, within one month thereafter, take the same oath or affirmation, except where they shall have taken it before; which may be administered by any person authorized by the law of the State in which such office shall be holden to administer oaths. And the members of the several State Legislatures, and all executive and judicial officers of the several States, who shall be chosen or appointed after the said first day of August, shall, before they proceed to execute the duties of their respective offices, take the foregoing oath or affirmation, which shall be administered by the person or persons who by the law of the State shall be authorized to administer the oath of office; and the person or persons so administering the oath hereby required to be taken shall cause a record or certificate thereof to be made, in the same manner as, by the law of the State, he or they shall be directed to record or certify the oath of office."

Mr. GERRY said, he did not discover what part of the constitution gave to Congress the power of making this provision, except so much of it as respects the form of the oath; it is not expressly given by any clause of the constitution; and if it does exist, must arise from the sweeping clause, as it is frequently termed, in the eighth section of the first article of the constitution, which authorizes Congress "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or office thereof." To this clause there seems to be no limitation, so far as it applies to the extension of the powers vested by the constitution; but even this clause gives no legislative authority to Congress to carry into effect any power not expressly vested by the constitution. In the constitution, which is the supreme law of the land, provision is made, that the members of the Legislatures of the several States, and all executive and judicial officers thereof, shall be bound by oath to support the constitution. But there is no provision for empowering the Government of the United States, or any officer or department thereof, to pass a law obligatory on the members of the Legislatures of the several States, and other officers thereof, to take this oath. This is made their duty already by the constitution, and no such law of Congress can add force to the obligation; but, on the other hand, if it is admitted that such a law is necessary, it tends to weaken the constitution which requires such aid; neither is any law, other than to prescribe the form of the oath, necessary or proper to carry this part of the constitution into effect; for the oath required by the constitution being a necessary qualification for the State officers mentioned, cannot be dispensed with by any authority whatever other than the people, and the judicial power of the United States, extending to all cases arising in law or equity under this constitution. The Judges of the United States, who are bound to support the constitution, may, in all cases within their jurisdiction, annul the official acts of State officers, and even the acts of the members of the State Legislatures, if such members and officers were disqualified to do or pass such acts, by neglecting or refusing to take this oath. He concluded his observations, by submitting to the House the propriety of appointing a Committee of Conference, to state to the Senate the doubts of the House upon this subject.

Mr. BLAND had no doubt respecting the powers of Congress on this subject. The evident meaning of the words of the constitution implied, that Congress should have the power to pass a law, directing the time and manner of taking the oath prescribed for supporting the constitution. There can be no hesitation respecting the power to direct their own officers, and the constituent parts of Congress; besides, if the State Legislatures were to be left to arrange and direct this business, they would pass different laws, and the officers might be bound in different degrees to support the constitution. He not only thought Congress had the power to do what was proposed

by the Senate, but he judged it expedient also, and therefore should agree to the amendment.

Mr. JACKSON.—I believe this House, and the other branch of the Legislature, have the power, by the constitution, to pass a law, obliging the officers of the State Governments to take the oath required by the constitution that their States have adopted, and which has become the supreme law of the land. I believe the general opinion of the House inclines to favor this sentiment. It then only remains to examine the measure on the principle of policy. Here I must give my opinion. I believe, sir, that it is not time to bring it forward, that it is not expedient at present, because some jealousies exist respecting the jurisdiction of the Federal and State Governments. The States had better be left to regulate this matter among themselves, for an oath that is not voluntary is seldom held sacred. Compelling people to swear to support the constitution, will be like the attempts of Britain, during the late revolution, to secure the fidelity of those who fell within the influence of her arms, and, like those attempts, they will be frustrated; the moment the party could get from under her wings, the oath of allegiance was disregarded. If the State officers will not willingly pay this testimony of their attachment to the constitution, what is extorted from them against their inclination is not much to be relied on. Besides, it argues a jealousy in the National Government, which can have no foundation. Can any thing show more friendly to the Union than adopting the constitution, and sending us here to administer it? If we judge from these circumstances, there is good reason to believe that the State Governments will pay a proper attention to the duty enjoined upon them by the constitution. I shall readily agree, if they do not pay this attention, that the National Legislature ought to exercise its powers to compel them; but they know the necessity there is for conforming to what the constitution orders; if they neglect it, it becomes in some degree a relinquishment of their power in government. No State Legislature can pass an act that will have the efficacy of a law. Suppose a judge on the bench were to condemn a criminal to die for an offence; the sentence could not be carried into execution, if the judge had omitted to qualify himself for the discharge of the duties of his office. In short, there would be a total stagnation of the Government, its vital powers would be suspended, until they were revived by the action of the constitution. Besides, the constitution partakes of the nature of a compact; it guaranties to the State Governments the principles of a republican government, conditionally, that the States conform themselves to what is declared in the constitution; they must therefore take the oath directed by the constitution, or infringe the compact; in which case I apprehend, the guaranty is virtually withdrawn; this is another inducement for the States to perform their duty.

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Mr. LAWRENCE.—I believe, Mr. Speaker, if there is any thing improper in making provision that the officers shall take an oath to support the Government, the fault cannot properly be charged upon us, because the provision is already made, and adopted by our constituents; and we are to suppose that some beneficial effects were intended by it; while we are reprobating the measure, let us take care we do not fall under the censure, which the observation of the gentleman last up brought to our view, of taking an oath, and neglecting to fulfil the duties enjoined by it. I believe, sir, that the persons who are to take this oath in conformity to the constitution, will conceive themselves, after having taken such oath, under an obligation to support the constitution. It has been said by one gentleman, that Congress have not the power to carry this regulation into effect. Only a few words will be necessary to convince gentlemen that Congress have this power. It is declared by the constitution, that its ordinances shall be the supreme law of the land. If the constitution is the supreme law of the land, every part of it must partake of this supremacy; consequently, every general declaration it contains is the supreme law. But then these general declarations cannot be carried into effect, without particular regulations adapted to the circumstances. These particular regulations are to be made by Congress, who, by the constitution, have power to make all laws necessary or proper to carry the declarations of the constitution into effect. The constitution likewise declares, that the members of the State Legislatures, and all officers, executive and judicial, shall take an oath to support the constitution. This declaration is general, and it lies with the supreme Legislature to detail and regulate it. The law is to supply the necessary means of executing the principle laid down; for how can it be carried into effect in any other manner? This explanation, I trust, convinces gentlemen that the power of enacting such a law exists in Congress. But whether it is good policy or not to do it, depends upon a variety of circumstances; for my own part, I think it prudent to make the necessary regulations for carrying into effect this part of the constitution.

Mr. SYLVESTER.—I am an advocate for supporting the dignity of the House, and to me it appears somewhat inconsistent that we should change our sentiments in order to conform to the amendment of the Senate, without knowing the reason upon which they have founded the proposed measure. No doubt but sufficient reasons have occurred to them, but none have appeared to this House. If we are to follow the Senate in all the alterations they propose, without hearing reasons to induce a change, our time in deliberation is taken up unnecessarily. With respect to any member of this House who has not taken the oath, I concur that they are to pay obedience to what the authority of the Legislature may order on this head. Nay, I am equally clear that the power to regulate the members of the State Governments in taking the oath, is either lodged with the Congress of the United States, or nowhere. But, it appears to me, that the State Legislatures have a concurrent power with Congress in this regulation, for the officers of the General Government and State Governments are called upon in the same manner: "The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath, or affirmation, to support the constitution." These are the words of that instrument. The question, then, is reduced to its expediency, whether it is good policy to exercise the power or not? I am afraid, Mr. Speaker, if we exercise this power, it may be

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considered an interference with the State Governments. I would rather leave them to their discretion, trusting they would come forward and take the oath; it is unnecessary for us to intermeddle, if they will conform to what is directed by the constitution. It appears to me most prudent, that, till we see a disposition in the State Governments to neglect this duty, we do not, by law, oblige them to perform it. I wish the Government to go on gradually in administering the constitution, and not give umbrage even to its enemies, by a compulsory act, when there appears no necessity for it.

I could not concur in the amendment proposed by the Senate, even if I considered it not inconsistent in the House to adopt a measure they had previously rejected, unless some good reasons were offered to show its propriety; not but if I have been mistaken, I am always ready to retract my error, upon better information.

Mr. SHERMAN was not afraid of being charged with inconsistency. He had voted against a similar clause when the bill was before the House, but he was convinced now of its propriety; he thought it more eligible to have a general provision for taking the oath, than particular ones. It also appeared necessary to point out the oath itself, as well as the time and manner of taking it. No other Legislature is competent to all these purposes; but, if they were, there is a propriety in the supreme Legislature's doing it. At the same time, if the State Legislatures take it up, it cannot operate disagreeably upon them, to find all their neighboring States obliged to join them in supporting a measure they approve. What a State Legislature may do, will be good as far as it goes; on the same principle, the constitution will apply to each individual of the State officers—they may go, without the direction of the State Legislature, to a justice, and take the oath voluntarily. This, I suppose, would be binding upon them. But this is not satisfactory; the Government ought to know that the oath has been properly taken, and this can only be done by a general regulation. If it is in the discretion of the State Legislatures to make laws to carry the declaration of the constitution into execution, they have the power of refusing, and may avoid the positive injunctions of the constitution. As our power in this particular extends over the whole Union, it is most proper for us to take the subject up, and make the proper provision for carrying it into execution, according to the intention of the constitution.

Mr. BOUDINOT wished to remove the gentleman's objections arising from inconsistency. The clause that was rejected by the Committee of the Whole on this bill, contained a penalty for the neglect of taking the oath as prescribed; but the amendment of the Senate was not objectionable on that account, because it contained no such provision.

As to the policy or expediency of the measure, he entertained not the least doubt respecting it. The constitution said only that the officers of Government should be bound by oath, leaving to Congress to say what oath. In short it was the duty of the House, as had been well said by the gentleman from New York, (Mr. LAWRENCE,) to detail the general principles laid down in the constitution, and reduce them to practice.

He would enforce the expediency of the measure with one further remark. Several of the State Legislatures were sitting at this time, and had expressed a wish or expectation that such a regulation would be made by the General Government; if from principles of false policy the measure did not take place, the State Legislatures might neglect it also, and it was well known that their officers cannot act without it; hence the legality of their acts may be called in question, and give cause to a great deal of uneasiness and confusion.

The question on concurring with the Senate in their amendments to the bill was carried, with an amendment, that the members of the State Legislatures be directed to take the oath at their next session respectively.

The bill was, by order of the House, returned to the Senate as amended.

THURSDAY, May 7.

Mr. SMITH, of South Carolina, from the committee appointed to wait on the President of the United States, to know when it will be convenient for him to receive the address of this House, reported:

That the committee had, according to order, waited on the President, and that he signified to them that it would be convenient to him to receive the said address at 12 o'clock on Friday, at such place as the House shall be pleased to appoint: Whereupon,

Resolved, That as the Chamber designed for the President's receiving the respective Houses is not yet prepared, this House will wait on the President to present their address, in the room adjacent to the Representatives' Chamber.

Duties on Tonnage.

The House resumed the consideration of the report of the Committee of the Whole on the duty on tonnage. The proposition was to lay a duty of fifty cents per ton, on all vessels belonging wholly or in part to the subjects of all other Powers.

Mr. MADISON moved to reduce it to forty cents, and at the end of the year 1790, to increase it to seventy-five cents. He was satisfied to go as far as seventy-five, because he expected, under such encouragement, a sufficient number of vessels for the whole commerce of America might be constructed. If he was not too sanguine in this expectation, the measure would be both safe and expedient.

Mr. SMITH, (of Maryland.)—Both in Virginia and Maryland, British ships pay a higher duty than what is proposed; yet they continue to carry on an extensive trade in those States, which, in my opinion, proves those sums to be too low. American shipping derives considerable advantages from the regulations made in this respect by those two States. If that protection is withdrawn from them by the General Government, it will subject our commerce to very great inconveniences and absolute distress. I shall therefore be opposed to the reduction.

Mr. AMES.—The gentlemen from the southward, who suppose their States most likely to be affected by a discrimination in the tonnage duty, have concluded their arguments with a candor, which I conceive does honor to their patriotism. They declare themselves willing to encourage American shipping and commerce, though they do not join with us in the sum we think necessary to be laid on foreign tonnage to accomplish so important an object. If sufficient encouragement is given, and by our regulation American vessels are put on a footing with foreigners, I think we may flatter ourselves with the prospect of seeing our navigation immediately flourish. We have reason to expect a very considerable addition to our shipping in the course of one year. Experience has convinced us, that 25,000 tons can be built within double that period, by the town of Boston alone. The other ports in Massachusetts can furnish 37,000 tons, New Hampshire a considerable quantity, and if the other States furnish their proportion, we shall soon find ourselves independent of European nations for the transportation of our products. If forty cents at present, and the seventy-five cents in expectation, are thought a sufficient encouragement for the purpose, I shall not object to the motion.

Mr. FITZSIMONS.—If it is intended to increase the duty at the expiration of two years, it is certainly proper to reduce it in the interim; but I very much question such policy. The business of ship-building, I conceive, stands at this moment in want of the greatest encouragement in our power to give. If sufficient encouragement is given, at this time, to produce a quantity of shipping adequate to the demand, when we once are in possession of them, the business will stand in need of no further encouragement. If the citizens of the United States were now in possession of a sufficient quantity of shipping, and had the ability to employ them, I conceive they would not stand in need of any encouragement whatever. But this is not the case, and therefore an encouragement is requisite. At the conclusion of the last war we were left without shipping, and from our inability to carry on commerce, by reason of the oppression we were subjected to by foreign powers, the building of vessels has made but slow progress in the several States. Hence it becomes necessary to give encouragement sufficient to induce merchants to vest a greater proportion of their capital in this way. The proposed encouragement is not very high, and even under it, I should not expect a quantity of shipping would be furnished equal to the demand, in less than four or five years. It would be brought forward by slow and gradual degrees; they will continue, year by year, to increase them, until the number is competent to the demand. The business of ship-building being so relaxed, persons of that occupation have turned to other avocations, and some sensible advantage must appear, to induce them to return to their original profession. A proof of this is evidenced by the situation of Philadelphia. Before the Revolution, 5,000 tons of shipping were annually built in that city; last year, the whole tonnage was but 1,300, so much has it declined there. If it revives from its present languishing condition, it must be by great fostering care and protection, and by slow and gradual degrees. It does not appear to me, that fifty cents are more than necessary for its immediate encouragement. Gentlemen will be pleased to recollect that it is always in the power of Congress to increase it.

Gentlemen will recollect, on the article of hemp, immediate encouragement was contended for. It was not opposed by the commercial gentlemen in this House. But without encouragement is given to building and fitting out ships, the demand for hemp will be small; for very little advantage will arise from exporting it: the great market must be furnished by ourselves. Upon the whole, I conclude against the motion, believing our ship-building to need encouragement more at this time than it will at any subsequent period.

Mr. JACKSON.—The gentlemen from Massachusetts have, I must own, behaved with liberality. One is willing to reduce the duty to forty cents, another gentleman is more liberal still—he is willing to go lower; but not so the gentlemen from Pennsylvania and Maryland; they are actuated by other principles. They call to my mind a passage of scripture, where a king, by the advice of inexperienced counsellors, declared to his people, "my father did lade you with a heavy yoke, but I will add to your burthens." A steady pursuit of this counsel brought about the separation of his kingdom. These gentlemen want us even to go further. They bring forward calculations upon the moment, and pass them for information,—the mere calculations of yesterday,—and demonstrate thereby the propriety of their measures. They may consider some States of less importance than others, because they do not contribute the same quantity of revenue; but let them remember, the widow's mite is as good as the rich man's coffers; so the mite of Georgia is equal to the revenue of Pennsylvania.

Mr. BURKE.—It has been observed, in the former part of the debate, that the people of the Southern States might buy ships, if they did not build them. There are none owned in Carolina: we are destitute both of ships and seamen, and unable to procure them; it would be folly in us, therefore, to burthen them with duties. Though it is true, that there are men there who live in affluence, are rich in lands and servants, yet I believe they are universally in debt. This may be fairly inferred from the laws they have made to favor debtors. It would take twelve years to enable people there to pay their State and private debts; they are therefore very unable to sustain any new burthens, especially when their produce is so fallen in price as not to pay the expense of cultivation. I do not say this is to be attributed to the want of vessels to carry it off, though there may probably be a great want in this respect; and if there is, gentlemen tell you

they are unable to make up the deficiency. If this be the case, they ought to be contented with a moderate duty for the present; and as my mind is strongly impressed with the importance of encouraging the American navigation, I shall join them in doing something that may be productive of that effect.

Mr. MADISON.—As there is a great diversity of sentiment respecting the policy of the duty, I am very happy to find it is not prescribed by the geographical situation of our country. This evinces that it is merely difference of opinion, and not difference of interest. Gentlemen of the same State differ as much as gentlemen from the extremes of the continent. As no objection is made to giving some encouragement, we ought to endeavor to harmonize upon the quantum. I doubt very much if any proposition that can now be brought forward will coincide with the sentiments of this body more than the one that is before us. I am not anxious to reduce the encouragement too low, nor to throw to a very distant day the advanced rate intended by my modification of the measure; so gentlemen need not apprehend any evil to arise from its adoption.

Gentlemen who are opposed to giving sufficient encouragement to ship-building, ought to recollect an argument that was considered of weight in the case of encouraging manufactures. It is certain that manufactures have been reared up by the fostering care of the State Legislatures, displayed in the shape of protecting duties; but the people, by the adoption of this constitution, have put it out of their power to continue them. The provision for the support of navigation, made by the several States, ought to induce us to suppose even a higher tonnage duty pleasing to them, at least in those States where a higher tonnage duty has been laid. Those States not being able to continue their encouragement, expect that we will attend to their policy, and protect their citizens in the property they were led to acquire under the State regulations. If we disappoint them, they will suffer more than is consistent with good policy. I am not apprehensive that forty cents will be so low as to occasion any discontent.

Mr. SMITH, (of South Carolina.)—Gentlemen have endeavored to persuade us, that a high tonnage duty will be beneficial to the Union; but I would as soon be persuaded to throw myself out of a two-story window, as to believe a high tonnage duty was favorable to South Carolina. Gentlemen tell us we are in great want of shipping and a navy—that sufficient encouragement for ship-building must be given before we can expect it; but I think, let the encouragement be what it may, many years will elapse before we have sufficient for the export of our commodities. I know Massachusetts cannot furnish us, because there are adventitious causes to prevent it. The course of the stream in which our navigation has so long flowed, cannot be altered in a day. The debts due from the merchants of that country to the British, will be an insuperable bar. Suppose they should send ships to transport our produce to a foreign market, they have no connections abroad to transact their business, no house in a commercial line to employ in the sales. What are they to bring back in return? They must come in ballast: and will the mere transportation of our crop be a sufficient inducement to engage them to come here? If they had more shipping than they wanted, we should still labor under the same difficulty, and employ foreigners; because the business is unchangeably in their hands, and the very moment the tonnage duty is increased, it will be an inducement to them to raise the price of freight.

Mr. LAWRENCE.—There have been circumstances mentioned in the course of this debate, which I think may be useful in ascertaining whether the proposed duty of fifty cents on tonnage be too high or not. It appears that there is a duty in Georgia equal to 1s. 8d. sterling; in South Carolina, 1s. 3d. besides something on goods imported in foreign bottoms; in Virginia and Maryland it is much greater. How, then, can gentlemen from those States contend that the proposed duty is so much too high as to occasion the fatal consequences they foretell? When we consider the valuable produce of the Southern States, we are led to believe that the difference of ten cents per ton can make no material difference in the price. Will it materially affect the price of rice or tobacco? Neither of these articles would pay more than five cents per cask, if the duty should be reduced.

The duty, therefore, cannot be fairly said to be too high for the Southern States; it is not contended to be too high for the middle ones; it is not too high for us.

If we consider the subject as it relates to revenue, it will form a material object for our attention; if the duty be considered as a bounty to the maritime States, it will be admitted that it is our interest to increase our navigation.

The regulation proposed by the gentleman from Virginia, to increase the duty to seventy-five cents at the end of two years, may never take effect; before that period arrives, a treaty may be formed with the nation that is our great commercial rival. I am, therefore, in favor of a permanent regulation, rather than one holding out an encouragement that will never take place.

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Mr. JACKSON.—The gentleman last up thinks the reduction of ten cents will not materially affect the Southern States, yet he supposes it will injure ship-building: how it can hurt one interest by being reduced, and not wound the other by its increase, I do not clearly understand; for my part, I do not see the weight of such arguments.

Mr. LAWRENCE.—I consider the difference of ten cents to be too small for contention; the arguments of the gentlemen in opposition go as much against a duty of forty cents as against fifty.

Mr. PAGE.—I have heard all the arguments now brought against this measure, urged over and over again, when a tonnage duty was contended against in the same manner in Virginia. It was then merely a trial, but now we have the arguments resulting from experience in our favor. We find the British shipping still crowding our ports, although the tonnage duty is twice as great as

is now proposed; and although the price of produce has fallen within that time, yet I am persuaded it must be attributed to other causes than this. Let the experiment be made with firmness, and I venture to say, it will turn out the same in other States as in ours. I acknowledge the gentlemen's arguments have weight, but they go against any tax whatsoever being laid on tonnage. But experience has demonstrated to us, that such a duty is attended with advantages; it will encourage ship-building, and render us independent for the transportation of our produce. Let, therefore, no suggestions of the kind that have been offered deter us from pursuing, with firmness and decision, the plan adopted by the committee.

Mr. WADSWORTH.—If the gentleman who has brought forward this proposition had proposed thirty cents instead of forty, I should have agreed to the motion, because it would have destroyed the discrimination between the vessels of nations in treaty, and those not in treaty with us; but in every other point of view, I should be against a reduction. Foreign vessels will be better circumstanced under a duty of fifty cents, than American free of duty. The charges on foreign bottoms in our ports are very small; there is not, I believe, a vessel of ours that goes to Europe, that does not pay, in light money and other charges, more than fifty cents per ton.

Mr. MADISON.—The subject of discrimination is not now within our view; it has been decided by a great majority; I think there were not more than nine members against it. I do not mean, by the arguments that I have urged, to prove that the increase of tonnage has a tendency to raise the price of freight: all my object has been to quiet the apprehensions of gentlemen who hold that opinion. I do not think it will keep away foreign vessels from visiting us, nor increase the burthen on our Southern commerce, so much as has been calculated; and even if it did, the extension of our navigation would be an adequate compensation. The price of freight before the late revolution was higher than it is at present; perhaps it may be lower when ships are furnished in larger quantities.

Mr. TUCKER.—I fear the gentlemen who look for a sufficient quantity of shipping to answer the demands of our commerce in so short a space as two years, will find themselves deceived. I think, therefore, it would be improper to lay a high tonnage duty, commencing at that period; if it appears expedient, a future Legislature may give such encouragement, but they are not bound to perform our engagement. After they have seen the effect of the present regulation, they will be better able to judge of what is right in this particular than we can do. I am doubtful whether the measure would place the United States in a better or worse situation than a duty of fifty cents; a commutation of this kind, in order to save ten cents for two years, and admit an addition of twenty-five cents for ever afterwards, appears a doubtful policy. At any rate, the Congress might feel themselves, in some degree, bound to raise the duty to seventy-five cents, when their judgments might tell them it was inexpedient—they will then have cause to complain of our anticipation. I should, I think, rather be in favor of fixing a certain tonnage duty at present, and leave it to the consideration of a future Legislature, whether to increase it or not, according to the circumstances of the case. I think thirty cents as much as can be given, with propriety, at this time; considering the interest of the State I have the honor to represent, I believe it will bear harder on some States than on others, acting partially and not generally. When I speak of the State I represent, I would not be thought actuated by improper motives; I think every gentleman is bound to support, in a proper manner, the interest he is well acquainted with, and believes to be conducive to the general welfare. A great deal has been said respecting the duties that have been laid on tonnage in the Southern States. I begged the attention of the House, on a former occasion, to a striking difference there is in duties imposed by the State, for its own particular advantage, and what are about to be laid for the benefit of the United States. Every duty imposed, I consider as a tax on the inhabitants of South Carolina. If that tax is to bear harder on them than on other States, I pronounce it unequal and unjust. I consider the tax on tonnage in this light; but as I am willing to give encouragement to our navigation, so I shall not oppose a moderate duty on foreign vessels; as I also conceive a discrimination proper between those nations in alliance with us and those with whom we have no treaties subsisting, I am disposed to admit a larger sum than thirty cents: I would propose thirty-five, upon the express condition of reducing the duty already agreed to, to twenty or twenty-five, when a bill shall come forward founded upon the principles now agreed to.

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The question was here put on Mr. MADISON'S motion and lost.

The House then decided upon the original proposition, which being agreed to, it was

Resolved, That there ought to be levied on all vessels entered or cleared in the United States, the duties following, to wit:

On all vessels built within the United States, and belonging wholly to citizens thereof, at the rate of nine cents per ton.

On all vessels not built within the United States, but now belonging wholly to citizens thereof, at the rate of six cents per ton.

On all vessels belonging wholly to the subjects of Powers with whom the United States have formed treaties, or partly to the subjects of such Powers, and partly to citizens of the said States, at the rate of thirty cents per ton.

On all vessels belonging wholly or in part to subjects of other Powers, at the rate of fifty cents per ton.

Provided, That no vessel built within the United States, and belonging to a citizen or citizens thereof, whilst employed in the coasting trade, or in the fisheries, shall pay tonnage more than once in any one year; nor shall any ship or vessel built

within the United States pay tonnage on her first voyage.

Provided also, That no vessel be employed in the transportation of the produce or manufactures of the United States or any of them, coastwise, except such vessels shall be built within the United States, and the property of a citizen or citizens thereof.

The same was, on a question put thereupon, agreed to by the House.

Ordered, That a bill or bills be brought in pursuant to the said resolution, and that Mr. WADSWORTH, Mr. HEISTER, and Mr. SENEY, do prepare and bring in the same. [22]

FRIDAY, May 8.

The Speaker, attended by the members of the House, withdrew to the room adjoining the Representatives' Chamber, and there presented to the President of the United States the address agreed to on Tuesday last, to which he returned the following answer:

GENTLEMEN:

Your very affectionate address produces emotions which I know not how to express. I feel that my past endeavors in the service of my country are far overpaid by its goodness; and I fear much that my future ones may not fulfil your kind anticipation. All that I can promise is, that they will be invariably directed by an honest and an ardent zeal; of this resource my heart assures me. For all beyond, I rely on the wisdom and patriotism of those with whom I am to co-operate, and a continuance of the blessings of Heaven on our beloved country.

The Speaker and members being returned into the House:

Mr. GERRY, from the committee appointed, presented, according to order, a bill for collecting duties on goods, wares, and merchandises imported into the United States; and the same was received and read the first time.

Ordered, That the Clerk of this House do procure one hundred copies of the said bill to be printed for the use of the members of this House.

On motion,

Ordered, That the committee appointed on the 29th ultimo, to report an estimate of the supplies requisite for the present year, and of the net produce of the impost, as agreed to by the House, be authorized and instructed to collect early and authentic statements of the particular articles of foreign produce and manufactures annually imported into, and of all the articles exported from, the several States, and the value of such imports and exports; also, the number of vessels, both foreign and domestic, entered and cleared during that time, specifying their tonnage, and the nations to which they respectively belong; specifying, also, the exact numbers of each particular description of vessels of each nation, and the amount of tonnage of each particular vessel.

Duties on Imports.

The House, according to the order of the day, resolved itself into a Committee of the whole House on the bill for laying a duty on goods, wares, and merchandises imported into the United States.

Mr. PAGE in the chair.

Mr. TUCKER.—As I am desirous of beginning with moderate duties, I deem it proper, at this stage of the business, to offer my reasons in support of this opinion, that if it be the opinion of the committee, we may go uniformly through the list, and make the necessary reduction. I am opposed to high duties, particularly for two reasons: First, because they will tend to introduce and establish a system of smuggling; and, Secondly, because they tend to the oppression of certain citizens and States, in order to promote the benefit of other States and other classes of citizens. I cannot say I have a peculiar aversion to a high duty on distilled spirits; I may, therefore, be suspected of inconsistency in moving to reduce it; but I do it on the principle of a general reduction. If I do not succeed on the first article, I shall despair of succeeding on the others.

It appears to me that if we lay high duties on the importation of goods, a system of smuggling will be adopted before we can possibly make the necessary provision to prevent it. I take it, sir, that proper regulations respecting the collection is all our security against illicit trade. From a variety of circumstances, it appears to me, we shall not only be a long time in completing such a system, but, for want of experience, many of the regulations will be of a dubious propriety. Gentlemen will recollect we have an extensive sea-coast, accessible at a thousand points, and upon all this coast there are but few custom-houses where officers can be stationed to guard the collection of the duties; therefore, we labor under considerably greater disadvantages than a thicker settled country is liable to. I apprehend, if we consider the present state of our population, we shall conclude it impracticable to establish a sufficient number of custom-houses on those parts of the coast most assailable, to render us perfectly secure in the collection of our duties. If it were practicable, the expense would be a formidable objection; it would require more revenue to support such a system than all we shall derive from the impost. But we know in Great Britain where the duties are high, no expense is spared in the collection, yet smuggling is carried on to a very considerable amount; the risk run by this class of people is very great, the penalties are very

severe, and the vigilance of the officers renders detection not very improbable. As this is the case, under the administration of a very powerful Government, I apprehend ours, which is only in its infancy, will be unable to prevent it taking place, otherwise than by a system of moderate duties. If we begin with laying them high, there will be an immediate temptation to engage in a system of smuggling, a system of which may soon be formed, so as to render our future efforts ineffectual; it is better to avoid the temptation, than to punish the evil. A man that is disposed to trade fairly, will be brought under the necessity of falling into the same practice, or giving up his business; for the higher the duty, the greater the advantage the smuggler has over the fair trader, being compelled by necessity to engage in a contraband trade, or to forego the means of a livelihood. Smuggling will be no longer dishonorable, no longer difficult, and none will be found opposing the practice; repeated efforts to corrupt will be successful among even the officers of your customs; they at first may resist the temptation, but when they find the practice general, their vigilance will wink at a contraband trade, and smuggling will be considered as a matter of course. They will consider the reward given them for being out of the way as a benefit to which they are entitled. For these reasons, I shall be against a system of high duties, and because I fear there is danger of a system of smuggling being introduced before proper arrangements are made to prevent it; or if we had time to make such arrangements, they must inevitably be ineffectual.

I would observe further, that a high duty not only tends to the encouragement of smuggling, but it likewise raises, in my mind, a scruple respecting the allowance of a drawback, as I conceive every drawback becomes an additional encouragement to smuggling. In many instances, I fear it may be found, that the drawback will amount to more than all the duties paid in the States which are entitled to it. Considering the situation of the States of North Carolina and Rhode Island, which are not in the Union, their contiguity to the other States will increase the facility with which smuggling can be carried on; it will be easy to import articles from Europe and the West Indies into their ports, and send them by land, or even water to the adjacent States. When these are smuggled into the United States, they may be re-exported and entitled to receive a drawback, although the revenue was not collected upon the importation. If we agree to moderate duties it will be much easier to regulate our system on this head; if our revenue is found not to be quite so productive as gentlemen calculate upon a system of higher duties, which, by the by, appears to me to be very unlikely, we shall be better able to judge what we can do after a trial, than we can possibly at present; at any rate, it will be but a small loss; whereas, by a large scale, we may throw the whole Union into confusion, and there will be no remedy by which we can recover what we have now in our power; for a reduction of duties, when they are once laid, is productive of the most serious consequences. Having, therefore, a strong impression upon my mind, that we hazard a great deal in imposing high duties in the first instance, I should not have been satisfied with having done my duty, if I had not stated my doubts and difficulties to the committee; but having done this, I shall content myself with their decision, be it what it may.

On motion, the further reading of the bill was postponed—adjourned.

SATURDAY, May 9.

JEREMIAH VAN RENSSELAER, from New York, appeared and took his seat.

The following communications were received from the Senate by Mr. Otis, their Secretary:

Mr. SPEAKER: The Senate have disagreed to the report of a committee appointed to determine what style or titles it will be proper to annex to the office of President and Vice President of the United States, if any other than those given in the constitution; and have appointed a committee to consider and report under what title it will be proper for the President of the United States in future to be addressed, and confer thereon with such committee as this House may appoint for that purpose. The Senate have also appointed a committee to view and report how the rooms in the City Hall shall be appropriated, and to confer with any committee this House may appoint for that purpose.

Duties on Imports.

The House, according to the order of the day, resolved itself into a Committee of the whole House on the bill for laying a duty on goods, wares, and merchandises imported into the United States. Mr. PAGE in the chair.

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Mr. TUCKER.—The observations I made yesterday were intended to apply generally against a system of high duties. As to the particular article of spirits, I have no objection to a high duty being laid upon it, provided it can be strictly collected; for I do not wish to give encouragement to the consumption of that article, though, I fear, no duty we can lay will tend much to discourage it. I thought that if it was the general opinion of the House to lessen the duties, it would be a saving of time to discuss it on a motion to reduce the first article. I repeat the observation, that high duties are improper, because they are impolitic, and likely to defeat the object of revenue: less will be collected on them than on moderate ones. If it be considered as an encouragement to manufactures to lay heavy duties on enumerated articles, it is a tax on one part for the emolument of another. Five per cent. upon all articles imported would raise a considerable revenue, and be a sufficient encouragement to manufactures, especially if we add to this five per cent. the expense of freight and other charges of importation on foreign goods. The five per cent. in the bill is to be collected on the value of the goods at the time and place of importation; the value of goods within the United States is twenty-five per cent. more than they cost in Europe; adding this therefore to the other advantages, and it will be a considerable encouragement; but,

besides all this, there are many articles made here as cheap, and cheaper than they can be imported. Gentlemen, who have given us this information, know the fact to be so in their respective States; in them, therefore, the operation of the measure would be just and politic, but it does not apply with the same force as it respects South Carolina and some other States. Although in Boston and Philadelphia they can manufacture certain wares cheaper than they can import them, yet they are not brought at the same price to Charleston: hence the operation is unequal and a partial tax upon us. Another thing to be considered is, even if these articles could be furnished us at home as cheap as we get them from abroad, whether we should have equal advantages? If a cargo of nails were to be sent to Carolina, I would be glad to know how we are to purchase it? Would the makers of shoes be content to go there and retail them? If they would, they might be brought there; but I apprehend, if they have not established connections in that country, they could never be disposed of. Can they expect the planters to come in a body, and take off their goods upon their arrival? It is not even expected that they could; it must be left to them to judge, whether they do not purchase them in a better way, by taking them upon credit, and paying for them in their crop. Gentlemen will not pretend to say that we do not know our own interest, and therefore they will teach us. These reasons will not go down with the people; they will take to themselves the right of judging what is most conducive to their interests. Gentlemen cannot argue from the fact, that we do not consume the articles made within their States, as readily and willingly, as those imported from abroad, merely because we do not wish to encourage them. Facts prove the direct contrary: we have shown a disposition to encourage articles from their States which can be made in our State in great abundance. I will mention a few of them, although it may appear disgraceful for South Carolina to take from any country what she can furnish herself. We have imported to the city of Charleston vegetables for table use, which we can raise as well as any part of the world; yet no complaint was made by the agricultural interest of that State, that we imported foreign productions to their prejudice; no duty was imposed to discourage the use of them; all we considered was, whether they came cheaper when brought from abroad than when raised at home, concluding the cheapest to be the best.

On the same principles that are now urged, our citizens might have contended that we should impose a duty on all articles which could be produced at home. No imposition on the importation was laid in order to encourage the productions of our country; the same principle ought to have induced us to lay a duty on the importation of flour. We make but little of that; our constituents consume rice in place of it. It might have been said that a heavy duty should have been laid in order to prevent the interference with our staple commodity. The planters should have said, we will compel you to eat rice, and after being some time in the habit you will find you will like it as well as we; indeed, this argument might be extended to a measure calculated to oblige the other States to use rice in their daily food. It might be said, that it was necessary in order to give encouragement to the productions of the Southern States, but I believe such arguments would have had no weight if they had been used; yet they are similar to what have been brought forward by gentlemen for the encouragement of domestic manufactures.

Mr. Speaker, if gentlemen are content with moderate duties, we are willing to agree to them and give every reasonable encouragement in our power, but we cannot consent to very great oppression. I once more wish that gentlemen will consider great duties as imposing a heavier burthen upon the Southern States, as they import more, the other less; and the sum we pay towards the revenue must be in proportion to our importation. I therefore move, in order to begin with the first article, that distilled spirits be reduced six cents per gallon.

Mr. JACKSON seconded this motion, and would assign his reasons for it, but they had been so fully stated by the honorable mover.

Mr. AMES.—I wish the committee may consider, with the attention the subject demands, whether the duties are too high or not? It is hardly possible, I own, to contemplate this subject as a practical question. We shall find it necessary to consider attentively, before we proceed any further, what the objects of our Government are; and, having discovered them, we are to consider whether the proposed measure will answer the purposes intended. I believe in every point of view that we can possibly consider it, the subject of revenue will be thought to be one of the primary objects to which the power of Government extends. It has long been apprehended, that an ill administration of the new constitution was more to be feared, as inimical to the liberties of the people, than any hostility from the principles of the constitution. Of all the operations of Government, those which concern taxation are the most delicate as well as the most important. This observation applies to all governments. Revenue is the soul of Government, and if such a soul had not been breathed into our body politic it would have been a lifeless carcass, fit only to be buried. I would wish this soul might be actuated by rational principles, that, in establishing a revenue system, we might go on a superior principle to that which has heretofore been the governing principle in the United States; that we might consider what was most adequate to the object. The nature of the revenue system in this Government is to the last degree important; for want of the soul, the late Government was found utterly incapable of invigorating and protecting industry, or securing the Union; therefore these seem to be the great objects which we are to accomplish. I consider the present question as a direct application to the principles of the constitution; it will either support or destroy them. If the revenue system should fall with oppressive weight on the people, if it shall injure some in their dearest interests, it will shake the foundation of the Government. However the newspapers may stand your friends, and trumpet forth panegyrics on the new constitution, if your administration does not give satisfaction, you will find all ineffectual that they can do, whilst the people are against you. This being admitted, the Government will not push their regulations too far; they will consider the

weaknesses and prejudices of the individual members of the Union. When they lay a tax, they will consider how far it is agreeable to them, and how far the measure is wise in itself. If it is said the article to be taxed is a luxury, and the Government is zealous to correct the vice, they will be careful they do not do it in too severe a manner; the principle would be capable of great expansion: all the enjoyments of social life are luxuries, and, as objects of revenue, we ought to set a price on the enjoyment, without suppressing their use altogether. Neither ought we to consider what the article in this point of view is able to pay, so much as what we may reasonably expect to collect from it.

Mr. MADISON.—The right understanding of this subject is of great importance. The discussion has been drawn out to a very considerable length on former occasions. The chain of ideas on which the subject is suspended, is not very long, nor consists of many links. The present constitution was framed to supply the defects of the one that has preceded it. The great and material defects of it are well known to have arisen from its inability to provide for the demands of justice and security of the Union. To supply those defects, we are bound to fulfil the public engagements; expectation is anxiously waiting the result of our deliberations; it cannot be satisfied without a sufficient revenue to accomplish its purposes. We cannot obtain the money any other way but by taxation. Among the various objects of this nature, an impost on merchandise imported is preferable to all others, and among the long list of articles included in the bill, there is not one more proper for the purpose than the article under consideration. The public sentiment has strongly pointed it out as an object of revenue. I conceive, therefore, that it will be our duty to draw from this source all the money that it is capable of yielding. I am sure that it will not exceed our wants, nor extend to the injury of our commerce. How far the powers of Government are capable of going on this occasion, is matter of opinion; we have had no direct experiment of what can be done under the energy and popularity of the new system; we must recur to other sources for information, and then, unless the circumstances are alike, the comparison may not be true. We have been referred to the experience of other nations; if that is to guide us on this subject, I am sure we shall find precedents for going much farther than is now proposed. If I do not mistake the calculations that I have seen of duties on importation, they amount to more on an average than fifteen per cent.; the duty on ardent spirits in all nations exceeds what is in contemplation to be laid in the United States. I am sensible that the means which are used by those nations to insure the collection, would be odious and improper in this country; but I believe the means which this country is capable of using, without exciting complaint or incurring too much expense, would be as adequate to secure a duty of fifteen per cent. as the powers of any other nation could be to obtain ninety or one hundred per cent. I pay great respect to the opinions of mercantile gentlemen, and am willing to concede much to them, so far as their opinions are regulated by experience; but if I am to be guided by this information, it will not lead me to agree to the reduction of the duties in the manner contended for. It is said, that if we reduce at all, we must go through the whole. Now I doubt whether the duty on the article of rum exceeds that proportion which pervades the long list before us. It does not amount to more than thirty per cent., while some other articles stand at forty; some articles again that are not enumerated, but which fall within the general mass at five per cent., are more likely to be introduced clandestinely than this article, if it stood at fifty per cent. I am sure, if we reduce the whole system in the manner now proposed, all the duty we shall be able to collect will be very incompetent to what the public necessities demand. We must turn our eyes, then, to some other source that will fill up the deficiency. There are but two objects to which in this dilemma we can have recourse—direct taxation and excises. Direct taxation is not contemplated by any gentleman on this floor, nor are our constituents prepared for such a system of revenue; they expect it will not be applied to, until it is found that sufficient funds cannot be obtained in any other way. Excises would give particular disgust in some States, therefore gentlemen will not make up the deficiency from that quarter. I think, upon the whole, it is better to try what will be produced by a plan which is favored by the public sentiment. This will give a support to our laws equal to the greatest energy of a strong execution. The citizens of America know that their individual interest is connected with the public. We shall then have the strong motive of interest acting in favor of the Government in a peculiar manner. But I am not inclined to trust too much to this security. I would take in the aid of the best regulations in our power to provide; these acting in concert, would give a moral certainty to the faithful collection of the revenue. But if gentlemen, notwithstanding, will persist in contending against such a system, and cannot offer us a substitute, we must fail of the primary object for which the Government was created. If upon experience we find that the duties cannot be safely collected, it may be proper to reduce them; but if we set them too low in the first instance, and they do not yield a sufficiency to answer the just demands of the public creditors and the expenses of Government, the public reputation must suffer.

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Mr. BLAND.—I join with the gentlemen who are disposed to lower the duties. Although I feel the necessity we are under of raising revenue as much as any other gentleman possibly can, yet I think we ought to deliberate fully upon the means before we adopt them. It is demonstrable, nay it is self-evident, that laying high duties, in the first instance, will beget smuggling, and I fear our regulations, respecting the collection, will prove the impracticability of defeating the practice. But when we come to consider the subject in another point of view, I trust such a system will be found unnecessary. The enumerated articles in this bill are very numerous; they are taxed from fifty per cent. downwards; the general mass pays five per cent. The calculations made by the late Congress, who no doubt maturely considered the subject, found a list of eight articles only, and those at one-fourth or one-fifth of the rate now proposed, would produce a revenue of nine hundred and fifteen thousand six hundred and fifty-six dollars annually.

When we add to this calculation a circumstance of notoriety, the increase of our importation, we shall find that we levy, or mean to levy, greater sums than the public necessities require. There will not be found specie enough within the United States to pay the duties: four times the rate of what the former Congress recommended, will produce three millions six hundred thousand dollars. The enumeration is four times as great also; hence we may infer, that the amount will reach thirteen or fourteen millions. At least we shall be convinced that we are upon too high a scale. But where is the necessity of raising the impost to this degree? There are other means of revenue, and such as will not give disgust. We have already proposed a duty on tonnage; there is the post-office, and some other things which the ingenuity of Government can devise and is entitled to, for the purpose of revenue; if it is therefore unnecessary to levy such oppressive taxes, what other pretext can be set up for adopting the system? Independent of every other consideration, this ought to induce us to lower them. But there are other and weighty considerations; but as they have been well urged by the gentleman from Massachusetts, (Mr. AMES,) I shall not touch upon them. It is said, that it is merely matter of opinion whether they are too high or not; if so, let us be careful not to venture too far on such ground. It will be much better to reduce it in the manner proposed by the gentleman from South Carolina, and increase it hereafter, than strain the measure too high at present.

Mr. SHERMAN.—After this subject had been debated in a Committee of the Whole, and then in the House upon the report, and every argument that could be thought of had been urged, both on the general and particular amount of the duties proposed, and the probable effects of a deduction, I did not expect to have heard the same debate take place again. Gentlemen have a large field to display their abilities in, but I do not think it contains any new matter that will induce a single gentleman to alter his opinion on the subject. The great object is to raise a sum of money adequate to supply our wants; and let us dispute as we will about the mode, the fact is it must be raised. The people have sent their representatives here for this purpose; it is for their benefit that we raise the money, and not for any peculiar advantage to ourselves; the objects are to pay the debts, and to provide for the general welfare of the community. The first of these objects I take to be, that we pay our debts. There are very many meritorious characters who furnished us with essentials in the hour of imminent danger, who, from the imbecility of our former Government, have not been able to get even the interest of what they loaned us. I believe it is the first wish of the people throughout the United States to do justice to the public creditors, and to do it in such a manner, that each may contribute an equal part according to his abilities. We have very considerable arrearages due on this account, upon not only the domestic but foreign debt; there are several instalments not yet discharged, and considerable of the interest not yet paid. No statement can be made of the expenses of Government, so as to ascertain what quantity of revenue will be demanded on that head, but saying that they will be much the same under this Government as the former, and we shall have occasion for a very considerable sum to defray the expenses. I believe we are not able to make a very accurate calculation of what the system, proposed in the bill, will yield. The late Congress contemplated a million of dollars from this source, which, in aid of the requisition, they supposed sufficient for the purpose of paying the instalments of the national debt and interest; but that sum alone will now be found very short of what is wanted without the aid of direct taxes. It is very material that we lay the burthen as equal as possible, in whatever mode we pursue to obtain revenue: a great deal of care has been taken in distributing the proportion with equity; I apprehend, therefore, that we shall not be able to make it much more equitable by any alteration than it is at present. I think, also, that the people will pay more freely a duty of this nature than they will in direct taxes. If gentlemen prevail in getting the duties lowered to what the late Congress proposed, they will find themselves obliged to have recourse to direct taxation for a million and a half, or two millions of dollars. It then only remains for us to consider, whether it will be more agreeable to the people to reduce the impost in this manner, and raise the deficiency by direct taxes. If these duties are to be considered as a tax on the trading part of the community alone, they are improper; but this I believe is not the case; the consumer pays them eventually, and they pay no more than they choose, because they have it in their power to determine the quantity of taxable articles they will use. A tax left to be paid at discretion must be more agreeable than any other. The merchant considers that part of his capital applied to the payment of the duties the same as if employed in trade, and gets the same profit upon it as on the original cost of the commodity.

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Mr. WHITE.—When this system first came before the committee, I was opposed to enter into an enumeration, because I supposed much time would be taken up in the discussion, which would be an absolute loss of revenue, perhaps to a greater amount than the difference between the duties of such a system and the one proposed by the late Congress; but as it was thought proper by the committee to proceed in the way that we have done, it would be presumption in me to say, that the duty on every article has been perfectly digested and properly laid, but I believe every article stands as well as can be upon the information we are in possession of. I believe very few, if any, of the articles can be disapproved of.

Mr. AMES.—The gentleman from Pennsylvania set out with informing us that nothing new had or could be offered on the subject, yet you found, Mr. Chairman, the gentleman had a good deal to say, which I thought new and much to the purpose. As to applying the observation to myself, in common with the advocates for low duties, I shall decline it, only noting that the long discussion which the subject has had, would restrain me from rising on this occasion, more than any remarks of the nature made by the gentlemen from Pennsylvania and Connecticut; but I am actuated by higher motives than a regard to my own feelings, otherwise I should come reluctantly forward to press arguments which the committee may be fatigued with listening to. But I feel such strong impressions on my mind, with regard to the effects our impost law is likely to

produce, that I cannot pass it over with a silent vote. I must admonish gentlemen, that the events which may result from our present measures are of the most alarming nature. When I was up before, I endeavored to show the degree of power the Government could exercise without being charged with an ill administration. I shall now proceed briefly to consider the arguments used in reply to what has been advanced by the advocates for moderate duties. I believe it is a good rule to judge of the strength of a cause by the arguments used to defend it; and here I must take the liberty of saying, that the gentlemen on the other side of the question have adduced not one to support their opinion that has carried conviction to my mind. I consider that, by a decision of this question, the good which the new Government is expected to produce may be rendered problematical. Though I am fully impressed with the necessity there is for revenue to supply the public expenses, yet I cannot believe we are likely to obtain more by heavy duties than by temperate ones, and it is to this point that my arguments tend. I do not believe that in either case we shall procure fully sufficient to supply the public demands. If we have to procure 8,000,000 dollars, I venture to say, not near the half could be raised by an impost system; but admitting that it could by a high scale of duties for the first year, it could not be done in the subsequent ones. Now I regard this as a permanent system of revenue, rather than a productive one; if it is laid high, you will find your collection annually diminish. Now, will any Government take such measures in gathering in its harvest, as to ruin the soil? Will they rack-rent their tenants in such a manner as to deprive them of the means of improving the estate? Such can never be the policy of this enlightened country. We know, from the fundamental principles of republics, that public opinion gives the tone to every action of the Government—the laws ought to correspond with the habits and manners, nay, I may almost add, wishes of the people. Well, Mr. Chairman, we are told a tax upon rum is popular; I will agree with the gentlemen; but still a high duty will induce people to run it, and though the consumer may pay the tax without complaining, yet it will go into the pockets of individuals who defraud your revenue. Gentlemen have complained that we do not offer a substitute for what we find fault with. I will endeavor to explain a system I would place in the room of this. I would reduce the duties generally so low as to hold out no encouragement to smuggling; in this case, it is more than probable, the amount of the impost, at the end of one year, would exceed the collection under the present rate. By giving this proof of moderation and wisdom, we should obtain the public favor and confidence; the Government would be acquiring strength, its movements would be more certain, and we could in every subsequent year extend the system, and make the whole productive; then it would be in the power of Government, by aids, to improve our agriculture, manufactures, and commerce. Our imports are now very great; by the increase of our commerce, we shall probably find our revenue produce twice as much seven years hence as it can be expected to do at present.

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Mr. MADISON.—Let us compare the probable amount of the revenue proposed to be raised by this system, with what is raised in Great Britain, and we shall be apt to infer that they are not so oppressive as gentlemen seem to insinuate. Taking the highest estimate that I have heard mentioned, and it will not produce three millions of dollars. The population of the United States exceeds three millions of souls, hence the tax does not amount to one dollar per head. Great Britain, on the highest estimation, does not contain eight millions of inhabitants, and has an annual revenue to provide of thirteen millions sterling. It is true, she has recourse to other means besides an impost for the purpose of obtaining such a revenue; but those other means are certainly more objectionable in that country, and would be much more so here. Each individual of that kingdom pays eight times as much as is required by the United States; now, where is the propriety of making a comparison between them?

Mr. BALDWIN asked if the Government of the United States of America was four or five times worse to be administered than the Governments in Europe? Whether the public opinion was four or five times more unfavorable to such an administration? If these questions are answered in the affirmative, then the inferences which gentlemen have drawn, of the impracticability of collecting the duties laid in the bill, are just. But this is not allowing the General Government the common chance of executing its laws. If it were the worst Government on earth, it might be allowed a chance of doing one quarter of what others perform. If we find by experience, that we are too weak to execute a system which is so much easier than other nations have adopted, it may be proper to alter it. We shall be better able to judge how far we are likely to succeed, when the bill for the collection of the revenue is brought forward. Such a bill is now in the hands of a committee, and it is to be hoped, when they report it, it will be found sufficient to insure the collection; till then, it will be best to continue the rate as it stands.

Mr. BOUDINOT.—When we consider the arguments of gentlemen on both sides of this question, we shall find they do not differ so much as, on a superficial view, gentlemen may be led to imagine. It is agreed, that a revenue must be obtained adequate to our wants; but some gentlemen think we shall not receive a greater sum, because we lay a high duty; in this opinion I am with them. I think the present is a favorable time to lay an impost duty, and expect very considerable aid from the public spirit; but I am in favor of a low duty, because I would do nothing to check that spirit. If we lay high duties, and a man finds smuggling the most profitable business he can follow, we shall have to contend with private interest. If we lay a light duty of thirty or forty per cent., the temptation will be too strong for resistance, and the sum collected may not amount to ten per cent. on the whole importation; whereas, if we lay twenty or fifteen per cent. the whole may probably be collected, and the treasury be better filled, because it does not hold out so strong an inducement to evade the payment of the duties.

Another objection has been stated, which is of great weight: a system of high duties will necessarily engage us in a system of drawbacks. If we are forced into this measure, it will be a great injury to the revenue.

We ought also to consider the inconvenience to which high duties will subject our merchants. It is a common case in America, that our mercantile capitals are limited. Gentlemen engaged in commerce can ill spare so large a proportion in the payment of duties.

It has been mentioned by gentlemen, that Great Britain collects four shillings sterling per gallon on rum; yet she is exposed to great difficulties in obtaining it. But I ask gentlemen, whether Great Britain ever laid such a high duty in the first instance, as we are about to impose? I believe they did not: they began, I apprehend, with moderate duties, and increased them as circumstances authorized, when the people became habituated to the imposition. This is the very principle I wish to adopt, and show the world that our conduct is founded in wisdom, propriety, and experience. If we shall discover our mistake in laying high duties, and are driven by necessity to reduce them, such measures will operate to the injury of the fair trader; whereas, if we increase them by degrees, it will be rather favorable to their interest than otherwise; at all events, it will injure none.

If a sense of the committee could be obtained on a general reduction of ten or fifteen per cent. on the rate the articles now stand at, I should be glad to vote in favor of such a motion; but I could not approve of reducing the article of rum alone, because I do not think it charged out of proportion with the others.

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Mr. JACKSON differed from his colleague, (Mr. BALDWIN.) He thought, although the British laid four shillings on rum, they did not collect it; and that their custom-house establishments were so expensive, as to leave a mere trifle for the net produce of the impost duty. If America employed such a host of revenue officers as to secure the payment of high duties, there would be very little left, after compensating their services, to supply the federal treasury.

Mr. WADSWORTH desired gentlemen to consider, that the citizens of the United States owned vessels as well calculated for smuggling, as any that were employed between the Netherlands and England; therefore, they had little more security against smuggling than Great Britain.

Mr. JACKSON.—It was well observed by the honorable gentleman from Connecticut, (Mr. WADSWORTH,) that America has vessels well adapted for smuggling; I can declare it, from my own knowledge, to be the fact. It is not, Mr. Chairman, the large vessels coming off long voyages that we are to apprehend danger from; it is our coasters, small vessels constantly coming in and going out; these can run goods from foreign ports adjacent to the United States; they are best acquainted with the unfrequented parts, where they can deposit their cargoes with safety, and will make use of these advantages to defraud your revenue.

With regard to the equity of the impost system, I conceive direct taxation will be more equitable. We, in the Southern States, shall then pay in proportion to our numbers; but under this law we shall contribute much more.

Gentlemen talk of improving the morals of the people by taxation. For my part, I conceive revenue has nothing to do with the morals of the people; therefore, such considerations have no weight on my mind. All that I contemplate is, drawing as much money as we can with equity; and here I believe more can be obtained by a less impost than by a greater; therefore, I am in favor of reducing the duties. It will likewise be more honorable to the Government to begin gradually and win the affections of the people, rather than disgust them by oppressive measures; for if we lose their confidence, we lose our power and authority.

Mr. GERRY.—It appears to me, that gentlemen place their arguments on the name of high duties, rather than on principle; for if they were certain that the energy of Government would effect all they aspire at, then it would follow, that we have nothing more to do than to name the sum we want. But if these ideas are not well supported, the superstructure they have raised upon them must fall to the ground. The energy of your Government depends upon the approbation of the people. No doubt the citizens of the United States will support the Government they have adopted, so long as they approve the measures it pursues, but no longer. Gentlemen trust much, on this occasion, to the co-operation which they expect from their constituents; but I would wish them to examine this argument. These duties are to be collected from the several States into which certain goods are imported. If the people of Massachusetts shall conceive any particular duty peculiarly oppressive on them, they will seek to evade it. This opens a door for smuggling all the other articles.

I conceive gentlemen to be mistaken with respect to the effects which high duties will produce on the mercantile interest. I think there cannot be a doubt but they will be obliged to smuggle; if they mean to continue their business, their capital will be insufficient for the purposes of commerce and the payment of high duties. Gentlemen will not draw knowledge from the experience of Great Britain; therefore, it is unnecessary to adduce her example. But let us see what we are taught by the practice of our own States. Massachusetts drew a very considerable revenue from an impost; she lately tried to increase it by doubling the duties; but, instead of doing so, they found the revenue lessened, and they were obliged to alter what they had so injudiciously attempted. I am willing to suppose with gentlemen, that the Government is invested by the constitution with sufficient energy to carry any regulation of this kind into effect; but is this the time to try the energy of your Government, when your commerce is struggling with every kind of difficulty and embarrassment? Formerly our merchants were able to extend their operations by the means of an established credit in Britain; but unfortunately this is no longer the case. How, then, is it possible they can continue their trade, when you lop off another part of their capital? Besides, as was said by the worthy gentleman from Virginia (Mr. BLAND), there is not money enough in the United States to pay the duties. I believe it is well known, that our commerce is greatly distressed by the universal want of specie; there has not been less in

circulation for many years than there is at this time. Gentlemen who have property cannot convert it into money; then how will the merchant be able to raise cash for the payment of duties equal to thirty or forty per cent. on his capital? These are serious and alarming circumstances, and such as prove to my mind that the commerce was never less able to bear a high impost than at present, nor ever stood in greater need of the fostering hand of Government for its support. If gentlemen are convinced of the truth of these observations, and they are so notorious that they cannot have escaped the knowledge of any one, they will see the necessity of turning their attention to the encouragement of navigation and trade, rather than think of drawing an oppressive revenue from them.

Mr. MADISON submitted, whether the burthen would not operate more on the Southern States than the Northern. The duties could be collected in the Middle States—this was proved by the experience of some years; for they had collected in those States, in many instances, duties nearly equal to what were proposed. In the Eastern States, it was the interest of the manufacturers to see the duties were well collected; they had been imposed to favor their interests. The distillers would exert themselves in aiding the Government to collect the duty on foreign rum, because it particularly interfered with country rum; from hence he concluded that the impost could be collected with tolerable certainty even in that country most convenient for carrying on a clandestine trade.

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Mr. AMES contended that it would be the particular interest of one set of men to evade the payment of the duties. As mankind was governed by interest, it required all the attention of the Government to prevent a breach of the law; because, when the banks and bulwarks of defence were once broken down, the full tide of clandestine commerce would overflow the country. Gentlemen recollected the circumstances which attended the depreciation of the late continental money. Some persons, from motives of interest or necessity, first made a distinction between it and specie, and although every exertion was made by the patriotic among our citizens to prevent the alarming evil, yet every thing was insufficient; they were at length obliged to acquiesce in measures they could not prevent. This was the case on that occasion, and will be the case whenever our laws or regulations run counter to private interest.

Mr. SHERMAN.—The gentleman from Massachusetts (Mr. AMES) has said, that because we cannot raise the whole sum necessary to supply our wants, we should be content to stop half way. I know we shall not be able to obtain money enough by the impost to pay off our whole debt, but then I wish to raise as much as possible in this way. I believe the people are able to pay as much as the necessities of the Government require; if they are not, we shall never restore the public credit, which is one of the chief ends of our appointment. I believe they are not only able but willing to contribute sufficient for this purpose. The resources of this country are very great, if they are properly called into action; and although they may not be so great as those of Britain, yet it should be remembered, that nation has occasion for twelve times as much revenue as the United States.

Gentlemen have had recourse to popular opinion in support of their arguments. Popular opinion is founded in justice, and the only way to know if the popular opinion is in favor of a measure, is to examine whether the measure is just and right in itself. I think whatever is proper and right, the people will judge of and comply with. The people wish that the Government may derive respect from the justice of its measures; they have given it their support on this account. I believe the popular opinion is in favor of raising a revenue to pay our debts, and if we do right, they will not neglect their duty; therefore, the arguments that are urged in favor of a low duty will prove that the people are contented with what the bill proposes. The people at this time pay a higher duty on imported rum than what is proposed in this system, even in Massachusetts; it is true, it is partly laid by way of excise, but I can see no reason against doing it in this way as well as the other.

Mr. LAWRENCE.—It has been intimated by gentlemen in favor of high duties, that it will limit the consumption of foreign articles; if this be the case, the quantity imported will be lessened; if it is our object to raise revenue, it is certainly unwise to destroy the object from which the revenue is to be collected. It is supposed the amount of the duties will be insufficient to answer the public wants; and yet the public creditors have great expectations from this resource. Let us therefore be careful how we destroy it; if revenue is our primary object, and the other considerations but secondary, we should do nothing to operate against that principle.

Mr. MADISON.—It does not follow, because it will in some degree limit the consumption, that we ought not to lay a high duty on rum; if it has that effect, it will be an ample compensation for the loss of revenue; but probably, as we extinguish our debt, we shall have the less occasion for the revenue itself.

Mr. GOODHUE.—The object of the committee is to raise revenue, I take it. This would, perhaps, be best done by reducing the duty, but I am not inclined to reduce it so low as some gentlemen seem to desire; it may be reduced a few cents, and therefore I move to insert ten instead of twelve.

The question was taken for striking out the twelve cents, as it stood in the bill, on all spirits of Jamaica proof, imported from the dominions of nations in alliance with the United States, in order to leave it blank, to be filled up hereafter.

The House divided on the question; 19 in favor of the motion, and 26 against it.

So it passed in the negative.

Adjourned.

On Titles.

The House took into consideration the message from the Senate, communicated on Saturday last, respecting the disagreement of the Senate to the report of a joint committee, on the subject of annexing titles to the offices of President and Vice President.

Mr. PARKER moved a resolution to the following effect:

Resolved, That this House having, on Tuesday last, adopted the report of their committee appointed to confer with a committee of the Senate, stating, "That it is not proper to annex any style or title to the respective styles or titles of office expressed in the constitution;" and having, in their address to the President of the United States on Friday last, proceeded to act pursuant thereto, deem it improper to accede to the proposition made by the Senate, as communicated by their order of the 9th instant, for appointing a committee to confer with a committee of this House, in considering and reporting under what title it will be proper for the President of the United States in future to be addressed.

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Mr. PAGE seconded the motion, observing, that in his opinion, the House had no right to interfere in the business: the constitution expressly prescribed the power of Congress as to bestowing titles. He did not conceive the real honor or dignity of either of those situations to consist in high sounding titles. The House had, on a former occasion, expressed their disapprobation of any title being annexed to their own members, and very justly too. After having so fully and explicitly declared their sentiments against such measures, he thought it behooved them to be explicit with the Senate. Indeed, he felt himself a good deal hurt, that gentlemen on this floor, after having refused their permission to the Clerk to enter any more than their plain names on the journal, should be standing up and addressing one another by the title of "the honorable gentlemen." He wished the practice could be got over, because it added neither to the honor nor dignity of the House.

Mr. LEE approved of the appointment of a committee to confer with a committee of the Senate, as to the mode due to the occasion; but he was against adding any title.

Mr. TUCKER.—When this business was first brought before the House, I objected to the appointment of a committee to confer with a committee of the Senate, because I thought it a subject which this House had no right to take into consideration. I then stood single and unsupported in my opinion, but have had the pleasure to find since, that some gentlemen on this floor agree that I was right. If I was then right, I shall, from stronger reasoning, be right now in opposing the appointment of another committee on the same subject. The joint committee reported that no titles ought to be given; we agreed to the report, and I was in hopes we should have heard no more of the matter. The Senate rejected the report, and have now sent us a resolution, expressive of a determination to give a title, to which they desire our concurrence. I am still of the opinion that we were wrong in appointing the first committee, and think that we shall be guilty of greater impropriety if we now appoint another. What, sir, is the intention of this business? Will it not alarm our fellow-citizens? Will it not give them just cause of alarm? Will they not say, that they have been deceived by the convention that framed the constitution? That it has been contrived with a view to lead them on by degrees to that kind of government which they have thrown off with abhorrence? Shall we not justify the fears of those who were opposed to the constitution, because they considered it as insidious and hostile to the liberties of the people? One of its warmest advocates, one of the framers of it, (Mr. Wilson, of Pennsylvania,) has recommended it by calling it a pure democracy. Does this look like a democracy, when one of the first acts of the two branches of the Legislature is to confer titles? Surely not. To give dignity to our government, we must give a lofty title to our chief magistrate. Does the dignity of a nation consist in the distance between the first magistrate and his citizens? Does it consist in the exaltation of one man, and the humiliation of the rest? If so, the most despotic government is the most dignified; and to make our dignity complete, we must give a high title, an embroidered robe, a princely equipage, and, finally, a crown and hereditary succession. Let us, sir, establish tranquillity and good order at home, and wealth, strength, and national dignity will be the infallible result. The aggregate of dignity will be the same whether it be divided among all, or centred in one. And whom, sir, do we mean to gratify? Is it our present President? Certainly, if we expect to please him, we shall be greatly disappointed. He has a real dignity of character, and is above such little vanities. We shall give him infinite pain; we shall do him an essential injury. We shall place him in a most delicate and disagreeable situation; we shall reduce him to the necessity of evincing to the world his disapprobation of our measures, or of risking some diminution of that high reputation for disinterested patriotism which he has so justly acquired. It is not for his gratification; for whose, then, are we to do this? Where is the man among us who has the presumption and vanity to expect it? Who is it that shall say—for my aggrandizement three millions of people have entered into a calamitous war; they have persevered in it for eight long years; they have sacrificed their property, they have spilt their blood, they have rendered thousands of families wretched by the loss of their only protectors and means of support? This spirit of imitation, sir, this spirit of mimicry and apery will be the ruin of our country. Instead of giving us dignity in the eye of foreigners, it will expose us to be laughed at as apes. They gave us credit for our exertions in effecting the revolution, but they will say that we want independence of spirit to render it a blessing to us.

Mr. TRUMBULL moved for the appointment of a Committee of Conference, to consider on the

difference which appeared in the votes of the two Houses upon the report of the joint committee.

Mr. BURKE hoped the House would express their decided disapprobation of bestowing titles in any shape whatever; it would be an indignity in the House to countenance any measures of this nature. Perhaps some gentlemen might think the subject was a matter of indifference; but it did not appear to him in that light. The introduction of two words which he could mention into the titles of these officers, would alter the constitution itself; but he would forbear to say any thing further, as he had a well-grounded expectation that the House would take no further notice of the business.

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Mr. GOODHUE thought the conference unnecessary, because the House had not only adopted the report of their committee, but proceeded to act in pursuance thereof.

Mr. SENEY joined the last gentleman in sentiment, and thought it an unnecessary waste of time to give the subject any longer discussion.

Mr. MADISON.—I may be well disposed to concur in opinion with gentlemen that we ought not to recede from our former vote on this subject, yet at the same time I may wish to proceed with due respect to the Senate, and give dignity and weight to our own opinion, so far as it contradicts theirs, by the deliberate and decent manner in which we decide. For my part, Mr. Speaker, I do not conceive titles to be so pregnant with danger as some gentlemen apprehend. I believe a President of the United States, clothed with all the powers given in the constitution, would not be a dangerous person to the liberties of America, if you were to load him with all the titles of Europe or Asia. We have seen superb and august titles given, without conferring power and influence, or without even obtaining respect. One of the most impotent sovereigns in Europe has assumed a title as high as human invention can devise; for example, what words can imply a greater magnitude of power and strength than that of High Mightiness? This title seems to border almost upon impiety; it is assuming the pre-eminence and omnipotence of the Deity; yet this title, and many others cast in the same mould, have obtained a long time in Europe, but have they conferred power? Does experience sanction such an opinion? Look at the republic I have alluded to, and say if their present state warrants the idea.

I am not afraid of titles, because I fear the danger of any power they could confer, but I am against them because they are not very reconcilable with the nature of our Government or the genius of the people. Even if they were proper in themselves, they are not so at this juncture of time. But my strongest objection is founded in principle; instead of increasing, they diminish the true dignity and importance of a republic, and would in particular, on this occasion, diminish the true dignity of the first magistrate himself. If we give titles, we must either borrow or invent them. If we have recourse to the fertile fields of luxuriant fancy, and deck out an airy being of our own creation, it is a great chance but its fantastic properties would render the empty phantom ridiculous and absurd. If we borrow, the servile imitation will be odious, not to say ridiculous also; we must copy from the pompous sovereigns of the East, or follow the inferior potentates of Europe; in either case, the splendid tinsel or gorgeous robe would disgrace the manly shoulders of our chief. The more truly honorable shall we be, by showing a total neglect and disregard to things of this nature; the more simple, the more republican we are in our manners, the more rational dignity we shall acquire; therefore, I am better pleased with the report adopted by the House, than I should have been with any other whatsoever.

The Senate, no doubt, entertain different sentiments on this subject. I would wish, therefore, to treat their opinion with respect and attention. I would desire to justify the reasonable and republican decision of this House to the other branch of Congress in order to prevent a misunderstanding. But that the motion of my worthy colleague (Mr. PARKER) has possession of the House, I would move a more temperate proposition, and I think it deserves some pains to bring about that good will and urbanity, which for the despatch of public business ought to be kept up between the two Houses. I do not think it would be a sacrifice of dignity to appoint a Committee of Conference, but imagine it would tend to cement that harmony which has hitherto been preserved between the Senate and this House; therefore, while I concur with the gentlemen who express, in such decided terms, their disapprobation of bestowing titles, I concur also with those who are for the appointment of a Committee of Conference, not apprehending they will depart from the principles adopted and acted upon by the House.

Mr. WHITE did not approve of a Committee of Conference, because the House had already determined the question by unanimously adopting the report of the joint committee. He did not think that it was worth while having the subject longer contested; he was satisfied both the spirit of the constitution and the spirit of the people disapproved of titles.

Mr. BLAND would be careful of giving umbrage to the Senate, because he wished that the unanimity and moderation which subsisted between the two Houses might continue. He considered the present as a very proper opportunity for the appointment of a Committee of Conference. The two Houses had disagreed on the report of their committees; it was proper, therefore, that they should mutually assign their reasons, in order to bring about an agreement to the same resolution. He hoped, therefore, that such a committee would be appointed, though he had no expectation that the House would give up an opinion they so justly and decidedly entertained respecting titles.

Mr. PARKER wanted to know what was the object of gentlemen in the appointment of a Committee of Conference? The committee could only say that the House had refused their consent to annexing any titles whatever to the President and Vice President; for certainly the committee would not descend into the merits of a question already established by the House. For his part, he could not see what purpose was to be answered by the appointment of such a committee. He

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wished to have done with the subject, because while it remained a question in the House, the people's minds would be much agitated; it was impossible that a true republican spirit could remain unconcerned when a principle was under consideration, so repugnant to the principles of equal liberty.

Mr. SHERMAN thought it was pretty plain that the House could not comply with the proposition of the Senate. The appointment of a committee, on the part of the House, to consider and determine what style or title will be proper to annex to the President and Vice President, would imply that the House meant that some style or title should be given. Now this they never could intend, because they have decided that no style or title ought to be given; it will be sufficient to adduce this reason for not complying with the request of the Senate.

Mr. JACKSON wondered what title the Senate had in contemplation to add dignity or lustre to the person that filled the presidential chair. For his part, he could conceive none. Would it add to his fame to be called after the petty and insignificant princes of Europe? Would styling him His Serene Highness, His Grace, or Mightiness, add one tittle to the solid properties he possessed? He thought it would not; and therefore conceived the proposition to be trifling with the dignity of the Government. As a difference had taken place between the two Houses, he had no objection to a conference taking place. He hoped it might be productive of good consequences, and that the Senate might be induced to follow the laudable example of the House.

Mr. MADISON was of opinion, that the House might appoint a Committee of Conference without being supposed to countenance the measure. The standing rule of the House declared, that, in case of disagreeing votes, a Committee of Conference should be appointed. Now, as the case provided for in the rule had actually happened, he inferred that it was proper to proceed in the manner directed by the rules of the House. The subject was still open to discussion, but there was little probability that the House would rescind their adoption of the report. I presume gentlemen do not intend to compel the Senate into their measures; they should recollect that the Senate stand upon independent ground, and will do nothing but what they are convinced of the propriety of; it would be better, therefore, to treat them with delicacy, and offer some reasons to induce them to come into our measure. He expected this would be the result of a conference, and therefore was in favor of such a motion.

Mr. SENEY intended nothing disrespectful to the Senate, but he conceived, after having adopted the report of the committee, it would derogate from their own dignity to rescind a unanimous resolution; and for what other purpose could a conference be appointed by the House? They must certainly suppose that there might be ground for changing their opinion. Nothing of this kind appeared to him, and therefore he was of opinion, it would be a useless consumption to waste any more time about it.

Mr. CLYMER thought that there was little occasion to add any title to either the President or Vice President. He was very well convinced, by experience, that titles did not confer power; on the contrary, they frequently made their possessors ridiculous. The most impotent potentates, the most insignificant powers, generally assumed the highest and most lofty titles. That they do not indicate power and prerogative, is very observable in the English history; for when the chief magistrate of that nation bore the simple style of His Grace or Highness, his prerogatives were much more extensive than since he has become His Most Sacred Majesty.

Titular distinctions are said to be unpopular in the United States; yet a person would be led to think otherwise, from the vast number of honorable gentlemen we have in America. As soon as a man is selected for the public service, his fellow-citizens, with liberal hand, shower down titles on him—either excellency or honorable. He would venture to affirm, there were more honorable esquires in the United States than in all the world besides. He wished to check a propensity so notoriously evidenced in favor of distinctions, and hoped the example of the House might prevail to extinguish that predilection which appeared in favor of titles.

Mr. PAGE.—If I thought the motion made by my colleague in the least degree disrespectful, I should not have seconded it. I would be the last man on this floor to treat that worthy body with disrespect; but I believe it cannot be construed to have such a meaning. If we were to let the resolution lie on the table, it would not be disrespectful. But what is the object of the motion? Simply to inform the Senate that we cannot rescind a resolution adopted in consequence of the report of a joint committee. If the conduct of either House is in the least degree disrespectful, (though I do not conceive it is,) the body who declined adopting the report, after knowing the sense of the other to be in its favor, is the most so.

But on what are a committee to confer? Not upon what title shall be bestowed, because we have no right to enter on the subject; and here I must tell gentlemen I differ from them, when they think titles can do no harm. Titles, sir, I say, may do harm, and have done harm. If we contend now for a right to confer titles, I apprehend the time will come when we shall form a reservoir for honor, and make our President the fountain of it. In such case, may not titles do an injury to the Union? They have been the occasion of an eternal faction in the kingdom we were formerly connected with, and may beget like inquietude in America; for I contend, if you give the title, you must follow it with the robe and the diadem, and then the principles of your government are subverted.

Mr. LEE moved the previous question, as the best mode of getting rid of the motion before the House: he was supported by a sufficient number. And on the question, Shall the main question be now put? it passed in the negative; and so the motion was lost.

On motion, it was

Resolved, That a committee be appointed, to join with such committee as the Senate may appoint, to confer on the disagreeing votes of the two Houses, upon the report of their joint committee, appointed to consider what titles shall be given to the President and Vice President of the United States, if any other than those given in the constitution.

MESSRS. MADISON, PAGE, BENSON, TRUMBULL, and SHERMAN were the committee elected.

Impost Bill.

The House then went into a Committee of the Whole on the bill for laying a duty on goods, wares, and merchandises imported into the United States. Mr. PAGE in the chair.

The question on laying a duty on molasses being under consideration:

Mr. TUCKER.—Notwithstanding I am anxious for a reduction of the duties on all the articles in the bill, yet my vote on molasses will be regulated by what the committee shall determine in other cases, as I do not conceive it to be out of proportion. If a general reduction takes place on the other articles, I shall be disposed to make a reduction on this article; but as mine is but a single vote, gentlemen may not be inclined to favor my proposition for a general reduction in order to gain my assent to a reduction on this particular article.

Mr. GOODHUE was of opinion that the duties were too high for collection; but he did not agree with the gentleman from South Carolina (Mr. TUCKER) that the duty on molasses was rated in proportion to the other articles, and therefore the question, whether molasses shall be reduced or not, did not depend on a general reduction, but on its own bottom; if it was rated too high for collection and proportion, the committee would agree to reduce it.

Mr. FITZSIMONS expected the gentleman from South Carolina would vote in the manner he had pledged himself; he had promised to vote for reducing the duty on molasses if the committee reduced the duty on other articles; now, as they had decided against a reduction, he hoped the gentleman would be in favor of the duty on molasses, as it stood in the bill, and not vote in the manner he had promised.

Mr. TUCKER.—The gentleman last up has certainly misunderstood me. I made no promise. I said my vote would depend upon the reduction of the other articles, but I was indifferent as to rum; I did not consider the State I represented as being either particularly benefited or injured by a duty on rum; and therefore did not urge any arguments in favor of reducing that article, more than I thought it might be proper to preserve the ratio, as fixed by the House, between the several articles. If gentlemen think rum can bear a high duty, and be safely collected, I have no objection to letting it remain. But there are some articles that bear heavily and unequally upon South Carolina; now, I think it my duty to vote in such a manner as to prevent her from bearing an undue proportion of the tax to be collected; I am, consequently, obliged to vote for a high tax on articles used in other States, (if my State is highly taxed,) however unequally it may fall. I shall therefore vote so as to endeavor to oblige other States to bear their true proportion of the aggregate sum. I wish to defer any determination on the article of molasses until we have gone through the other articles, that I may know how to vote on this. If gentlemen think my single vote of no consequence, they may proceed; but I may think the duty too high on molasses, and may be disposed to make it five cents, or less, if a reduction is made in the other articles; but I would not be understood to pledge myself for any particular sum.

Mr. AMES thought the gentleman from Pennsylvania (Mr. FITZSIMONS) had misunderstood the gentleman from South Carolina (Mr. TUCKER) respecting his pledging himself to vote in favor of molasses. He believed the gentleman from South Carolina incapable of making any improper accommodation either on this or any other occasion; the subject had never been mentioned to him, nor he believed to any body else, much less could the gentleman's intention be the result of bargain or compromise. For his own part, he would never consent to such a degradation of his rights as a member of the House, as to stipulate for the exercise of his opinion.

Mr. TUCKER.—If the gentleman from Pennsylvania (Mr. FITZSIMONS) supposes that I have bargained to vote for or against any measure, he does me wrong; and if he charges me with such actions, I desire he may state his reasons and explain himself. I did not hear perfectly what he said when he was up before, and therefore did not refute any improper construction he might have put on my arguments.

Mr. FITZSIMONS had no difficulty in declaring his meaning. He understood when the article of rum was under consideration, that the gentleman held out a promise to vote for the reduction of the duty on molasses, if the committee would agree with him in reducing generally. This promise was not made in a private manner; it was made by the gentleman in his place. He could not recite the particular expression of the gentleman, but he understood from it that the gentleman pledged himself to reduce the duty on molasses, if the gentlemen from the Eastern States would join him in a general reduction.

Mr. TUCKER.—I expressed a wish for a general reduction to take place throughout the whole system; but I never made a promise with regard to a reduction of any particular article.

Mr. SENEY observed, that the discussion of molasses had been deferred when the subject was last before the House, in order to give time for a full investigation; but he conceived that no such reason now existed, in favor of its lying over, and therefore hoped the House would proceed to decide upon it.

Mr. AMES was willing to proceed to the consideration of that subject; he did not wish it deferred to the end of the list, that it might be held over them *in terrorem*. There were several articles in the list, which he did not conceive to be taxed too high for collection, or out of proportion with others, therefore it was likely they would not be reduced. If this was the case, the reduction would not be general, and the gentleman from South Carolina might not think it his duty to favor the reduction of molasses. He wished every article to stand upon its own bottom. If molasses was too high, the committee would lower it; if not, they will continue it at the rate it is, and the business would be done with. If the committee were disposed to proceed, he was ready to take up the subject.

Mr. CARROLL saw no reason for postponing the business at this time. When the subject was suspended on a former occasion, several gentlemen from Massachusetts were absent on business, but it was surely unnecessary now to have any delay. After the repeated discussions it had undergone, he was satisfied gentlemen were prepared for a decision, and he hoped the question might be taken, and the committee proceed to get through the business. Gentlemen should consider the daily loss which the revenue sustained by the delay of this bill; he cautioned them against considering overmuch, and letting slip the opportunity they now had to supply the public wants.

Mr. WADSWORTH would not go over the old ground, and enumerate all the reasons why a reduction of the duty on this article should take place. He satisfied himself with saying it was out of proportion, and too high ever to be collected with certainty; he wished the committee to lower it to three or four cents, and apply to an excise for the deficiency, not conceiving an excise on distilled spirits to be inconvenient or unpopular.

Mr. AMES was sensible that any further discussion of the present subject was unpleasant, nay, it was painful to the committee; but he had such impressions on his mind with regard to its importance, that he must trespass on them again. On all subjects demonstration is desirable, but there is only one science capable of complete demonstration. Many other sciences admit of different degrees of demonstration; but of all the sciences on earth, the science of politics is the least capable of affording satisfactory conclusions, while it is the one that, from its importance, requires the greatest degree of certainty; because when we are to consider those things which relate to the welfare of nations, it is of consequence, and nothing can be more desirable than that we adopt just principles in order to come at proper conclusions. In this science it is dangerous to adopt the visionary projects of speculators instead of principle. We ought to be cautious, therefore, in selecting the information upon which we form our system.

He trusted to make it appear in the course of his arguments, that the propriety of the particular measure under discussion depended upon local knowledge, and yet it would be found of national concern. He believed it could be clearly proved to be as much the interest of one part as of another to have the duty reduced.

It was laid down as a principle that all duties ought to be equal. He believed, if gentlemen gave themselves time for consideration, they would not contend this duty was equal. He said he had made some calculations, which demonstrated the inequality to a very surprising degree. The tax operated in two ways: first, as a tax on a raw material, which increased the price of stock and narrowed the sale; and second, as a tax on an article of consumption. It required the distillation and the consumption to be equal in every part of the Union to render the duty equal in its operation; but no gentleman contended that the consumption or distillation was equal. The gentleman from Virginia said, on a former occasion, that Massachusetts would not contribute her proportion of the national revenue, because her exports were not equal to the Southern States, and of consequence her imports are less; but if this fact is examined, it will be found that she does export in full proportion with the Southern States. Examine her custom-house books, and you will find it; but Massachusetts is greatly concerned in navigation, and the wages of her seamen ought to be added to the amount of the profits of her industry. Then if we consider her consumption, we shall find it in proportion also. Admitting the people of New England to live more moderate than the opulent citizens of Virginia or Carolina, yet they have not such a number of blacks among them, whose living is wretched; consequently, the average consumption per head will be nearly the same. The fact is, that all taxes of this nature will fall generally in proportion to the ability to pay.

Laying a heavy duty on molasses incurs the necessity of allowing a drawback on country rum. By this system, we may lose more revenue than we gain; anyhow, it will render it very uncertain. It is a question of some importance, whether it would not be beneficial to the United States to establish a manufacture which would be very lucrative. But waiving that consideration, he would ask gentlemen, if there was any propriety in taxing molasses in its raw state, with a duty intended to be laid on rum? Certainly this had better be by way of excise. In this mode the revenue would escape fraud by smuggling, which would otherwise be unavoidable. The tax was such a temptation, being thirty per cent. upon its value, that no checks could prevent a clandestine trade being carried on.

Without the molasses trade is continued, the fishery cannot be carried on. They are so intimately connected, that the weapon which wounds the one will stab the other. If by such measures as these we ruin one of the most valuable interests of the United States, will not the people have a right to complain that, instead of protecting, you injure and destroy their pursuits? He did not mean to say that the people would form unwarrantable combinations; but their exertions to support the Government will be damped; they will look with chagrin on the disappointment of their hopes; and it will add to their vexation that they have been deceived under the most flattering appearances; for who could conceive that a Government, constructed and adopted in

the manner this has been, could ever be administered to the destruction of that welfare which it was formed to support?

He recommended experience as the best guide, and said, that it was decidedly against high duties, particularly on molasses; and concluded with appealing to the justice and wisdom of the committee for a determination on this subject.

Mr. CARROLL would not take up the time of the committee with saying a word on the main subject, but begged them to consider of how much importance it was to the Union to get this bill into operation. If every article was to be again debated in the manner it had already been, he could see no end to the business. Unless gentlemen could advance some new and weighty arguments, he thought the time misspent in recapitulating those that had been unsuccessfully urged twice or three times before.

Mr. MADISON thought the arguments against the duty were inconsistent. He believed the gentlemen in opposition had not replied to an observation he had made, and which was of great force on his mind. The gentlemen all say that a heavy duty will ruin the distilleries and fisheries, and the people concerned in them; yet they profess themselves willing to lay the same duty, but in two forms instead of one. Now he would be glad to know if the distilleries and fisheries would not be precisely in the same situation, let which would take place?

On motion, the committee rose, and the House adjourned.

TUESDAY, May 12.

Duties on Imports.

The House again resolved itself into a Committee of the Whole, Mr. PAGE in the chair, on the Impost Bill.

The article of molasses being still under consideration:

Mr. AMES wished to reply to the observation made yesterday by the gentleman from Virginia. Does that gentleman, said he, recollect, if we lay an excise, we prevent the burthen from being imposed upon the poor for their subsistence, as molasses, in the raw state, will be lightly taxed? In the next place, it is more favorable to the importers of that article than the impost; it does not require so large a proportion of their capital to be advanced in payment of duties, nor do they run the risk of bad debts, because it may be so regulated that the retailer shall secure the duty. Another reason is, it will save the expense of a numerous host of custom-house officers, tide-waiters, &c. These considerations proved, that if the excise was no better than an impost, it was no worse; and as the duty would be better collected, and give less reason for smuggling, which, above all things, was dangerous to the revenue, it was sufficient to warrant the committee in giving the excise duty a preference.

Mr. GOODHUE would not trouble the House long on the subject; but begged leave to repeat the manner in which the molasses trade was connected with the fisheries, and the fisheries with the navigation; that, if the first is injured, the other two are wounded through its side. About three-fifths of all the fish that are put up for that market, are of an inferior quality, and would not sell elsewhere. The French would not permit us to carry them there, but because we take their molasses in exchange; they will not let their colonies send the molasses to France, lest it interfere with their brandy. Now, any impediment to the exportation of molasses, will prevent the exportation of fish; if we cannot export the fish, for what purpose shall we continue our fisheries? And if they are given up, how are we to form seamen to man our future navy?

Mr. MADISON said his mind was incapable of discovering any plan that would answer the purpose the committee have in view, and not produce greater evils than the one under consideration. He thought an excise very objectionable, but as no actual proposition for entering into such a system was before the committee, he forbore to say any thing further about it. He admitted an excise would obviate in part some of the difficulties; but he did not think the answer given to his argument altogether satisfactory; yet there was another argument he urged on a former occasion remaining unanswered—it was, that, at this moment, the fisheries, distilleries, and all their connections, were laboring under heavier duties than what is now proposed; true, the duty is collected in a different mode, but it affects the consumer in the same manner. The gentlemen have said, to be sure, that the duty is evaded; but if half is collected, it amounts to more than six cents per gallon.

It is said that a tax on molasses will be unpopular, but not more so than a tax on salt. Can gentlemen state more serious apprehensions in the former than the latter case? yet the committee did not forego a productive fund, because the article was a necessary of life, and in general consumption. If there is the disposition that is represented for people to complain of the oppression of Government, have not the citizens of the Southern States more just ground for complaint than others? The system can only be acceptable to them, because it is essentially necessary to be adopted for the public good.

Gentlemen argue, that a tax on molasses is unpopular, and prove it by experience under the British Government. If this is to be adduced as a proof of the popularity of a measure, what are we to say with respect to a tax on tea? Gentlemen remembered, no doubt, how odious this kind of tax was thought to be throughout America; yet the House had, without hesitation, laid a considerable duty upon it. He did not imagine that a duty on either of those articles was in itself objectionable; it was the principle upon which the tax was laid that made them unpopular under

the British Government.

It is said that this tax is unjust; now, he had not a single idea of justice, that did not contradict the position. If it be considered as it relates to rum, he was certain the consumers of foreign rum paid a larger proportion of revenue into the Treasury than the consumers of country rum; they paid more than equal distributive justice required; if it was considered as it respected molasses, there would appear no injustice. Molasses was consumed in other States; but if it was not, sugar was used in its stead, and subjected to a duty full as high as that on molasses. But dismissing both these considerations, and even admitting the whole weight to fall upon the Northern States, it would not be disproportioned, because, in the long list of enumerated articles subject to a high duty, they imported few or none; indeed, the articles were pretty generally taxed for the benefit of the manufacturing part of the northern community; see loaf sugar, candles, cheese, soap, &c. He hoped gentlemen would not infer from this observation, that he thought the encouragement held out by the bill to manufactures improper; far from it; he was glad to see their growing consequences, and was disposed to give them every aid in his power. From this view of the subject, he was inclined to adhere to the bill, and not make any reduction.

Mr. GERRY hoped the committee would not consider the subject as finally decided; he thought it deserving of further investigation, and expected the committee would be satisfied of the propriety of making some reduction. He felt a concern at being obliged to extend the discussion, but his duty impelled him to oppose a measure he conceived injurious to his country.

Gentlemen had contended, that a duty of six cents per gallon on molasses was just and equal; for his part, he could not discover, with all the exertions his mind was capable of making, how gentlemen prove this to be the case; it appeared to him partial and oppressive.

The principle laid down in the constitution for an equal distribution of taxes was, that they shall be apportioned among the several States, according to their respective number of inhabitants. This principle is made positive as it respects direct taxes; but he thought the equality ought to extend itself to every possible case. The power possessed by the House, with regard to revenue and the power of making all necessary laws, enabled the General Government to exist independent of subordinate associations; but if they were inclined to annihilate the State Governments, yet it would be their interest to attend to the advantages of the community, and administer their power so as not to make it burthensome and oppressive. Now, he wished to know, what principle of justice authorized the committee to lay a duty of six cents on molasses? Unfortunately for Massachusetts, she imports a greater quantity than the whole Union besides. This makes her interest stand alone, and her representatives are left to labor the point, knowing the ill effect it will have upon their constituents. Under these circumstances, it is necessary to pay particular attention to the justice of the measure; gentlemen should consider that, in such cases, there is danger of interest prevailing over equity and policy. Certainly, if the measure is pursued, we shall discover this effect in the end.

Gentlemen have considered the arguments brought against this duty as standing upon local ground, advocating the local interest of Massachusetts. He would examine this position. It is the interest of a majority of the people of that State, that as much revenue should be drawn from molasses as possible. I say it is the interest of the State, for their interest is divided between the landed and commercial; the landed interest predominates, and it was always supposed that the commercial bore a greater share of the public burthen than it ought. The conduct of the State of Massachusetts ought to be esteemed by us as the best guide to discover how far our commercial regulations, as they respect that State, are consistent with policy, if she furnishes the best example. Can we find that she ever imposed a duty of six cents per gallon on molasses? Not a single instance can be produced where she raised revenue from this article. If they then never laid a duty upon it, and they were disposed to get every thing in their power from commerce, we must conclude that if it could have been laid they would have done it. It is not the landed citizens, if he might use the term, who consume molasses; it is the inhabitants of the sea-coast; the former had the power, and they were interested to lay such a tax, it might therefore be expected they would have done it, if they had not been convinced it would have destroyed the fisheries and navigation of the State.

The gentleman from Virginia (Mr. MADISON) cannot see how an impost on molasses can affect the distilleries and fisheries. After having been repeated over and over again, it would be unnecessary that he should dwell on this point. But every one could see the connection; if we do not import molasses, we cannot carry on our distilleries nor vend our fish; and it will be impossible to import molasses under such heavy duties; at least the future importation will be limited to two-thirds of the present, because the demand will be in proportion to the increase of price, and the merchant will not have capital to import more than two-thirds of his usual quantity.

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He would not reiterate the arguments respecting the fisheries; it was well known to be the best nursery for seamen, the United States had no other, and it never could be the intention of gentlemen to leave the navigation of the Union to the mercy of foreign powers. It is of necessity, then, that we lay the foundation of our maritime importance as soon as may be, and this can be done only by encouraging our fisheries. It is also well known that we have a number of rivals in this business desirous of excluding us from the fishing banks altogether. This consideration of itself is sufficient to induce a wise legislature to extend every encouragement to so important a concern. In any regulation they make, by which it can be effected, they ought to be sure of the ground on which they go.

It appeared to him that six cents would have the most ruinous consequences to the general interest; he therefore hoped gentlemen would agree to reduce it, if not so as to place it among

the *ad valorem* articles, at least down to two cents. However, as the committee are not prepared to say the particular sum proper to be laid, he hoped they would agree to leave it a blank, to be filled up at some future stage of the business.

The question was now taken on striking out six cents, and passed in the affirmative: ayes 24, noes 22.

Propositions were severally made for filling up the blank with two, three, four, and five cents; five being the highest was first put and agreed to—ayes 25, noes 23.

The committee proceeded to consider the subsequent articles; but not having time to go through the whole, they rose, and reported progress, and the House adjourned.

WEDNESDAY, May 13.

The petition of John Fitch, of Pennsylvania, was presented, stating that he is the original discoverer of the principle of applying steam-power to the purposes of navigation, and has obtained an exclusive right therein for a term of years, in the States of Virginia, Delaware, Pennsylvania, New Jersey, and New York, and praying that his rights may be secured to him by law, so as to preclude subsequent improvers upon his principle from participation therein, until the expiration of his granted right. Referred to a committee, consisting of Messrs. HUNTINGTON, CADWALADER, and CONTEE, to report thereon.

Duties on Imports.

The House again resolved itself into a Committee of the Whole on the Impost Bill, Mr. PAGE in the chair.

AFRICAN SLAVES.

Mr. PARKER moved to insert a clause in the bill, imposing a duty on the importation of slaves, of ten dollars each person. He was sorry that the constitution prevented Congress from prohibiting the importation altogether; he thought it a defect in that instrument that it allowed of such a practice; it was contrary to the Revolution principles, and ought not to be permitted; but as he could not do all the good he desired, he was willing to do what lay in his power. He hoped such a duty as he moved for would prevent, in some degree, this irrational and inhuman traffic; if so, he should feel happy from the success of his motion.

Mr. SMITH, of South Carolina, hoped that such an important and serious proposition as this would not be hastily adopted. It was a very late moment for the introduction of new subjects. He expected the committee had got through the business, and would rise without discussing any thing further. At least, if gentlemen were determined on considering the present motion, he hoped they would delay it for a few days, in order to give time for an examination of the subject. It was certainly a matter big with the most serious consequences to the State he represented; he did not think any one thing that had been discussed was so important to them, and the welfare of the Union, as the question now brought forward; but he was not prepared to enter on any argument, and therefore requested the motion might either be withdrawn or laid on the table.

Mr. SHERMAN approved of the object of the motion, but he did not think this bill was proper to embrace the subject. He could not reconcile himself to the insertion of human beings as an article of duty, among goods, wares, and merchandise. He hoped it would be withdrawn for the present, and taken up hereafter as an independent subject.

Mr. JACKSON, observing the quarter from which this motion came, said it did not surprise him, though it might have that effect upon others. He recollected that Virginia was an old settled State, and had her complement of slaves; so she was careless of recruiting her numbers by this means; the natural increase of her imported blacks was sufficient for their purpose; but he thought gentlemen ought to let their neighbors get supplied, before they imposed such a burthen upon the importation. He knew this business was viewed in an odious light to the eastward, because the people were capable of doing their own work, and had no occasion for slaves; but gentlemen will have some feeling for others; they will not try to throw all the weight upon those who have assisted in lightening their burthens; they do not wish to charge us for every comfort and enjoyment of life, and at the same time take away the means of procuring them; they do not wish to break us down at once.

He was convinced, from the inaptitude of the motion, and the want of time to consider it, that the candor of the gentleman would induce him to withdraw it for the present; and if ever it came forward again, he hoped it would comprehend the white slaves as well as black, who were imported from all the jails of Europe; wretches, convicted of the most flagrant crimes, were brought in and sold without any duty whatever. He thought that they ought to be taxed equally with the Africans, and had no doubt but the constitutionality and propriety of such a measure was equally apparent with the one proposed.

Mr. TUCKER thought it unfair to bring in such an important subject at a time when debate was almost precluded. The committee had gone through the impost bill, and the whole Union was impatiently expecting the result of their deliberations; the public must be disappointed, and much revenue lost, or this question cannot undergo that full discussion which it deserves.

We have no right, said he, to consider whether the importation of slaves is proper or not; the

constitution gives us no power on that point; it is left to the States to judge of that matter as they see fit. But if it is a business the gentleman is determined to discourage, he ought to have brought his motion forward sooner, and even then not have introduced it without previous notice. He hoped the committee would reject the motion, if it was not withdrawn. He was not speaking so much for the State he represented as for Georgia; because the State of South Carolina had a prohibitory law, which could be renewed when its limitation expired.

Mr. PARKER had ventured to introduce the subject after full deliberation, and did not like to withdraw it. Although the gentleman from Connecticut (Mr. SHERMAN) had said, that they ought not to be enumerated with goods, wares, and merchandise, he believed they were looked upon by the African traders in this light. He knew it was degrading the human species to annex that character to them; but he would rather do this than continue the actual evil of importing slaves a moment longer. He hoped Congress would do all that lay in their power to restore to human nature its inherent privileges, and, if possible, wipe off the stigma under which America labored. The inconsistency in our principles, with which we are justly charged, should be done away, that we may show, by our actions, the pure beneficence of the doctrine we hold out to the world in our Declaration of Independence.

Mr. SHERMAN thought the principles of the motion, and the principles of the bill, were inconsistent; the principle of the bill was to raise revenue, the principle of the motion to correct a moral evil. Now, considering it as an object of revenue, it would be unjust, because two or three States would bear the whole burthen, while he believed they bore their full proportion of all the rest. He was against receiving the motion into this bill, though he had no objection to taking it up by itself, on the principles of humanity and policy; and therefore would vote against it if it was not withdrawn.

Mr. AMES joined the gentleman last up; no one could suppose him favorable to slavery; he detested it from his soul; but he had some doubts whether imposing a duty on the importation would not have the appearance of countenancing the practice; it was certainly a subject of some delicacy, and no one appeared to be prepared for the discussion. He therefore hoped the motion would be withdrawn.

Mr. LIVERMORE was not against the principle of the motion; but in the present case he conceived it improper. If negroes were goods, wares, or merchandise, they came within the title of the bill; if they were not, the bill would be inconsistent. But if they are goods, wares, or merchandise, the five per cent. *ad valorem* will embrace the importation, and the duty of five per cent. is nearly equal to ten dollars per head; so there is no occasion to add it even on the score of revenue.

Mr. JACKSON said, it was the fashion of the day to favor the liberty of slaves. He would not go into a discussion of the subject; but he believed it was capable of demonstration that they were better off in their present situation than they would be if they were manumitted. What are they to do if they are discharged? Work for a living? Experience has shown us they will not. Examine what has become of those in Maryland; many of them have been set free in that State. Did they turn themselves to industry and useful pursuits? No, they turn out common pickpockets, petty larceny villains. And is this mercy, forsooth, to turn them into a way in which they must lose their lives; for when they are thrown upon the world, void of property and connections, they cannot get their living but by pilfering. What is to be done for compensation? Will Virginia set all her negroes free? Will they give up the money they cost them, and to whom? When this practice comes to be tried there, the sound of liberty will lose those charms which make it grateful to the ravished ear. But our slaves are not in a worse situation than they were on the coast of Africa. It is not uncommon there for the parents to sell their children in peace; and in war, the whole are taken and made slaves together. In these cases, it is only a change of one slavery for another; and are they not better here, where they have a master, bound by the ties of interest and law, to provide for their support and comfort in old age or infirmity, in which, if they were free, they would sink under the pressure of woe for want of assistance?

He would say nothing of the partiality of such a tax; it was admitted by the avowed friends of the measure; Georgia, in particular, would be oppressed. On this account, it would be the most odious tax Congress could impose.

Mr. SCHUREMAN hoped the gentleman would withdraw his motion, because the present was not the time or place for introducing the business. He thought it had better be brought forward in the House as a distinct proposition. If the gentleman persisted in having the question determined, he would move the previous question, if he was supported.

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Mr. MADISON.—I cannot concur with gentlemen who think the present an improper time or place to enter into a discussion of the proposed motion. If it is taken up in a separate view, we shall do the same thing at a greater expense of time. But gentlemen say that it is improper to connect the two objects, because they do not come within the title of the bill; but this objection may be obviated by accommodating the title to the contents. There may be some inconsistency in combining the ideas which gentlemen have expressed, that is, considering the human race as a species of property; but the evil does not arise from adopting the clause now proposed; it is from the importation to which it relates. Our object in enumerating persons on paper with merchandise, is to prevent the practice of actually treating them as such, by having them in future forming part of the cargoes of goods, wares, and merchandise to be imported into the United States. The motion is calculated to avoid the very evil intimated by the gentleman.

It has been said that this tax will be partial and oppressive; but if a fair view is taken of this subject, I think we may form a different conclusion. But if it be partial or oppressive, are there not many instances in which we have laid taxes of this nature? Yet are they not thought to be

justified by national policy? If any article is warranted on this account, how much more are we authorized to proceed on this occasion? The dictates of humanity, the principles of the people, the national safety and happiness, and prudent policy require it of us. The constitution has particularly called our attention to it; and of all the articles contained in the bill before us, this is one of the last I should be willing to make a concession upon, so far as I am at liberty to go, according to the terms of the constitution or principles of justice. I would not have it understood that my zeal would carry me to disobey the inviolable commands of either.

I understood it had been intimated, that the motion was inconsistent or unconstitutional. I believe, sir, my worthy colleague has formed the words with a particular reference to the constitution; any how, so far as the duty is expressed, it perfectly accords with that instrument. If there are any inconsistencies in it, they may be rectified. I believe the intention is well understood, but I am far from supposing the diction improper. If the description of the persons does not accord with the ideas of the gentleman from Georgia, (Mr. JACKSON,) and his idea is a proper one for the committee to adopt, I see no difficulty in changing the phraseology.

I conceive the constitution, in this particular, was formed in order that the Government, whilst it was restrained from laying a total prohibition, might be able to give some testimony of the sense of America with respect to the African trade. We have liberty to impose a tax or duty upon the importation of such persons, as any of the States now existing shall think proper to admit; and this liberty was granted, I presume, upon two considerations. The first was, that until the time arrived when they might abolish the importation of slaves, they might have an opportunity of evidencing their sentiments on the policy and humanity of such a trade. The other was, that they might be taxed in due proportion with other articles imported; for if the possessor will consider them as property, of course they are of value, and ought to be paid for. If gentlemen are apprehensive of oppression from the weight of the tax, let them make an estimate of its proportion, and they will find that it very little exceeds five per cent. *ad valorem*; so that they will gain very little by having them thrown into that mass of articles; whilst, by selecting them in the manner proposed, we shall fulfil the prevailing expectations of our fellow-citizens, and perform our duty in executing the purposes of the constitution. It is to be hoped, that by expressing a national disapprobation of this trade, we may destroy it, and save ourselves from reproaches, and our posterity the imbecility ever attendant on a country filled with slaves.

I do not wish to say any thing harsh to the hearing of gentlemen who entertain different sentiments from me, or different sentiments from those I represent; but if there is any one point in which it is clearly the policy of this nation, so far as we constitutionally can, to vary the practice obtaining under some of the State Governments, it is this. But it is certain a majority of the States are opposed to this practice; therefore, upon principle, we ought to discountenance it as far as is in our power.

If I were not afraid of being told that the Representatives of the several States are the best able to judge of what is proper and conducive to their particular prosperity, I should venture to say that it is as much the interest of Georgia and South Carolina as of any in the Union. Every addition they receive to their number of slaves, tends to weaken and render them less capable of self-defence. In case of hostilities with foreign nations, they will be the means of inviting attack, instead of repelling invasion. It is a necessary duty of the General Government to protect every part of the empire against danger, as well internal as external. Every thing, therefore, which tends to increase this danger, though it may be a local affair, yet, if it involves national expense or safety, becomes of concern to every part of the Union, and is a proper subject for the consideration of those charged with the general administration of the Government. I hope, in making these observations, I shall not be understood to mean that a proper attention ought not to be paid to the local opinions and circumstances of any part of the United States, or that the particular representatives are not best able to judge of the sense of their immediate constituents.

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If we examine the proposed measure by the agreement there is between it and the existing State laws, it will show us that it is patronized by a very respectable part of the Union. I am informed that South Carolina has prohibited the importation of slaves for several years yet to come. We have the satisfaction, then, of reflecting that we do nothing more than their own laws do at this moment. This is not the case with one State. I am sorry that her situation is such as to seem to require a population of this nature; but it is impossible, in the nature of things, to consult the national good, without doing what we do not wish to do to some particular part.

Perhaps gentlemen contend against the introduction of the clause on too slight grounds. If it does not comport with the title of the bill, alter the latter. If it does not conform to the precise terms of the constitution, amend it. But if it will tend to delay the whole bill, that, perhaps, will be the best reason for making it the object of a separate one. If this be the sense of the committee, I shall submit.

Mr. GERRY thought all duties ought to be laid as equal as possible. He had endeavored to enforce this principle yesterday, but without the success he wished for; he was bound by the principle of justice, therefore, to vote for the proposition. But if the committee were desirous of considering the subject fully by itself, he had no objection; but he thought when gentlemen laid down a principle, they ought to support it generally.

Mr. BURKE said, gentlemen were contending for nothing; that the value of a slave averaged about eighty pounds, and the duty on that sum at five per cent. would be ten dollars. As Congress could go no further than that sum, he conceived it made no difference whether they were enumerated or left in the common mass.

Mr. MADISON.—If we contend for nothing, the gentlemen who are opposed to us do not contend for

a great deal. But the question is, whether the five per cent. *ad valorem*, on all articles imported, will have any operation at all upon the introduction of slaves, unless we make a particular enumeration on this account. The collector may mistake; for he would not presume to apply the term goods, wares, and merchandise to any person whatsoever. But if that general definition of goods, wares, and merchandise, is supposed to include African slaves, why may we not particularly enumerate them, and lay the duty pointed out by the constitution, which, as gentlemen tell us, is no more than five per cent. upon their value. This will not increase the burthen upon any; but it will be that manifestation of our sense expected by our constituents, and demanded by justice and humanity.

Mr. BLAND had no doubt of the propriety or good policy of this measure. He had made up his mind upon it; he wished slaves had never been introduced into America. But if it was impossible at this time to cure the evil, he was very willing to join in any measures that would prevent its extending further. He had some doubts whether the prohibitory laws of the States were not in part repealed. Those who had endeavored to discountenance this trade by laying a duty on the importation, were prevented by the constitution from continuing such regulation, which declares that no State shall lay any impost or duties on imports. If this were the case, and he suspected pretty strongly that it was, the necessity of adopting the proposition of his colleague was more apparent.

Mr. SHERMAN said the constitution does not consider these persons as species of property; it speaks of them as persons, and says, that a tax or duty may be imposed on the importation of them into any State which shall permit the same, but they have no power to prohibit such importation for twenty years. But Congress have power to declare upon what terms persons coming into the United States shall be entitled to citizenship; the rule of naturalization must, however, be uniform. He was convinced there were others who ought to be regulated in this particular, the importation of whom was of an evil tendency; he meant convicts particularly. He thought that some regulation respecting them was also proper; but it being a different subject, it ought to be taken up in a different manner.

Mr. MADISON was led to believe, from the observation that had fallen from the gentlemen, that it would be best to make this the subject of a distinct bill: he, therefore, wished his colleague would withdraw his motion, and move in the House for leave to bring in a bill on the same principles.

Mr. PARKER consented to withdraw his motion, under a conviction that the House was fully satisfied of its propriety. He knew very well that these persons were neither goods nor wares, but they were treated as articles of merchandise. Although he wished to get rid of this part of his property, yet he should not consent to deprive other people of theirs by any act of his, without their consent.

The committee rose, reported progress, and the House adjourned.

FRIDAY, May 15.

Mr. WHITE, one of the Representatives from Virginia, presented to the House a resolve of the Legislature of that State, of the 27th of December, 1788, offering to the acceptance of the Federal Government, ten miles square of territory, or any lesser quantity, in any part of that State, which Congress may choose, to be occupied and possessed by the United States, as the seat of the Federal Government; which was read, and ordered to lie on the table.

An engrossed bill for laying a duty on goods, wares, and merchandises, imported into the United States, was read a third time, and, on a motion made, ordered to be recommitted to a Committee of the whole House immediately.

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The House, accordingly, resolved itself into the said committee; and, after some time, the committee rose, and reported the bill with amendments, which were agreed to by the House.

Mr. MADISON made a motion further to amend the said bill, by adding to the end thereof a clause for limiting the time of its continuance.

Mr. AMES expressed a doubt of the propriety of the motion. He thought the bill ought to be commensurate with the wants of Government.

Mr. FITZSIMONS.—For want of a proper knowledge of the true situation of our affairs, we are unable to determine how far the present provision is equal to the necessities of the Union, and this circumstance will tend to add considerably to our embarrassment in limiting the duration. If we make the time too short to supply the public wants, we shall not hold out to the public creditors a sufficient security for the punctual payment of their debts. If we should want to raise money by a loan, we could only expect it according to the duration of the fund: this makes the present motion a subject of serious consideration. Not that I object to what the gentleman has in contemplation, but I wish such language to be used, that shall designate the continuation of the law to be till the wants are supplied and thereafter cease. I am not of opinion that it should be for half a century, because I hope our national debt will be extinguished in much less time; but really I must confess, at this moment, I feel considerable embarrassment in determining in my mind the period for which it should exist, whether an enumerated term of years, or a general declaration during the continuance of the public wants.

Mr. LEE thought the operation of the law could not be well understood; that it was a system of experiment, and ought to be temporary, in order that a future Congress might make such amendments as time should discover to be necessary. How perfect soever the theory might appear, practice might prove it otherwise; he therefore wished its operation limited for three or

five years. He thought it would be wise in the House to adopt the motion, in order to prevent any injustice which a permanent and imperfect regulation might have on posterity. He expected this would beget confidence in the Government, which was to him a very desirable object.

Mr. WHITE.—The constitution having authorized the House of Representatives alone to originate money bills, places an important trust in our hands, which, as their protectors, we ought not to part with. I do not mean to imply that the Senate are less to be trusted than this House; but the constitution, no doubt for wise purposes, has given the immediate Representatives of the People a control over the whole Government in this particular, which for their interest they ought not to let out of their hands. Besides, the constitution says further, that no appropriation shall be for a longer term than two years, which of consequence limits the duration of the revenue law to that period; when, if it is found conducive to the public welfare, it may be continued by the legislators appointed by the people, and who alone are authorized to declare upon this question in the first instance.

Mr. LIVERMORE hoped but little time would be taken up in the discussion of this subject; the people were anxiously waiting the result of their deliberations; beside the impost was daily slipping away. He had no doubt of the propriety of the motion, because from the acknowledged imperfections of the bill, it would never do for a permanent system. If the people, who consider themselves subjected to very high and very unequal duties, find no termination of the grievance, they will immediately adopt measures in their defence, to thwart the views of Government; but if they understand the law as temporary, and only passed in order to gain experience for forming a better system, they will be induced to give it fair play, and bear the burthen without complaint, trusting to the wisdom and justice of Congress for such alterations as practice may show to be necessary.

Besides, the objects for which the revenue is now wanting, will decrease annually; this will be an additional reason for limiting its duration. He was not for a very short term; he thought five, seven, or ten years, would be more eligible than two or three, but he was decidedly against making it perpetual.

Mr. SINNICKSON had understood, that one of the objects of the bill was the re-establishment of public credit; but it never could be imagined that a law, limited to three or four years, could do this in any great degree; nor could any advantage arise from loans negotiated and terminated within such a short period. Under these impressions, he conceived the motion struck at the credit of the new Government, which the people had just established.

Mr. MADISON.—When he offered this amendment to the bill, he thought its propriety was so obvious and striking, that it would meet no opposition. To pass a bill, not limited in duration, which was to draw revenue from the pockets of the people, appeared to be dangerous in the administration of any Government; he hoped, therefore, the House would not be less cautious in this particular than other nations are, who profess to act upon sound principles. He imagined it might be considered by their constituents as incompatible with the spirit of the constitution, and dangerous to republican principles, to pass such a law unlimited in its duration.

Besides the restoration of public credit, he thought the act had in view the encouragement of a particular description of people, which might lead them into enterprises of a peculiar nature, for the protection of which the public faith seemed to be pledged. But would gentlemen infer from hence, that no alteration ought to take place if the manufactures were well established? The subject appeared to him in a twofold point of view; first, to provide for the exigencies of Government, and second, for the establishment of public credit; but he thought both these objects could be obtained without making the bill perpetual. If the Government showed a proper attention to the punctual performance of its engagements, it would obtain the latter; the other would be secured by making provision as the occasion demanded. If the bill was to be made perpetual, it would be continued after the purpose for which it was adopted had ceased; the error would in this case be irremediable; whereas, if its limitation was determined, it would always be in the power of the Government to make it commensurate with what the public debts and contingencies required.

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The constitution, as had already been observed, places the power in the House of originating money bills. The principal reason why the constitution had made this distinction was, because they were chosen by the people, and supposed to be best acquainted with their interests and ability. In order to make them more particularly acquainted with these objects, the democratic branch of the Legislature consisted of a greater number, and were chosen for a shorter period, so that they might revert more frequently to the mass of the people. Now, if a revenue law was made perpetual, however unequal its operation might be, it would be out of the power of this House to effect an alteration; for if the President chose to object to the measure, it would require two-thirds of both Houses to carry it. Even if the House of Representatives were unanimous in their opinion that the law ought to be repealed, they would not be able to carry it, unless a great majority appeared in the Senate also.

Mr. BOUDINOT said, the time mentioned by the former Congress, and to which they requested the concurrence of the several States, was, that the impost duties might be continued for twenty-five years. This request was made on full consideration, and they did not think it was more than sufficient to discharge the principal and interest of the national debt. He concluded, therefore, that it was better to let the law remain without limitation; because when they found the purposes for which it was intended were accomplished, it would be in the power of Congress to repeal the law.

Mr. LAWRENCE thought the present was a subject of great importance, and he lamented it was not

brought forward at an earlier period, because he feared the time would not allow that full discussion or deliberation which ought to take place. He wished also that the House was acquainted with the necessities of the United States, that so they might make provision accordingly; but these two points were mere matter of speculation as to their precise amount; yet he believed it was agreed on all hands, that the ways and means provided in this bill for the support of Government, the payment of interest and instalments of the foreign and domestic debt, were, so far as agreed to, inadequate to the object. If this be the case, the public debt must accumulate; and as we do not know when the time may come for its extinguishment, the provision cannot be limited; for every gentleman will agree, that if the demand for revenue be increased, the fund ought to be commensurate to the object. Is there any time when the civil list will cease its demand? If there is not, there will be a perpetual call for revenue. He thought it absolutely impossible to provide for the payment of the debts, if the bill was limited to two, three, or four years; such a precarious provision would never tend to the re-establishment of public credit. If the bill was not limited, it would always be in the power of the Legislature to lower the duties, or make such other alteration as might, upon experience, be thought beneficial to the community; whereas if the bill were limited, it would be thought improper to make any amendments during the term for which it is enacted, although those amendments appeared indispensably necessary. But why is this degree of caution necessary? Will not the administration of public affairs be conducted in future by representatives as good as ourselves? Will they have less wisdom or virtue, to discover and pursue the good of their fellow-citizens than we have?

Mr. BLAND.—Our public credit consists of two branches: first, as it respects the evidences of our debt, in the hands of those from whom we have had money or services; and secondly, as it respects our ability to borrow in future. Now, the first branch of public credit depends upon the punctuality with which the interest is paid; but this in foreign nations, does not depend upon the limitation of the act. Do gentlemen suppose our laws, like those of the Medes and Persians, unchangeable? Can any person, who has read our constitution, believe that it is in our power to pass a law without limitation? No, it is impossible. Every person knows that a future Congress may repeal this and every other law we pass, whenever they think proper. The constitution had particularly intrusted the House of Representatives with the power of raising money; great care was necessary to preserve this privilege inviolate; it was one of the greatest securities the people had for their liberties under this Government. Moreover, the importance of the House itself depended upon holding the purse-strings; if they once part with this power, they would become insignificant, and the other branch of the Legislature might become altogether independent of them. For these reasons, he was in favor of the motion of his honorable colleague, and hoped it would obtain.

Mr. GERRY.—There seems to be a great variety of opinions entertained by gentlemen on this question. But he thought they would all agree on these two points: first, that there were very great demands upon the federal treasury; and, secondly, that they had no kind of documents to show what they were, or what the revenue bill would produce. Under these circumstances, gentlemen must agree, that there is danger of passing a law that would operate oppressively, and without reason. There was also danger of erring in the mode of collecting, for want of experience to guide them. From these considerations, there was no doubt but the act would require the reconsideration of the Legislature in a short time; there may be applications from the people of all quarters to repeal a part of it. But what are their immediate representatives to do, in case the bill be made perpetual? They may be convinced that a repeal would be just and necessary; but it may not be in their power to remedy the grievances of their constituents, however desirous they may be of doing so; for, although this House may originate and carry a bill unanimously through for the repeal, yet it will be in the power of the President, and the minority of the other branch of Congress, to prevent a repeal.

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Mr. HUNTINGDON thought it easy to see the danger of making this bill perpetual: besides parting with the power which the constitution gave to the House of Representatives, in authorizing them solely to originate money bills, there would be another inconvenience, which was, extending the revenue beyond what the nature of the public debt required. The foreign debt was payable by instalments; it was saying nothing to allege that the debt would accumulate, because the United States must make provision for the annual extinguishment of a part. If the revenue, arising from the impost, be insufficient for this purpose, recourse must be had to some other fund, which will enable us to perform the engagements of the late Congress. It is true the debt is large, and will take time to pay it off, but he had no doubt but it would be done according to contract, and with honor to the Union. How, then, can gentlemen suppose the revenue ought to be perpetual, in order to be commensurate with the object? If they contemplated the contraction of more debts in future, the supposition might be true; but he saw no reason why gentlemen should extend their views so far. He thought if a future war, or some other untoward circumstance, should increase the national debt, it ought to be provided for by the Government who were acquainted with the necessity. He thought the House ought to consider seriously before they parted with their powers; it was easy for them to pass a bill to give power, but it was difficult to recall it. He had seen many instances of this kind; one in particular in the State from which he came, where the Legislature had given the appointment of sheriffs, and some other little matters, out of their hands, and had been a long time endeavoring to get it back; but they had not been able to obtain it. He had no suspicions of any character in the Senate, but the constitution had made that body in some degree perpetual, to obtain a permanency in the laws; if, therefore, this revenue bill had once their approbation, they might be inclined to continue it, even against the sentiments of the people and of the House. Though he was not against trusting the gentlemen who now composed the Senate, he was against trusting their successors.

Mr. SMITH, of South Carolina, was also in favor of the clause; he conceived the only reason of weight urged against it, related to the restoration of public credit; but he thought every person possessed of the stock or debt of the United States would have the same feelings and reasoning as the House; they would know that their demands depended upon a higher source than Congress, and might be sure that we would do our duty in making particular provision. If Congress neglected this, one part of the creditors would compel them. If it was found that the United States were not disposed to pay their debts, foreigners would find the means to make them. Taking it therefore for granted, that Congress would always provide for these objects, he would proceed to consider what effect might arise from a permanent or temporary provision. If the latter were made, the creditors would honor us for our exertions, and confide in our continuing to provide for them in the manner we should find upon experience most convenient to the community. If the system was declared to be a perpetual provision for the payment of their interest, it would give no hope, in the first place, for the redemption of the capital; and in the second, if Congress were to alter it, and which, in all probability they shortly must, the security would be impaired, and an essential injury done to the public credit, which we are so desirous to revive.

Mr. AMES considered this as a very important question; and in order that his own mind might be fully enlightened, he had listened with the most unwearied attention to the arguments urged on both sides; but he was far from being satisfied that the motion was necessary or proper for the House to adopt.

Gentlemen tell us they are willing to make the revenue commensurate with the debt. If they do this, all the inconveniences resulting from the imperfection of the system will be entailed upon us for a number of years. Other gentlemen mention a year or two for its limitation. Can the House listen seriously to such a proposition? If we were to tell our creditors that we are making provision for them for one year, would it tend to inspire them with confidence in our wisdom or justice? Would our foreign creditors believe we were scrupulously fulfilling our engagements with them? No: nothing less than a fixed, permanent system, can beget confidence or give security. An illusory system of one or two years' duration would engender distrust; its very visage would make the public suspect deception. If we do not mean to deceive, why not make the provision commensurate to the occasion? His idea of a temporary act was *pro hac vice*, by way of experiment: but he thought the House could not make the experiment with this bill, because the public credit would not admit of it. If this act be made for one year, will it not be a considerable expense to the public by going over all the ground again, which had taken the House such a length of time to discuss?

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What has been the conduct of Great Britain, in relation to her funds? What has carried the credit of that kingdom to a superior eminence, but the attention she has paid to public credit? He considered these advantages as having made that nation rich and powerful. He believed a like conduct on our part would produce the same consequences, because our Government is of such a nature as to give the public creditors the greatest security they could wish. If the revenue is appropriated, and the law for collecting it is without any limitation, the funds cannot be taken away without a positive act of injustice, to which both Houses of the Legislature must assent by a majority of two-thirds, or three independent parties must unite. It was therefore three to one in favor of the public creditor, that the funds appropriated to his use would not be annihilated. Under these circumstances, Government might more safely be trusted. This, he observed, was not the case under despotic princes; their will alone could tear away the security of the subject. Under a pure democracy, the case was almost as bad; no confidence could be placed, because the caprice and whim of one body could dictate a change.

Mr. PAGE expressed his surprise to find gentlemen opposed to the limitation of the bill, who had complained so much of its imperfections. He thought a measure of the kind now proposed absolutely necessary to reconcile these gentlemen to particular parts of the bill. For his own part, he had objections to some articles, and for that reason, if there was no other, he would be in favor of the limitation. It had been frequently asserted that half the revenue would be lost by smuggling. Can this, then, he would ask, be a bill proper to perpetuate, or fit for the restoration of the credit of the United States? He asked gentlemen whether they would lend a hand to rivet round the necks of their fellow-citizens a regulation which experience had convinced them was unjust, unequal, and oppressive? Yet the gentleman from Massachusetts (Mr. AMES) had declared that experience had convinced him that at least one particular article was subjected to a duty of this kind.

Mr. GERRY asked his colleague if he advocated carrying the taxes to such an extent as to accumulate sums in the treasury for which the United States had no particular use? Yet if this revenue law were made perpetual, it would collect money into the public coffers after the national debt was paid. This would be such a temptation to the Executive to possess itself by force of the treasures of the nation, as he hoped would never be put in its way. If our commerce and population increased, this revenue would increase in the same proportion. He could not, therefore, bear the idea of all this money being collected into one spot, unless there was an absolute demand for it. He thought it incompatible with the liberty and security of the people, and therefore hoped the House would agree to a short limitation.

Mr. MADISON, for the sake of accommodation, would make another proposition. He was extremely sorry to differ with gentlemen about modes, when their object appeared to be the same. He thought the spirit of the constitution and the structure of the Government rendered it improper to pass a perpetual revenue law. The arguments had been clear on this point; but as there was an evident propriety in making the means commensurate to the occasion, he was inclined to give the

bill such a perpetuity as would answer the purpose of providing for the public debt and restoring the national credit. He thought this might be done by modifying his motion so as to refer to the collection bill; for he hoped, before that passed, the House would be able to ascertain the appropriation, and could limit it accordingly. The words he would propose were, that this act should not continue and be in force longer than the — day of —, unless otherwise limited by the act providing for the appropriation. As he had heard it intimated that the yeas and nays would be called on this question, he was desirous of rendering the clause as satisfactory as possible.

Mr. AMES could not bear to lie under the imputation of inconsistency, with which he was charged, inasmuch as he contended against the limitation of a bill he had opposed as oppressive in some of its parts. He believed the amendment now offered was new to almost every gentleman. For his part, he had always supposed it was intended as a permanent system. He remembered many gentlemen made use of this expression, through the various debates which had taken place in the several stages of the bill. He had understood it in this light, and had therefore combated, with some degree of energy, such parts as appeared to him impolitic or unjust. He imagined the gentlemen on both sides had labored to make the bill as perfect as possible, with a view of making an equitable provision for the public exigencies, which should affect all parts of the Union with the greatest degree of impartiality.

Mr. SHERMAN observed, that when Congress applied to the several States for the five per cent. impost, they judged it would enable them to extinguish the national debt in twenty-five years; but, in addition to this fund, they expected to make annual requisitions on the States, for one and a half million of dollars at least; so that gentlemen could not expect the whole to be paid by this single fund in a short time. He wished a limitation to the law in general terms, such as until the debt, foreign and domestic, is discharged. He thought a short term would make an unfavorable impression upon the minds of the public creditors, and tend in a great measure to cloud the happy prospects that began to brighten the political hemisphere of this country.

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Mr. GERRY expressed an intention of calling the yeas and nays if he was supported, because he thought it a question in which the essential interests of the people were deeply involved.

Mr. LAWRENCE said, he held his present opinion upon the purest principles of patriotism, and an ardent love for his country's happiness. He had no objection to the yeas and nays being taken, as he was not inclined to disguise his sentiments.

Mr. PAGE was glad the yeas and nays were called, as it would give gentlemen an opportunity of showing to their constituents their approbation of a measure calculated to secure the blessings of liberty to themselves and posterity.

Several members rose to speak on this question, when Mr. AMES moved the adjournment, fearing gentlemen would grow warm upon the question.

Whereupon, the House adjourned.

SATURDAY, May 16.

Mr. SENEY, from Maryland, presented to the House an act of the Legislature of that State, offering to the acceptance of Congress ten miles square of territory, in any part of the said State, for the seat of the Federal Government, which was read and ordered to lie on the table.

Duties on Imports.

The House resumed the consideration of the amendment proposed yesterday to the bill for laying a duty on goods, wares, and merchandises imported into the United States, and the said amendment read as follows: "And be it further enacted by the authority aforesaid, that this act shall be in force until the — day of —, and from thence until the end of the next session of Congress which shall happen thereafter."

The question was called for, and Mr. LAWRENCE required the ayes and noes.

Mr. JACKSON wished to say a few words on the bill. The ayes and noes being called for, he conceived it his duty to state his reasons for his vote. He declared himself to be in favor of the limitation, for the reasons offered by honorable gentlemen yesterday. He said he had as ardent a desire to re-establish public credit, and place it on a good footing, as any member on that floor, yet he did not think making this law perpetual would have that tendency. He had no doubt but every subsequent Legislature would be equally desirous of doing justice to the creditors of the Union, and he therefore felt no uneasiness in leaving such provision to be made by them. If the next Legislature were disposed to violate the public honor, would the law now under consideration stand in their way? For his part, he could not conceive it an insuperable bar. He believed there was not a member who liked every part of the bill. Under these circumstances, what was to be expected but complaints from the people, and a consequent repeal of the bill? He did not wish to insinuate that the Senate would be so depraved as to oppose the public voice, but they might misunderstand it; they were a permanent body, and might be more inclined to support what they considered the honor of the Government than the convenience of the people.

The House of Representatives appeared to him to be the body best calculated to know and feel the interests of their immediate constituents; they ought, therefore, to preserve the power of redressing grievances, and not give too much into the hands of the Senate. He acknowledged the claims which those that fought and bled for their country had upon the justice of Congress; but

he did not believe that class of citizens would complain or murmur at this House for keeping the purse strings in their hands, when it was considered necessary to the security and happiness of the people.

Mr. WHITE did not see the necessity of calling the yeas and nays: he thought the measure was intended to have one of these two objects, either to show one part of the House had mistaken the interest of their country, and ought to be held up to posterity, in order that their memories may be charged with their want of knowledge; or that there is a part of this House who think themselves more wise and patriotic than the majority. He never called the yeas and nays in his life, nor believed he ever should; but he was willing to have his vote appear, in all cases, when gentlemen thought proper to perpetuate the decision of the House in that way. On this occasion he would vote in favor of the amendment, and would endeavor to answer the objections, which, if well founded, would be a subject of great uneasiness in his mind, considering how he intended to give his vote.

He would now proceed to examine, whether rendering this law perpetual would be a wise and prudent measure. It had been well observed by the gentleman from Georgia, (Mr. JACKSON,) that every part of the law would bear harder on some States than on others; perhaps there was no State in the Union which would not be in some degree dissatisfied. He could perceive, by the sentiments of gentlemen in this House, that the burthens would be peculiarly felt; under these impressions, gentlemen have expressed themselves more warmly than perhaps they ought. There had been predictions of the most dangerous consequences of high duties, which he would not repeat; if these dangers were not imaginary, would it be prudent in the House, to risk these consequences, and make these dangers unavoidable by rendering the law perpetual.

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Much pains had been taken to impose the burthens as equally as possible. If the duty on molasses bears hard upon one State, the tonnage duty would bear equally so upon others. But still it is probable, that there are unequal pressures laid by the bill, which experience alone could enable the Legislature to alter to the satisfaction of all parties. The system was great, complex, and comprehensive; it embraces commerce, manufactures, agriculture, finance, and, in short, every thing in which a nation can be concerned. Will it be prudent, then, under our present disadvantages, and without information, to enact a law affecting the highest interests of the people, which can never be repealed but by the consent of three independent bodies? Gentlemen have told us, that no valuable purpose can be answered by making the law temporary; now, he thought a valuable purpose could be answered by it. The two Houses of Congress, with the qualified negative of the President, formed the legislative power of the United States; they are distinct powers to be exercised by both branches of the Legislature. The House had been told, on a former occasion, that the Senate possessed greater powers than the Representatives. He admitted that, in some instances, they had greater powers; but with respect to revenue matters, they certainly had less, and very properly so. Shall we then give up to a body, who has already a superiority over us, those superior powers which we possess relative to revenue? A perpetual system would give the Senate greater advantages than constitutionally they ought to enjoy. He thought it of little consequence for the House to possess the right of originating money bills, if those money bills were made perpetual. The exercise of this right would be lost, and he thought it necessary that every part of Government should feel itself dependent upon the people. We have been told, with truth, that the Senate are a virtuous body; they are so, and he hoped would remain so, for ages yet to come, nay for ever; and, in his legislative capacity, he would act upon no other supposition. But still it ought to be remembered, that they would always be men, and liable to all the errors, frailties, and infirmities, with the rest of their fellow-mortals; besides, they were constituted in some measure for purposes to which the other branch was incompetent; while this House was constituted for purposes for which the Senate is unequal. It is a well-grounded republican maxim, that taxation and representation should depend each on the other. The people should be taxed only by representatives chosen for that purpose. This principle was written in the hearts of our British ancestors; it had been maintained by the best blood of our citizens, and he hoped it would descend with the fullest energy to our posterity. What, said he, are we about to do? A great branch of revenue, indeed the only branch, to which an application is now proper, or expected by the people, is about to be put out of our hands for ever; for it would not be in the power of this House, or any future House, to annihilate those funds without the consent of the Senate and the concurrence of the President. Now, the Senate are not an equal representation of the people; in that body the States have equal numbers, while, in this House, the representation is proportioned to their population. Delaware sends one, Georgia three, and Virginia ten. Is it possible, in the nature of things, that two Senators can be as well acquainted with the feelings and interest of the people of Virginia, as ten men selected from among them, and taken from the several parts of the State? Will the people be satisfied to have that body able to continue a revenue system which their immediate representatives think oppressive, or perhaps unnecessary? Certainly they would not; whatever the wisdom and virtue of the Senate may be, he was convinced they were not competent to those peculiar objects for which a just representation was absolutely necessary. The Senate, it is true, is not a House of Lords; they do not possess any properties materially distinguishing them from the members of the House of Representatives; but, though the distinction is not so striking in the one case as in the other, yet it was nevertheless real. The House of Lords is created by the King, and is a permanent body; the Senate is chosen by the State Legislatures, and though the individuals have not a permanency in office, yet the body never ceases to exist. These circumstances, in the constitution of the Senate, afforded a powerful objection to the new system of Government, and the people would never have adopted it, had they supposed that the powers of this body were unlimited in continuing a system of taxation, which had at any time met the approbation of their particular representatives.^[23]

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Mr. TUCKER did not think it necessary to give his opinion otherwise than by his vote, because gentlemen, who had yesterday delivered their sentiments in favor of the clause, had anticipated what he had to say. But as he found himself influenced by the call for the ayes and noes on this question, he should be induced to state some of his reasons in favor of the amendment. He said, he was glad the ayes and noes had been called, and if it had not been done by any other gentleman, he should have conceived himself bound to have done it; because he did not think himself at liberty, but on very particular occasions, to make a law perpetual. He wished to see a doctrine established, never to pass a law without limitation, unless justified by some extraordinary circumstances. Nothing, he thought, could ever justify such an act but the immutability of the object, and the absolute necessity and simplicity of every thing relating to it. If the House passed a perpetual revenue law, which had not an immutable object, they would abridge their own power, and destroy one of the great privileges of the people. Every bill of this nature, more or less, narrows the powers of this House, and throws it into the hands of the Executive and a minority of the Senate; for it is to be considered, that whenever we pass a bill on any subject, every matter in that bill contained is given up to the Executive and one-third of the Senators, so much so that it is out of the power of this House, even with a unanimous vote, to recover any part of it.

Mr. SYLVESTER was in favor of the limitation clause. A good deal had been said in the House respecting the jarring interests of the several States. It had been confessed on all hands, that this was an experimental law: he viewed it as such, and expected, in the course of a few years, the Legislature would be able to discover the errors of this day. But what advantage can result from their knowledge, if they have not power to make the necessary alterations, or to build up a new system more perfect than the old? He had examined the annals of history, but was unable to discover that any nation had ever established a perpetual revenue law. He imagined gentlemen would admit these reasons to be sufficient to warrant the vote they were about to give.

Mr. SINNICKSON did not expect this was to be a perpetual law, incapable of alteration; but he wished to see it a permanent system. The idea of a temporary system was long ago said to be out of the contemplation of the House. He should only observe, in addition to this, that our credit depended essentially upon what should be done at this time. He thought if the revenue existed merely upon the breath of the Legislature, for one or two years at a time, we should never attain that object. He thought that the public good required something substantial to be done in favor of those who had lent the public money in the hour of distress.

Mr. BOUDINOT thought himself obliged to say a few words more, in order to justify the part he should take in the division of the House on this question. He conceived the manner in which the motion was brought before the House, after the bill was supposed to be gone through, did not give such opportunity for the members to consider the subject as its importance seemed to require, and which might have been had if it had been brought forward at an earlier period.

If, said he, we are to have the measures of the Parliament of Great Britain hung about our necks in all our public proceedings, and observations from their practice perpetually sounding in our ears, that practice ought to be defined and established. He believed that in the whole volumes of the statute law, there was not one single revenue act to be found with a limitation. He believed that the revenue laws, passed fifty, sixty, eighty, and near a hundred years ago, in that kingdom, existed at the present moment. We have long seen and been convinced of the infirmities of the former confederation, and shall we now rivet those infirmities upon the present constitution? Are we never to stand upon a certain and solid foundation? Is not our public credit totally gone? Has not experience convinced us that the loss of it would have been our total destruction, if the generous exertions we have lately made had not revived some degree of confidence in our future measures? Are we not so deeply in debt as to give us reason to believe that it will require many years to emancipate ourselves? If this is the case, will a revenue law for one or two years bring that relief which is expected? Will this prevent an increase of the public debt? Will it restore value to the evidences of that debt held by our creditors? He would ask any man, whether, if the United States were in the situation in which they were last war, he would be induced to lend money upon a temporary and inadequate fund provided for two years? He believed the answer would be in the negative.

Mr. MADISON withdrew his motion in order to introduce another, which he hoped would reconcile both sides of the House. He joined those gentlemen who opposed the clause in thinking that one or two years would be a period insufficient to answer the purposes in contemplation. If the House agree to the clause he would substitute for the one just withdrawn, he would move to fill the blank with a more distant day. His motion was, that this act shall not continue in force after the — day of — unless otherwise provided in the act for the appropriation of the revenue.

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Mr. FITZSIMONS seconded the motion.

Mr. SHERMAN liked this motion better than the other. Although he was in favor of leaving the law at large, he would vote for this clause, if the blanks were filled up with a sufficient time to accomplish those objects which the Government had in view in providing revenue.

Mr. AMES thought the question would recur when the appropriation or collecting bill came before them; he would rather, for his own part, decide the question at this moment, than consume the time of the House with another debate. Besides the House was not in possession of an act for appropriating the revenue; such a measure might never be agreed to; therefore he hoped the decision would take place at this time rather than be evaded.

Mr. FITZSIMONS was of opinion, that this revenue ought to be appropriated to the payment of the public debts; what were the views of other gentlemen he could not say. He was nevertheless in

favor of limiting the law, and that upon constitutional principles, though he wished it commensurate to its object. Gentlemen had said a great deal respecting the imperfection of the system, that it was the effect of compromise; but nevertheless, he thought it as free from defects as it was possible a revenue system could be formed with such materials as the House possessed; but if it was imperfect, he did not see the difficulties some gentlemen mentioned, in altering and amending it when experience shall have pointed out its defects.

Mr. BOUDINOT acquiesced in the motion now brought forward for the sake of accommodation, although he thought the bill would stand better without any limitation clause whatever.

Mr. PAGE was against the latter part of this clause. It had been justly said, that the bill would be oppressive; but, from the necessity of the times, the people will submit to it. Shall we not let them see the end of their burthen in the law itself? Are they to look into another bill for that purpose? Perhaps after the Senate have agreed to this act, they may oppose the limitation in the subsequent one; they may insist upon having this in perpetuity, and then the object which the House have in view will be defeated.

Mr. SMITH, of South Carolina, moved a division of the question.

Mr. LEE wished to strike out that part of the motion which related to the exception.

Mr. LIVERMORE seconded Mr. LEE.

The question was put, and that part of the clause lost.

The question now stood as originally introduced to the House.

The previous question was then demanded by five members: Shall the main question be now put? And on the question, shall the main question be now put? it was resolved in the affirmative.

And then the main question being put, that the House do agree to the amendment proposed to the said bill, it was resolved in the affirmative—ayes 41, noes 8.

The ayes and noes being called for by one-fifth of the members present:

Those who voted in the affirmative, are,

Messrs. Abraham Baldwin, Egbert Benson, Theodorick Bland, Ædanus Burke, Daniel Carroll, Isaac Coles, Benjamin Contee, Thomas Fitzsimons, William Floyd, George Gale, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, Samuel Griffin, Jonathan Grout, John Hathorn, Daniel Heister, Benjamin Huntington, James Jackson, Richard Bland Lee, George Leonard, Samuel Livermore, James Madison, junior, Andrew Moore, Peter Muhlenberg, John Page, Josiah Parker, George Partridge, Jeremiah Van Rensselaer, Joshua Seney, Thomas Scott, William Smith, William Smith, of South Carolina, Jonathan Sturgis, Peter Sylvester, Jonathan Trumbull, Thos. Tudor Tucker, John Vining, Jeremiah Wadsworth, Alexander White, and Henry Wynkoop.

Those who voted in the negative, are,

Messrs. Fisher Ames, Elias Boudinot, Lambert Cadwalader, George Clymer, John Lawrence, Roger Sherman, Thomas Sinnickson, and George Thatcher.

The clause being added, it was agreed to fill the blank so as to read the first day of June, 1796.

Ordered, That the said bill, with the amendments, be engrossed, and read the third time to-day. [24]

MONDAY, May 18.

Resolved, That leave be given to bring in a bill concerning the importation of certain persons into the United States, prior to the year 1808, and that Mr. PARKER, Mr. SINNICKSON, and Mr. MUHLENBERG, do prepare and bring in the same.

TUESDAY, May 19.

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Executive Departments.

On motion of Mr. BOUDINOT, the House resolved itself into a Committee of the whole House on the state of the Union. Mr. TRUMBULL in the chair.

Mr. BOUDINOT.—I rise, Mr. Chairman, with diffidence, to introduce a subject to the consideration of the committee, which I had hopes would have been brought forward by an abler hand; the pressing necessity of it must alone be my excuse. The great executive departments which were in existence under the late confederation, are now at an end, at least so far as not to be able to conduct the business of the United States. If we take up the present constitution, we shall find it contemplates departments of an executive nature in aid of the President: it then remains for us to carry this intention into effect, which I take it will be best done by settling principles for organizing them in this place, and afterwards appoint a select committee to bring in a bill for the same.

I need say little to convince gentlemen of the necessity which presses us into a pursuit of this measure. They know that our national debt is considerable; the interest on our foreign loans, and the instalments due, amount to two millions of dollars. This arrearage, together with the domestic debt, is of great magnitude, and it will be attended with the most dreadful

consequences to let these affairs run into confusion and ruin, for want of proper regulations to keep them in order.

I shall move the committee therefore to come to some such resolution as this: That an officer be established for the management of the finances of the United States, at the head of which shall be an officer to be denominated the Secretary of Finance. I am not tenacious of the style, perhaps some other may be proper, but the object I have in view is to establish the department; after which we may go on to narrate the duties of the officer, and accommodate the name to the acts he is to perform. The departments under the late constitution are not to be models for us to form ours upon by reason of the essential change which has taken place in the Government, and the new distribution of legislative, executive, and judicial powers.

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

Mr. BENSON wished the committee to consider what he judged to be a previous question, namely, how many departments there should be established? He approved of the division mentioned by the gentleman; but would, with his leave, move that there be established in aid of the Chief Magistrate, three executive departments, to be severally denominated the Department of Foreign Affairs, Treasury, and War. After determining this question, if it was a proper division, the committee might proceed to enumerate the duties which should be attached to each.

Mr. BOUDINOT said, he could apologize for not bringing the business on in another way. It seemed to be a settled point in the House that a Committee of the Whole was the proper place for determining principles before they were sent elsewhere; he had therefore adopted that mode on the present occasion, though his own judgment would incline him to pursue that last mentioned by the gentleman from Virginia, (Mr. BLAND.) He conceived the necessity of having such an office was indisputable; the Government could not be carried on without it; but there may be a question with respect to the mode in which the business of the office shall be conducted; there may also be a question respecting the constitution of it, but none with respect to the establishment of either of the three departments he had mentioned.

Mr. BENSON said, his motion was founded upon the constitutional division of these powers; the constitution contemplated them, because it gave the President the right of requiring the opinion of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices. If gentlemen were inclined to waive the determination for the present, he had no objection; it was certainly a subject of great importance, and required time for consideration.

Mr. VINING thought the gentleman should have added another department, viz: the Home Department. The territorial possessions of the United States, and the domestic affairs, would be objects of the greatest magnitude, and he suspected would render it essentially requisite to establish such a one.

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

A motion was made by Mr. BLAND for the committee's rising.

Mr. MADISON hoped they would not rise until the principles were settled. He thought it much better to determine the outlines of all business in a Committee of the Whole. He was satisfied it would be found, on experience, to shorten their deliberations. If the gentlemen who had offered motions to the committee would withdraw them, he would offer one which he judged likely to embrace the intentions of both gentlemen.

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

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That there shall be a Treasury Department, &c.

That there shall be a War Department, &c.

Mr. VINING seconded the motion, and offered to amend it, by adding the Domestic Department, *mutatis mutandis*. He said this department, in his opinion, was of absolute necessity, more requisite than either of the other three, except the Department of Finance; the present and increasing duties of such a department will oblige them to make the establishment.

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

As to the Domestic Department just mentioned by the gentleman from Delaware, he thought its duties might be blended with the others, and thereby save the United States the expense of one grand department. If the gentleman, therefore, would wait to see what were the duties assigned

to them severally, he would be able to judge respecting his motion with greater propriety.

Mr. VINING withdrew his motion for the present.

And the committee agreed to the establishment of the Department of Foreign Affairs, and placing at the head thereof an officer to be called the Secretary of Foreign Affairs; but when they came to the mode of appointing the officer,

Mr. SMITH (of South Carolina) moved to strike out the words "who shall be appointed by the President, by and with the advice and consent of the Senate." He conceived the words to be unnecessary; besides, it looked as if they were conferring power, which was not the case, for the constitution had expressly given the power of appointment in the words there used. He also objected to the subsequent part of this paragraph, because it declared the President alone to have the power of removal.

Mr. PAGE saw no impropriety in passing an act to carry into execution the views of the constitution, and therefore had no objection to repeat those words in the resolution. He thought if the committee stopped there, they would be under no difficulty respecting the propriety of their measure, but if they went further they might meet with considerable embarrassment.

Mr. MADISON remarked, that as there was a discretionary power in the Legislature to give the privilege to the President alone of appointing inferior officers, there could be no injury in declaring in the resolution the constitutional mode of appointing the heads of departments; however, if gentlemen were uneasy, he would not object to strike it out.

Mr. LEE thought this officer was an inferior officer; the President was the great and responsible officer of the Government; this was only to aid him in performing his executive duties; hence he conceived the power of appointing to be in the gift of the Legislature, and therefore the words were proper.

Mr. SMITH (of South Carolina.)—This officer is at the head of a department, and one of those who are to advise the President; the inferior officers mentioned in the constitution are clerks and other subordinate persons. The words are only a repetition of the words in the constitution, and are consequently superfluous.

The question was taken on striking out those words, and carried in the affirmative.

The committee proceeded to the discussion of the power of the President to remove this officer.

Mr. SMITH said, he had doubts whether the officer could be removed by the President. He apprehended he could only be removed by an impeachment before the Senate, and that, being once in office, he must remain there until convicted upon impeachment. He wished gentlemen would consider this point well before they decided it.

Mr. MADISON did not concur with the gentleman in his interpretation of the constitution. What, said he, would be the consequence of such construction? It would in effect establish every officer of the Government on the firm tenure of good behavior; not the heads of departments only, but all the inferior officers of those departments, would hold their offices during good behavior, and that to be judged of by one branch of the Legislature only on the impeachment of the other. If the constitution means this by its declarations to be the case, we must submit; but I should lament it as a fatal error interwoven in the system, and one that would ultimately prove its destruction. I think the inference would not arise from a fair construction of the words of that instrument.

It is very possible that an officer who may not incur the displeasure of the President, may be guilty of actions that ought to forfeit his place. The power of this House may reach him by the means of an impeachment, and he may be removed even against the will of the President; so that the declaration in the constitution was intended as a supplemental security for the good behavior of the public officers. It is possible the case I have stated may happen. Indeed, it may, perhaps, on some occasion, be found necessary to impeach the President himself; surely, therefore, it may happen to a subordinate officer, whose bad actions may be connived at or overlooked by the President. Hence the people have an additional security in this constitutional provision.

I think it absolutely necessary that the President should have the power of removing from office; it will make him, in a peculiar manner, responsible for their conduct, and subject him to impeachment himself, if he suffers them to perpetrate with impunity high crimes or misdemeanors against the United States, or neglects to superintend their conduct, so as to check their excesses. On the constitutionality of the declaration I have no manner of doubt.

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Mr. BENSON.—If we refer to the constitution for light on this subject, it will appear evident that the objection is not well founded. The objection is this, that an officer ought not to be removed but by impeachment; then every officer is appointed during good behavior. Now, the constitution expressly declares, that the Judges, both of the Supreme and Inferior Courts, shall hold their offices during good behavior. If it is declared, that they are to hold their offices by this particular tenure, it follows that the other officers of the Government should hold them only at pleasure. He thought this an important question, and one in which they were obliged to take the constitution by construction. For although it detailed the mode of appointing to office, it was not explicit as to the supersedure; this clause, therefore, would be a mere declaration of the legislative construction on this point. He thought the importance and necessity of making the declaration, that the Chief Magistrate might supersede any civil officer was evident, and he should therefore vote in favor of the clause as it stood.

Mr. VINING said, there were no negative words in the constitution to preclude the President from the exercise of this power; but there was a strong presumption that he was invested with it:

because it was declared, that all executive power should be vested in him, except in cases where it is otherwise qualified; as, for example, he could not fully exercise his executive power in making treaties, unless with the advice and consent of the Senate—the same in appointing to office.

He viewed the power of removal, by impeachment, as a supplementary security to the people against the continuance of improper persons in office; but it did not consist with the nature of things, that this should be the only mode of removal; it was attended with circumstances that would render it insufficient to secure the public safety, which was a primary object in every Government. Witness a transatlantic instance of its incompetency—he meant the famous case of Mr. Hastings. With what difficulty was that prosecution carried on! What a length of time did it take to determine! What is to be done while the impeachment is depending? For, according to the ideas of the gentleman from South Carolina, (Mr. SMITH,) he cannot be removed but on conviction. If he cannot be removed, I should suppose he cannot be suspended; and what security have the people against the machinations of a bad man in office? He had no doubt but the constitution gave this power to the President; but if doubts were entertained, he thought it prudent to make a legislative declaration of the sentiments of Congress on this point. He was therefore in favor of the clause.

Mr. BLAND thought the power given by the constitution to the Senate, respecting the appointment to office, would be rendered almost nugatory if the President had the power of removal. If the first nomination of the President should be disapproved by the Senate, and the second agreed to, he had nothing to do but wait the adjournment of Congress, and then fill the vacancy with his favorite; who, by thus getting into the possession of the office, would have a considerable chance of permanency in it. He thought it consistent with the nature of things, that the power which appointed should remove; and would not object to a declaration in the resolution, if the words were added, that the President shall remove from office, by and with the advice and consent of the Senate. He agreed that the removal by impeachment was a supplementary aid favorable to the people; but he was clearly of opinion, that the same power that appointed had, or ought to have, the power of removal.

Mr. JACKSON wished the motion had been referred to a sub-committee to digest: it seemed to him they were building the house before the plan was drawn. He wished to see the system reduced to writing, that he might leisurely judge of the necessity and propriety of each office and its particular duties.

With respect to the question before the House he was of opinion that if the House had the power of removal by the constitution, they could not give it out of their hands; because every power recognized by the constitution must remain where it was placed by that instrument. But the words in the constitution declare, in positive terms, that all civil officers shall be removed from office on impeachment for, and conviction of, high crimes and misdemeanors; and however long it may take to decide, in this way it must be done. He did not think the case of Mr. Hastings ought to be brought forward as a precedent for conducting such business in the United States. He believed, whenever an impeachment was brought before the Senate, they would proceed with all imaginable speed to its termination. He should, in case of impeachment, be willing to go so far as to give the power of suspension to the President, and he thought this all the security which the public safety required; it would prevent the party from doing further mischief. He agreed with the gentleman in the general principle, that the body who appointed ought to have the power of removal, as the body which enacts laws can repeal them; but if the power is deposited in any particular department by the constitution, it is out of the power of the House to alter it.

Mr. MADISON did not conceive it was a proper construction of the constitution to say, that there was no other mode of removing from office than that by impeachment; he believed this, as applied to the Judges, might be the case, but he could never imagine it extended in the manner which gentlemen contended for. He believed they would not assert, that any part of the constitution declared, that the only way to remove should be by impeachment; the contrary might be inferred, because Congress may establish offices by law; therefore, most certainly, it is in the discretion of the Legislature to say upon what terms the office shall be held, either during good behavior or during pleasure. Under this construction, the principles of the constitution would be reconcilable in every part; but under that of the gentleman from South Carolina, it would be incongruous and faulty. He wondered how the gentleman from Georgia (Mr. JACKSON) would reconcile his principles so far as to permit the President to suspend the officer. He begged his colleague (Mr. BLAND) to consider the inconvenience his doctrine would occasion, by keeping the Senate constantly sitting, in order to give their assent to the removal of an officer; they might see there would be a constant probability of the Senate being called upon to exercise this power, consequently they could not be a moment absent. Now, he did not believe the constitution imposed any such duty upon them; why, then, said he, shall we enjoin it, especially at such an expense of the public treasure?

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Mr. BOUDINOT would by no means infringe the constitution by any act of his, for if he thought this motion would lead the committee beyond the powers assigned to the Legislature, he would give it a decided negative; but, on an impartial examination of that instrument, he could not see the least foundation for such an objection; however, he was glad the question had come forward, because he wished to give a legislative construction to this part of the constitution.

The gentlemen who denied the power of the President to remove from office, founded their opinion upon the fourth section of the second article of the constitution, where it is declared, that all officers shall be removed from office on impeachment for, and conviction of, treason or bribery. If their construction is admissible, and no officer whatever is to be removed in any other

way than by impeachment, we shall be in a deplorable situation indeed. Consider the extent of the United States, and the difficulty of conducting a prosecution against an officer, who, with the witnesses, resides a thousand miles from the seat of Government. But suppose the officer should, by sickness, or some other accident, be rendered incapable of performing the functions of the office, must he be continued? And yet it is to be apprehended, that such a disability would not furnish any good ground for impeachment; it could not be laid as treason or bribery, nor perhaps as a high crime or misdemeanor. Would gentlemen narrow the operation of the constitution in this manner, and render it impossible to be executed?

Mr. WHITE thought no office under the Government was to be held during pleasure, except those which are to be constituted by law; but all the heads of departments are to be appointed by the President, by and with the advice and consent of the Senate. He conceived that, in all cases, the party who appointed ought to judge of the removal, except in those cases which by the constitution are excepted; and in those cases impeachment and conviction are the only mode by which they can be removed.

Mr. THATCHER asked, why the Judges were particularly mentioned in the constitution as holding their offices during good behavior, if it was not supposed that, without this express declaration in their favor, they, in common with all other officers not immediately chosen by the State Legislatures and the people, would hold them during pleasure? The clause respecting impeachments was particularly calculated for removing unworthy officers of the other description. Holding this construction of the constitution to be right, he was in favor of the clause as it stood.

Mr. SYLVESTER thought the constitution ought to have a liberal construction, and therefore was of opinion that the clause relative to the removal by impeachment was intended as a check upon the President, as already mentioned by some gentlemen, and to secure to the people, by means of their representatives, a constitutional mode of obtaining justice against speculators and defaulters in office, who might be protected by the persons appointing them. He apprehended the doctrine held out by the gentleman from South Carolina would involve the Government in great difficulties, if not in ruin, and he did not see it was a necessary construction of the constitution. Why, then, should the House search for a meaning, to make the constitution inconsistent with itself, when a more rational one is at hand? He, however, inclined at present to the sentiments of the gentleman from Virginia, (Mr. BLAND,) who thought the Senate ought to be joined with the President in the removal, as they were joined by the constitution in the appointment to office.

Mr. GOODHUE was decidedly against combining the Senate in this business. He wished to make the President as responsible as possible for the conduct of the officers who were to execute the duties of his own branch of the Government. If the removal and appointment were placed in the hands of a numerous body, the responsibility would be lessened. He admitted there was a propriety in allowing the Senate to advise the President in the choice of officers; this the constitution had ordained for wise purposes; but there could be no real advantage arising from the concurrence of the Senate to the removal, but great disadvantages. It might beget faction and party, which would prevent the Senate from paying proper attention to the public business. Upon the whole, he concluded the community would be served by the best men when the Senate concurred with the President in the appointment; but if any oversight was committed, it could best be corrected by the superintending agent. It was the peculiar duty of the President to watch over the executive officers; but of what avail would be his inspection, unless he had a power to correct the abuses he might discover.

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Mr. GERRY.—The constitution provides for the appointment of the public officers in this manner: The President shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. Now, if there be no other clause respecting the appointment, I shall be glad to see how the heads of departments are to be removed by the President alone. What clause is it that gives this power in express terms? I believe there is none such. If there is a power of removal, besides that by impeachment, it must vest somewhere. It must vest in the President, or in the President and Senate, or in the President, Senate, and House of Representatives. Now, there is no clause which expressly vests it in the President. I believe no gentleman contends it is in this House, because that would be that mingling of the executive and legislative powers gentlemen deprecate. I presume, then, gentlemen will grant, that if there is such a power, it vests with the President, by and with the advice and consent of the Senate, who are the body that appoints. I think we ought to be cautious how we step in between the President and the Senate, to abridge the power of the one, or increase the other. If the power of removal vests where I suppose, we, by this declaration, undertake to transfer it to the President alone.

It has been mentioned, that it is proper to give this power to the President, in order to make him more fully responsible for this officer. I am for supporting the President to the utmost of my power, and making him as responsible as possible. I would therefore vest every gift of office, in the power of the Legislature, in the President alone; but I cannot think we ought to attempt to give him authority to remove from office, in cases where the constitution has placed it in other hands.

Mr. LIVERMORE considered this as a constitutional question, and was of opinion, that the same power which appointed an officer, had the right of removal also, unless it was restrained by an express declaration to the contrary. As the President, by and with the advice and consent of the Senate, is empowered to appoint ambassadors, certainly they have a right to remove them and appoint others. In the case of the judges, they must be appointed for life, or during good

behavior. He had no idea, that it could ever enter into the heart of any man living, that all officers appointed under the constitution were to have a perpetuity in office. The judges themselves would not have had this right, if it had not been expressly given by the constitution, but would be removable in like manner with ambassadors, other public ministers, and consuls. He took it, therefore, in the present case, that the President and the Senate would have the power of removing the Secretary of Foreign Affairs. The only question, therefore, which appears to be before the committee is, whether we shall give this power to the President alone? And with that he thought they had nothing to do. He supposed, if the clause was left out, the President and the Senate would proceed, as directed by the constitution, to appoint the officer; and hereafter, if they judged it necessary, would remove him; but if they neglected to do so, when it was necessary, by reason of his misdemeanors, this House would impeach him, and so get rid of him on conviction.

Mr. BLAND.—It seems to be agreed on all hands, that there does exist a power of removal; the contrary doctrine would be a solecism in Government. If an officer embezzles the public money, or neglects or refuses to do the duties of his appointment, can it be supposed there is no way of getting rid of such a person? He was certain it was essentially necessary such a power should be lodged somewhere, or it would be impossible to carry the Government into execution. Their inquiries were therefore reduced to this point: Does it reside, agreeably to the constitution, in the President, or in the President and the Senate? The constitution declares, that the President and the Senate shall appoint, and it naturally follows, that the power which appoints shall remove also. What would be the consequence of the removal by the President alone, he had already mentioned, and need not repeat. A new President might, by turning out the great officers, bring about a change of the ministry, and throw the affairs of the Union into disorder: would not this, in fact, make the President a monarch, and give him absolute power over all the great departments of Government? It signifies nothing that the Senate have a check over the appointment, because he can remove, and tire out the good disposition of the Senate.

Mr. CLYMER said, the power of removal was an executive power, and as such belonged to the President alone, by the express words of the constitution: "the executive power shall be vested in a President of the United States of America." The Senate were not an executive body; they were a legislative one. It was true, in some instances, they held a qualified check over the executive power, but that was in consequence of an express declaration in the constitution; without such declaration, they would not have been called upon for advice and consent in the case of appointment. Why, then, shall we extend their power to control the removal which is naturally in the Executive, unless it is likewise expressly declared in the constitution?

The question on adding the words "by and with the advice and consent of the Senate," as moved by Mr. BLAND, was put and lost. [Pg 90]

The question was now taken, and carried by a considerable majority, in favor of declaring the power of removal to be in the President.

WEDNESDAY, May 20.

Treasury Department.

The House again resolved itself into a Committee of the Whole on the state of the Union, Mr. TRUMBULL in the chair. The resolution for establishing the Treasury Department being under consideration:

Mr. GERRY.—We are now called upon, Mr. Speaker, to deliberate, whether we shall place this all-important department in the hands of a single individual, or in a Board of Commissioners. I presume the gentleman, who has brought forward this string of propositions, means, that this officer shall have power to examine into the state of the public debt and expenses, to receive and disburse the revenue, to devise plans for its improvement and expansion, and, in short, to superintend and direct the receipts and expenditure, and govern the finances of the United States; having under him officers to do the subordinate business of registering and recording his transactions, and a Comptroller to control his operations with respect to the accounts and vouchers.

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

Other great opportunities may arise in case of an anticipation of the public revenue; or, if it is

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

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

Taking these circumstances together, it must be very disagreeable to the person appointed, provided he is an honest, upright man; it will be disagreeable also to the people of the Union, who will always have reason to suspect, that a partiality is shown to the collectors, and other officers of the State to which he belonged. This has absolutely been the case, and was productive of very great dissatisfaction. I would be glad to know of the gentlemen, who are for vesting these powers in a single person, where they will find the man who is capable of performing the duties of a financier? For it is not the mere calling him a financier, and giving him a large salary, that will enable him to perform his functions in such a manner as to give satisfaction. We had once a gentleman who filled such a department, and I believe the only one in the United States who had knowledge and abilities by any means competent to the business; but that gentleman is now employed in another branch of the Government, and cannot be called to this trust. During the late war, Congress thinking it necessary to employ a financier, were led to inquire for a proper character to fill such an office; but not being able to discover such a one in this country, in whose abilities they had sufficient confidence, they wrote to Doctor Price a letter, to induce him to come to America, and accept of an appointment under them, for the superintendence of their finances. He wrote, in answer, that he felt with gratitude the honor which they had done him by their application, and signified, that he was desirous of rendering every service in his power to aid the glorious cause in which America was embarked; but, from his advanced situation in life, and infirmities of body, he was under the necessity of declining. This circumstance serves to show how difficult it is to get a proper person for so arduous an undertaking. But it appears to me, that if we could fix upon a person equal to the office, involving him in forming accounts, and such trifling business, would divert his attention from the more important duties he is called upon to perform. The proper business of finance, I take it, ought to be to consider of the means to improve the revenue, and introducing economy into the expenditures; to recommend general systems of finance, without having any thing to do with the actual administration of them, because, if he engages in the executive business, we shall be deprived of his talents in more important concerns. If it should be granted that there is a person of abilities to be found, adequate to the duties of the office, I want to know where the advantage arises of appointing him alone in preference to a Board? If you have commissioners, you have an opportunity of taking one from each grand division of the United States, namely, the Eastern, the Middle, and Southern Districts. If this person is a member of the Board, is it not evident you will have every advantage from his abilities in such a situation, as you would if he were placed in office without control? If he was possessed of such genius, he could employ it more usefully as a Commissioner of the Board of Treasury, than when left to perform all the drudgery of the executive part; because while his fine imagination was busied in reducing a chaos to a beautiful system, his colleagues might perform those parts which required less elevation of thought; by dividing the burthen, the business would be done with more regularity and facility. Surely no advantage to the public would arise from giving him the sole management of the business, but much inconvenience might; besides, it must unavoidably, as I said before, subject him to suspicions unfavorable to his reputation. This has absolutely been realized; it is not a mere chimera, a matter of speculation. We have had a Board of Treasury, and we have had a Financier. Have not express charges, as well as vague rumors, been brought against him at the bar of the public? They may be unfounded, it is true; but it shows that a man cannot serve in such a station without exciting popular clamor. It is very well known, I dare say, to many gentlemen in this House, that the noise and commotion were such as obliged Congress once more to alter their Treasury Department, and place it under the management of a Board of Commissioners. We have seen speculations excited from this quarter against the Government itself, and painful insinuations of design by his appointment to the Senate. I mention these circumstances to exhibit to your view the inconveniencies to which an officer is subjected by constituting an office of this nature. If the gentleman I have alluded to had been a member of the Board of Treasury, he would not have been subjected to the charges which were brought against him. In such a situation, he could have rendered the services his great abilities enabled him to do, without exposing his character to be torn to pieces by malevolence or detraction.

I am desirous of supporting the President; but the Senate requires to be supported also in their constitutional rights. To this body belongs the confidence of the States; while the President rests his support upon them he will be secure. They, with this House, can give him proper information of what is for the public interest, and, by pursuing their advice, he will continue to himself that good opinion which is justly entertained of him. If we are to establish a number of such grand officers as these, the consequences appear to me pretty plain. These officers, bearing the titles of minister at war, minister of state, minister for the finances, minister of foreign affairs, and how

many more ministers I cannot say, will be made necessary to the President. If by this establishment we make them more respectable than the other branches of the Government, the President will be induced to place more confidence in them than in the Senate; the people will also be led to consider them as more consequential persons. But all high officers of this kind must have confidence placed in them; they will in fact be the chancellors, the ministers of the nation. It will lead to the establishment of a system of favoritism, and the principal magistrate will be governed by these men. An oligarchy will be confirmed upon the ruin of the democracy; a Government most hateful will descend to our posterity, and all our exertions in the glorious cause of freedom will be frustrated: we shall go on till we reduce the powers of the President and Senate to nothing but a name. This surely, sir, does not comport with the conduct of the House. We have been very tenacious of giving a title to the President, lest it should be implied we desired to increase his power. We would call him by no other appellation than merely President of the United States. I confess I was not such a stickler about titles as all this, because I did not consider that the liberties of the people could be hurt by such means; but I am not clear that the constitution authorizes us to bestow titles; it is not among the enumerated powers of Congress. But if the constitution did authorize it—[A call to order was made by some of the members, and Mr. GERRY was desired to confine himself to the point; the subject of titles was not before the House.]^[25] Mr. GERRY proceeded, and said the Senate were constitutionally the highest officers of Government, except the President and Vice President; that the House was about to supersede them, and place over their heads a set of ministers who were to hold the reins of Government, and all this to answer no good purpose whatever; because the same services could be obtained from subordinate officers.

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

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

I have had also transactions at the treasury whilst it was managed by a Superintendent of Finance. As to what fell from the gentleman last up, (though without intention, I dare say, to affect or prejudice the character of that officer, it may possibly have such an effect,) I think it necessary to state my sentiments, which are formed from my own experience as well as from report. I had great transactions with him, and must say that there did appear to be system in his management, and responsibility in his negotiations. I dare risk my fortune and character with him, because there was unity in the officer, and somebody in whom I could confide. The nature of the office is better calculated to give satisfaction than the other. I will not pretend to enumerate the savings he made, by introducing economy throughout the whole departments under Congress, because I do not know them all; but they were very considerable. The administration of the finances was clear to the meanest capacity. Receipts and expenditures were stated simply; they were published to the world. The heads of the Treasury Department, the Board of Commissioners, I do not believe have closed their accounts to this very day. I do not say it is for want of ability, will, or honesty, that this event has not taken place. I conceive it to be owing to their want of system in conducting their business. I wish the committee had before them the transactions of the board for one single month; they would find what I have remarked to be too well founded. Instead of system and responsibility, they would find nothing but confusion and disorder, without a possibility of checking their accounts. I know I am heard by one gentleman who is acquainted with these truths by experience.^[26]

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

Mr. BENSON stated, that in the year 1781, from the very great derangement of public affairs, Congress were induced to place the Treasury Department under the superintendence of an individual. It is true, after the conclusion of the war, in the latter end of 1783, or beginning of 1784, Congress again changed their system, and placed the department in the hands of three commissioners, to be taken, as the gentleman has said, one from the Eastern, one from the

Middle, and one from the Southern district; which regulation I think induced above twenty applications. Some gentlemen on this floor will doubtless recollect an observation that was made at that time, that if this trust had been to be reposed in one responsible individual, not perhaps more than three of the candidates would have had confidence to come forward as applicants for the office.

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

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

Mr. MADISON had intended to have given his sentiments on this subject; but he was anticipated in some things by the gentleman last up. He wished, in all cases of an executive nature, that the committee should consider the powers that were to be exercised, and where that power was too great to be trusted to an individual, proper care should be taken so to regulate and check the exercise, as would give indubitable security for the perfect preservation of the public interest, and to prevent that suspicion which men of integrity were ever desirous of avoiding. This was his intention in the present case. If the committee agreed to his proposition, he intended to introduce principles of caution, which he supposed would give satisfaction on that point. As far as was practicable, he would have the various business of this important branch of the Government divided and modified, so as to lull at least the jealousy expressed by the gentleman from Massachusetts; indeed, he supposed, with the assistance of the committee, it might be formed so as to give satisfaction. He had no doubt but that the offices might be so constituted as to restrain and check each other; and unless an unbounded combination took place, which he could by no means suppose was likely to be the case, that the public would be safe and secure under the administration. He would favor the arrangement mentioned by the worthy gentleman from South Carolina, (Mr. BALDWIN,) and after that was separated from the Secretary's duties, he believed the officer would find sufficient business to employ his time and talents in rendering essential services to his country. This arrangement he considered would answer most of the objections which had been urged.

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

Mr. BOUDINOT considered the question to be, whether the department should be under the direction of one or more officers. He was against boards, because he was convinced by experience that they are liable to all the objections which gentlemen had stated. He wished the committee had it in their power to turn to the transactions of this department since the revolution, to examine the expenditures under former boards of treasury, and under the Superintendent of Finance; it would so confound them, that he was sure no gentleman would offer another argument in favor of boards. He was not acquainted with the management under the present board. He had not been in the habit of doing business with them. But between the administration of the former and the Superintendent of Finance, there was an intolerable comparison. He was far from being astonished at the jealousy and suspicion entertained of that valuable officer; he rather wondered that the clamor was not more loud and tremendous. He could not repeat all the causes there were for accusation against him, but surely they were not inconsiderable. He remembered one hundred and forty-six supernumerary officers were brushed off in one day, who had long been sucking the vital blood and spirit of the nation. Was it to be wondered at, if this swarm should raise a buzz about him? The reform which daily took place made him no inconsiderable number of enemies. The expenditures under the Board of Treasury had been enormous. They were curtailed in the quartermasters, commissaries of provision and

military stores, in the hospital, and every great department established by Congress; so that, besides those who were offended by a removal, every one who was affected by this economy, or parsimony, if they will call it so, were incensed against him. It was impossible to gain friends among those people by a practice of this kind. He would state a circumstance which might give the committee some small idea of what the savings under the Superintendent were. The expenditure of hay at a certain post was one hundred and forty tons; such was the estimate laid before him; yet twelve tons carried the post through the year, and the supply was abundant, and the post was as fully and usefully occupied as it had ever been before.

The question on the amendment proposed by Mr. GERRY was taken and lost; after which the resolutions respecting the Treasury and War Department, as proposed by Mr. MADISON, were both agreed to.

Mr. VINING then proposed the establishment of the Domestic Department upon the same principles; but, on motion of Mr. BOUDINOT, the committee rose and reported the resolutions agreed to.—Adjourned.

THURSDAY, May 21.

Executive Departments.

The House proceeded to consider the resolution reported yesterday from the Committee of the whole House on the state of the Union, and the same being amended to read as follows:

Resolved, That it is the opinion of this committee that there ought to be established the following executive departments, viz: A Department of Foreign Affairs, at the head of which shall be an officer to be called Secretary to the United States for the Department of Foreign Affairs, removable by the President. A Treasury Department, at the head of which shall be an officer to be called Secretary to the United States for the Treasury Department, removable by the President. A Department of War, at the head of which shall be an officer to be called Secretary to the United States for the Department of War, removable by the President.

Resolved, That this House doth concur with the committee in the said resolution; and that a committee, to consist of eleven members, be appointed to prepare and bring in a bill or bills pursuant thereto.

The members elected were, Mr. BALDWIN, Mr. VINING, Mr. LIVERMORE, Mr. MADISON, Mr. BENSON, Mr. BURKE, Mr. FITZSIMONS, Mr. BOUDINOT, Mr. WADSWORTH, Mr. GERRY, and Mr. CADWALADER.

FRIDAY, May 22.

Contested Election.^[27]

The House resumed the consideration of the report on Mr. SMITH's case.

After some desultory conversation on the recommitment and mode of proceeding, it was agreed to examine the evidence in favor of Mr. SMITH, the facts alleged by Doctor Ramsay, in proof that Mr. SMITH was not seven years a citizen of the United States, being admitted. Whereupon, it being moved and seconded, that the House do agree to the following resolution:

Resolved, That it appears to this House, upon full and mature consideration, that the said WILLIAM SMITH had been seven years a citizen of the United States, at the time of his election.

Mr. SMITH.—As the House are inclined to hear the observations I have to make, I shall begin with admitting the facts stated in the memorial of Doctor Ramsay, hoping the House will excuse the egotism into which I am unavoidably drawn. I was born in Charleston, South Carolina, of a family whose ancestors were among the first settlers of that colony, and was sent to England for my education when I was but twelve years of age. In 1774, I was sent to Geneva, to pursue my studies, where I resided until 1778. In November, that year, I went to Paris, where I resided upwards of two months in the character of an American gentleman. Immediately on my arrival there, I waited on Doctor Franklin, Mr. Adams, and Mr. A. Lee, the Commissioners from Congress to the court of France, as a citizen of America, and was received as such by them. In January, 1779, I left Paris for London, whither I went to procure the means of embarking for America, from the gentleman who had been appointed my guardian by my father when I was first sent to Europe in 1770, and from whom alone I had any hope of obtaining such means. But in this endeavor, I was disappointed, and remained some time in England, with the hope of receiving remittances from Charleston. Here again my expectation was defeated. The rapid depreciation of the continental money rendered the negotiation of money transactions extremely difficult, and thus I remained till the fall of Charleston. I took this opportunity of studying the law, but could not be called to the bar, because I had not taken the oath of allegiance to Great Britain, which is a necessary qualification. After the surrender of Charleston, the whole State of South Carolina fell into the hands of the enemy, and it was impossible at that time to return. No sooner, however, did I acquire the means, and an opportunity offered, than I prepared myself to go back to America. I quitted London for that purpose, in October or November, 1782, not in a vessel bound to Charleston, then a British garrison, and which I certainly should have done, had I

considered myself a British subject, and which would have been most convenient, as there were vessels constantly going from London to Charleston; but I travelled to Ostend, and there embarked in a neutral vessel bound to St. Kitt's, from whence it was my intention to proceed to a Danish island, and thence to some American port in North Carolina or Georgia, from whence I could reach the American camp. In the beginning of January, 1783, I sailed from Ostend, but was detained a considerable time by contrary winds, and in the middle of the month of February, was shipwrecked on the coast of England, and was obliged to return to London in order to procure another passage. These circumstances unavoidably prevented my return to Charleston, until some time in November, 1783.

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On my arrival at Charleston, I was received by my countrymen as a citizen of the State of South Carolina, and elected by their free suffrage a member of the Legislature in November, 1784. In the August following I was chosen, by the Governor and Council, a member of the Privy Council, and this election was confirmed by the Legislature the October following. In September, the same year, I was elected one of the Wardens of the City of Charleston. In November, 1786, I was again elected into the Legislature; again in November, 1788; I was elected at the same time that I was elected to the House of Representatives of the United States, the September preceding having been chosen again a Warden of the city.

After having stated these facts, he went on adverting to the laws referred to in the report of the committee, which, he said, he conceived to be applicable to the present case.

In September, 1779, a question was discussed in the Legislature of South Carolina, respecting the young men who were sent abroad for their education, and it was determined that it was most for the interest of the State, that they should be allowed to continue in Europe till they were twenty-two years of age; after which the law provided they should be doubly taxed if they did not return. This law might fairly be supposed to recognize the citizenship of all the young men in a similar predicament with himself. It allowed them all to be absent until they were twenty-two years of age; but even after that period it did not deprive them of the right of citizenship; it only subjected them to the penalty of a double tax. This he contended was a sort of compact with him, that if he chose to be absent after that time, he should suffer a certain penalty, which, in its own nature, implied that his citizenship remained; but before he attained that age, South Carolina was in such a situation that her best friends were compelled to be absent, and take refuge in distant countries. It was not till some time after that the friends of the American cause began to assemble in that State; the absentee law, therefore, never operated on him, and he never was doubly taxed.

In February, 1782, the Legislature met at Jacksonburg, and discriminated between friend and foe, between American and British subjects, by disposing of the estates of the latter, and banishing them; from an inspection of the law passed at that time, it would be evident in what light they viewed him. He had landed property in the State, but was himself in England; yet they did not attempt to confiscate his property, or subject him to an amercement. The absentee law was his safeguard, he had the permission of the State to be abroad.

If the Legislature in 1782 recognized as citizens some of those persons whose estates were confiscated for adhering to Great Britain, and for being disaffected to America *a fortiori*, did it not recognize as a citizen one whose estate was not forfeited, who had not been deemed worthy of punishment, and who had been absent under the sanction of the law?

By the constitution of South Carolina it appears, that no person was eligible to a seat in the Legislature until he had resided three years, nor to a seat in the Privy Council until he had resided five years in the State. He had a seat in both those bodies before he had resided two years in the State of South Carolina, and no objection was ever made on that score. He could not have been qualified for either, had not the people of South Carolina deemed his residence in that State, such a residence as gained him a qualification; or had they not supposed the qualification required in the constitution applied only to new comers and new citizens, for whom that residence was necessary to wean them from their local prejudices and national habits, and to attach them to the commonwealth. Had they not, in short, supposed him to have been a citizen during the revolution, and attached to his native State by every tie which could bind an individual to any country. Three years' residence was either not required of him, or his former residence was deemed within the meaning of the constitution.

An act to confer the right of citizenship on aliens was passed March 26, 1784. For the purpose of possessing the subordinate rights of citizenship, such as an exemption from the alien duty, a residence of one year, and taking the oath of allegiance, was sufficient. To confer a right of voting at elections, a person must have been admitted a citizen two years prior to his voting; but for the higher privileges of a citizen, being eligible to offices of trust, to a seat in the Legislature and Privy Council, the alien must have been naturalized by law. Now, in November, 1784, he was elected into the Legislature, and took his seat without objection in January, 1785, and was elected into the Privy Council, October, 1785; all without being naturalized by law.

In October, 1785, when he was elected to the Council, his election was opposed, but the objection now brought forward was not then made; and the memorialist himself, who was a member of the Legislature, voted in favor of the choice; though, unquestionably, unless he was considered by the Legislature as a citizen before he returned to Charleston, nothing had afterwards occurred to make him so, and the alien act of 1784 positively required a naturalization by act of Assembly to give him a qualification.

The constitution of South Carolina is silent as to citizenship, but allowed any person to vote at elections who had resided a year in the State, and paid a certain tax; to be a member of the

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Assembly he must have resided three, and to be a Privy Councillor five years previous to his election, but nothing was said about citizenship. The act of 1784, however, expressly defined who should and who should not be deemed citizens; and, consequently, all persons who did not become citizens must have been held to be aliens, and considered so, till they had conformed to the alien act of 1784. Now, as he was admitted to offices of trust, to which aliens were not admissible, and as he was admitted to them without having the rights of citizenship conferred upon him, in pursuance of that act, it followed clearly, that the people of South Carolina and the Legislature acknowledged him to be a citizen by virtue of the revolution.

He went on to observe, that, from the doctrine laid down by the memorialist, it was difficult to ascertain when he did become a citizen of South Carolina. When he was admitted to the bar in 1784, he did no act which made him a citizen, the bare act of taking an oath of qualification to an office could not convert an alien to a citizen. The constitution seemed to imply a mere residence of a year, by giving a right to vote, gave a right of citizenship; if that were the case, and if his residence prior to the revolution was considered such a residence as the constitution required, then he was a citizen, by virtue of the constitution, after having resided a year in Carolina. Now, it was clear, his residence prior to the war was deemed such a residence as the constitution required; because he was admitted to vote and admitted to a seat in the Legislature and Council by right of such residence, not having had the requisite residence since the war, and yet being deemed qualified. If, therefore, that part of the constitution which gave a right of voting, in consequence of a year's residence and paying a certain tax, virtually conferred citizenship, by giving a right to vote, (and it appeared absurd that a right to vote should be given to persons not citizens,) and if, also, his residence, prior to the revolution, was deemed a sufficient residence, then he was a citizen by virtue of the constitution.

The points that seemed most to be relied upon by the memorialist were:

1st. That residence was actually necessary to confer citizenship, or, in other words, that a person could not become a citizen of a country, till he has resided in it.

2d. That a person could not become a citizen till he was of age to choose his country.

In answer to the first, he denied that residence in the country was absolutely necessary. Was it to be supposed, he asked, that when a man sent his son into another country for his education and improvement, the son was thereby to lose any political benefits which might, during such temporary absence, accrue to his country? If his father had lived a few years longer, would there have arisen any question on this subject? Would he not, though absent, have acquired, according to the petitioner's own positions, a right of citizenship? And should his death, at such an early period, not be deemed a sufficient misfortune for him, without using that as a pretence for making him an alien? Those who represented him in Carolina as his guardians, who were *in loco parentis*, were residents in Carolina at the declaration of independence.

His property was in Carolina, his money in the treasury, assisting to carry on the war. The declaration of independence affected him as much, though at Geneva, as it did those in Carolina; his happiness, that of his dearest connections, his property, were deeply interested in it: his fate was so closely connected with that of Carolina, that any revolution in Carolina was a revolution to him. Though a minor, as soon as he heard of the independence of America, he considered himself an American citizen.

If a person could not become a citizen of a country without residing in it, what should be said of those gentlemen who had been in Europe during the war, and were now in high office in America? Several of them went to Europe before the war, were there at the declaration of independence, and did not return to America till after the war, or about the close of it. When did their citizenship commence? According to the petitioner, they could not become citizens of America until they returned to America, and took an oath of allegiance to the States; but Congress employed them in offices of great confidence, before they had returned to America, or taken such oath. Congress, therefore, considered them citizens, by virtue of the revolution.

It had been said, that Carolina had called on her young men to come to her assistance. This was not the true state of the case. Carolina thought that her young men who were abroad for their education, should not be taken from their studies till they were twenty-two years of age, and doubly taxed them after that. His guardian wrote to him that he had permission of the Legislature to be absent till he was twenty-two, and that he should be doubly taxed after that age.

It has been also said, that Carolina tendered an oath, to discover who were friends, and who were enemies. In March, 1778, the Legislature of South Carolina passed an act to oblige every free male inhabitant of that State, above sixteen years of age, to take an oath of allegiance to the State. As there were notoriously many persons then in the State who were inimical to its liberties, such a step was necessary to give a reasonable cause for obliging them to quit the country. With that view, the oath was generally tendered only to those who were suspected or known not to be friendly to the cause. He had been informed by several persons, who were zealous partisans, and then in Carolina, that they had never taken any oath of allegiance, and that it had not been required of them on this occasion.

The act directed, that those who did not take it, should quit the State; and, if they returned, should be dealt with as traitors, and suffer death. Let us examine whether this act can, in any respect, apply to the present question. 1st. It particularly mentioned "inhabitants of the State of South Carolina." It could not, therefore, apply to persons who were abroad. 2dly. It directed that the oath should be taken before a justice of peace in Carolina; this could not, therefore, extend to a person then at Geneva. 3dly. It was directed to be taken in one month after the passing of the

act; and it was not possible that I should hear of the existence of such an act in less than three months. 4thly. It was directed, that if the persons refused to take it, they should quit the State; but I was already out of it. 5thly. Those who refused to take it, were prevented from acquiring or conveying property, and rendered incapable of exercising any profession. But on my return to Carolina, I took peaceable possession of my estate, part of which consisted of lands and houses, which had been mine since the year 1770; and I was immediately admitted to the exercise of the profession for which I was educated. 6thly. The act directed, that if any person returned to Carolina, after having refused to take the oath, he should be put to death as a traitor; and, yet, on my return, never having taken the oath, I was elected a member of the Legislature, and a Privy Councillor; and, instead of being deemed a criminal myself, I acted as Attorney General to punish others; and yet the petitioner, in one of his late publications, lays great stress on the applicability of this act.

2dly. There could be no doubt that a minor might be a citizen, from the very words of the constitution, which admitted a person to be a member of the House of Representatives at twenty-five, and yet required a citizenship of seven years. This was of itself a sufficient refutation of every thing contained in the petition on this head. The constitution acknowledged that a person might be a citizen at eighteen; if so, there was no reason why a person might not be one at sixteen or fourteen.

Mr. LEE said, the committee had now to determine, whether Mr. SMITH was a citizen of South Carolina during his absence from home, or not. If the laws of that State recognized him as such, the question was determined, because this House could not dispute a fact of that kind. From the reference that has been made to the constitution and laws of South Carolina, and the circumstances which took place under them, with respect to Mr. SMITH, it was convincing that he was acknowledged there to be a citizen in consequence of the revolution.

Mr. MADISON.—I think the merit of the question is now to be decided, whether the gentleman is eligible to a seat in this House or not; but it will depend on the decision of a previous question, whether he has been seven years a citizen of the United States or not.

From an attention to the facts which have been adduced, and from a consideration of the principles established by the revolution, the conclusion I have drawn is, that Mr. SMITH was, on the declaration of independence, a citizen of the United States; and unless it appears that he has forfeited his right, by some neglect or overt act, he had continued a citizen until the day of his election to a seat in this House. I take it to be a clear point, that we are to be guided, in our decision, by the laws and constitution of South Carolina, so far as they can guide us; and where the laws do not expressly guide us, we must be guided by principles of a general nature, so far as they are applicable to the present case.

It were to be wished, that we had some law adduced, more precisely defining the qualities of a citizen or an alien; particular laws of this kind have obtained in some of the States; if such a law existed in South Carolina, it might have prevented this question from ever coming before us; but since this has not been the case, let us settle some general principle before we proceed to the presumptive proof arising from public measures under the law, which tend to give support to the inference drawn from such principles.

It is an established maxim, that birth is a criterion of allegiance. Birth, however, derives its force sometimes from place, and sometimes from parentage; but, in general, place is the most certain criterion; it is what applies in the United States; it will, therefore, be unnecessary to investigate any other. Mr. SMITH founds his claim upon his birthright; his ancestors were among the first settlers of that colony.

It is well known to many gentlemen on this floor, as well as to the public, that the petitioner is a man of talents, one who would not lightly hazard his reputation in support of visionary principles: yet I cannot but think he has erred in one of the principles upon which he grounds his charge. He supposes, when this country separated from Great Britain, the tie of allegiance subsisted between the inhabitants of America and the king of that nation, unless, by some adventitious circumstance, the allegiance was transferred to one of the United States. I think there is a distinction which will invalidate his doctrine in this particular, a distinction between that primary allegiance which we owe to that particular society of which we are members, and the secondary allegiance we owe to the sovereign established by that society. This distinction will be illustrated by the doctrine established by the laws of Great Britain, which were the laws of this country before the revolution. The sovereign cannot make a citizen by any act of his own; he can confer denizenship; but this does not make a man either a citizen or subject. In order to make a citizen or subject, it is established, that allegiance shall first be due to the whole nation; it is necessary that a national act should pass to admit an individual member. In order to become a member of the British Empire, where birth has not endowed the person with that privilege, he must be naturalized by an act of Parliament.

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What was the situation of the people of America, when the dissolution of their allegiance took place by the declaration of independence? I conceive that every person who owed this primary allegiance to the particular community in which he was born, retained his right of birth, as a member of a new community; that he was consequently absolved from the secondary allegiance he had owed to the British sovereign. If he were not a minor, he became bound, by his own act, as a member of the society who separated with him from a submission to a foreign country. If he were a minor, his consent was involved in the decision of that society to which he belonged by the ties of nature. What was the allegiance, as a citizen of South Carolina, he owed to the King of Great Britain? He owed his allegiance to him as a king of that society to which, as a society, he

owed his primary allegiance. When that society separated from Great Britain, he was bound by that act, and his allegiance transferred to that society, or the sovereign which that society should set up; because it was through his membership of the society of South Carolina that he owed allegiance to Great Britain.

This reasoning will hold good, unless it is supposed that the separation which took place between these States and Great Britain, not only dissolved the union between those countries, but dissolved the union among the citizens themselves: that the original compact, which made them altogether one society, being dissolved, they could not fall into pieces, each part making an independent society; but must individually revert into a state of nature; but I do not conceive that this was, of necessity, to be the case; I believe such a revolution did not absolutely take place. But in supposing that this was the case, lies the error of the memorialist. I conceive the colonies remained as a political society, detached from their former connection with another society, without dissolving into a state of nature; but capable of substituting a new form of government in the place of the old one, which they had, for special considerations, abolished. Suppose the State of South Carolina should think proper to revise her constitution, abolish that which now exists, and establish another form of government: surely this would not dissolve the social compact. It would not throw them back into a state of nature. It would not dissolve the union between the individual members of that society. It would leave them in perfect society, changing only the mode of action, which they are always at liberty to arrange. Mr. SMITH being then, at the declaration of independence, a minor, but being a member of that particular society, he became, in my opinion, bound by the decision of the society, with respect to the question of independence and change of Government; and if afterwards he had taken part with the enemies of his country, he would have been guilty of treason against that Government to which he owed allegiance, and would have been liable to be prosecuted as a traitor.

So far as we can judge by the laws of Carolina, and the practice and decision of that State, the principles I have adduced are supported; and I must own, that I feel myself at liberty to decide, that Mr. SMITH was a citizen at the declaration of independence, a citizen at the time of his election, and, consequently, entitled to a seat in this Legislature.

Mr. JACKSON.—I differ widely from the gentleman from Virginia (Mr. MADISON) on the subject of allegiance and the social compact, and hold the principles advanced by him exceedingly dangerous to many of the States, and in particular to the one I have the honor to represent. The situation of America, at the time of the revolution, was not properly to be compared to a people altering their mode or form of government. Nor were there two allegiances due, one to the community here, another to that of Great Britain. We were all on a footing; and I contend the principle is right, in some degree, of a total reversion to a state of nature amongst individuals, and to a mere parental or patriarchal authority, where the heads had families dependent on them; the former, or individual pursued that line which appeared right in his own eyes, and the cause which he thought just; and, in the latter case, the children followed the will of the father, who chose for them, as the person who brought them into life, and whose fortunes they were to inherit. I conceive the whole allegiance or compact to have been dissolved. Many of the States were a considerable period without establishing constitutions or forms of government, and during that period we were in a little better state than that of nature; and then it was that every man made his election for an original compact, or tie, which, by his own act, or that of his father for him, he became bound to submit to. And what, sir, would otherwise be the result? And if the gentleman's doctrines of birth were to be supported, those minors, who, with British bayonets, have plundered and ravaged, nay, cruelly butchered their more virtuous neighbors—the sons of the most inveterate traitors, whose names deservedly sounded in every bill of confiscation; and the minors, sons of those who sheltered themselves under the shade of the British King, and supported his armies, if not with arms, with the resources of war, until the hour of danger was over—those, I say, after the blood of thousands has been spilt in the establishment of our government, can now come forward and sneer at the foolish patriots who endured every hardship of a seven years' war, to secure to them the freedom and property they had no hand in defending. Sir, did we fight for this? Was it for this the soldier watched his numerous nights, and braved the inclemency of the seasons? Will he submit, after having gained his point at the expense of property and the loss of constitution, to have those sentiments established? If he will, he has fought to little purpose indeed.

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Sir, I again contend, that when the revolution came on we were all alike with respect to allegiances, and all under the same social tie. An Englishman born did not conceive himself more liable to be condemned for treason than an American, had the enemy succeeded; nor would there have been any distinction in the laws on coming to a trial. But, sir, how should this primary allegiance be known to belong to the less, or American community, where the majority did not prevail. In Georgia, the majority were opposed to American measures; agreeably to the gentleman's reasoning, the minors must have been all on the British side; and yet many of them, on arriving to years of discretion, behaved well and valiantly with us. To corroborate this, sir, I will remark, that, for a considerable period, we had no general or federal government, or form of constitution, and yet were in arms. I would ask what state we were in then? Neighbor was against neighbor, and brother against brother. But, sir, the gentleman says the hardened minor will not return. Sir, experience has proved the contrary. The Middle and Eastern States, except Pennsylvania, New Jersey, and New York, never had the enemy long with them; there was not the same trial of men, and they knew not the audacity of those villains. After having received their equivalent for, in many cases, feigned losses, from the British crown, they are daily returning and pushing into office. It is necessary we should guard against them. Britain, although humiliated, yet has a longing eye upon this country; she has yet posts in it. Although it is improbable that so

many of these people will get into Congress as to form a corrupt majority, yet they have ambition and resentment enough to attempt it. At this moment, sir, in Georgia, are some of the most daring, bringing ejectments for estates which their fathers had deservedly forfeited, although themselves had imbrued their hands in the blood of their fellow-citizens.

Now, to the present case: Highly as I regard the gentleman (Mr. SMITH) as a valuable member, and esteem his abilities, I can only form my opinion on the leave given him by the State to be absent. If that principle is introduced into the resolution, I will vote in favor of Mr. SMITH'S eligibility; but if not, I must decline voting.

Which he accordingly did when the question was put.

Mr. TUCKER hoped that the yeas and nays would be taken on this question, not because he had any doubt in his own mind of Mr. SMITH'S right to a seat, but because he had been solicited by Dr. Ramsay to have the yeas and nays taken.

The yeas and nays were taken as follows:

YEAS.—MESSRS. Baldwin, Benson, Boudinot, Cadwalader, Carroll, Clymer, Coles, Contee, Fitzsimons, Floyd, Gilman, Goodhue, Heister, Huntington, Lawrence, Lee, Leonard, Livermore, Madison, Moore, Muhlenberg, Page, Van Rensselaer, Seney, Schureman, Scott, Sinnickson, Smith, (of Maryland,) Sturgis, Sylvester, Thatcher, Trumbull, Tucker, Vining, White, and Wynkoop.

Jonathan Grout voted in the negative.

Adjourned until Monday.

THURSDAY, May 28.

Western Lands.

The House, on motion of Mr. SCOTT, went into a Committee of the Whole on the State of the Union, for the purpose of considering certain resolutions he had prepared respecting the disposal of the land in the Western Territory. Mr. TRUMBULL in the chair.

Mr. SCOTT presumed there was little need of argument to prove to the Committee the necessity of taking speedy measures with respect to the unsettled lands in the Western Territory. The dissolution of the Board of Treasury, and the death of the late Geographer of the United States, are adventitious circumstances, which tend to increase the necessity. Gentlemen are acquainted with the number of sales which have been made to some of the citizens of the United States; they consequently know that the United States are under an obligation to complete the surveys of those lands which they have made sale of. They know, also, that until this is done, they cannot receive a farthing of the millions of dollars due on those contracts; they will not only be unable to receive the principal, but will be paying interest for the same. Besides this, there are other considerations for putting the business on a new footing. The mode hitherto pursued of selling lands has been very expensive to the United States. Perhaps, on inquiry, we shall find, that the specie it has cost us in getting the land surveyed and sales completed, would have purchased as many certificates as we get for the sale of the land. The lands are also proposed to be sold in too great quantities. It is very difficult to form a company for the purchase of a million acres. It ought to be sold in small quantities, to make the sales more certain and numerous; and, consequently, increase the public income. On this principle, it will be well to open a land office, and grant the soil in such quantities as may suit the applications. By this means more may be expected for the purchase, than when it is struck off, at a wholesale price, by the million acres; and in this way the land office will be conducted without expense, which will be fixed on the purchaser, so that the whole money the lands may bring will come into the treasury without deduction.

There are other considerations why a land office should be opened for the sale of that territory in the way just mentioned. There are, at this moment, a great number of people on the ground, who are willing to acquire by purchase a right to the soil they are seated upon. Allured by its fertility, the agreeableness of the climate, and the prospect of future ease to themselves and families, they would not seek a change. Kentucky, already full, at least there are no more valuable lands to be got there with a clear title, can receive no more emigrants. They, therefore, turn their wishful eyes upon the lands of the Union. They hope to get them of Congress upon as good terms as they can procure them of the speculators. What will these men think, who have placed themselves on a vacant spot, anxiously waiting its disposition by the Government, to find their pre-emption right engrossed by the purchaser of a million of acres? Will they expose themselves to be preyed upon by these men? They might submit to this, but they have other offers.

There are seven thousand souls waiting for lands; they will have them here or elsewhere; but there is some danger, if they cannot be accommodated within the boundaries of the United States, they will do one of two things: either move into the Spanish territory, where they are not altogether uninvited, and become an accession of power to a foreign nation, forming to us a dangerous frontier; or they will take this course, move on the United States territory, and take possession without your leave. What then will be the case? They will not pay you money. Will you then raise a force to drive them off? That has been tried: troops were raised, and sent under General Harmer, to effect that purpose. They burnt the cabins, broke down the fences, and tore up the potato patches; but three hours after the troops were gone, these people returned again, repaired the damage, and are now settled upon the lands in open defiance of the authority of the Union. But, nevertheless, they are willing to pay an equitable price for those lands; and if they

may be indulged with a pre-emption to the purchase, no men will be better friends to the Government. They went on the ground with an intention of purchasing, and are kept there by a hope that the Government will see their interest, and dispose of the land upon reasonable terms. But if you do not listen to their request, if you neglect or despise their offers, and they prove too weak to resist the omnipotent arm of Government, they will have recourse to a neighboring Power for protection. Hopes of that protection are now held out to them; it is my duty to inform you of the fact. They will be led to think their interest is separate from yours on the Atlantic shores. It will take prudent management to prevent the fatal effects of a commotion in that country. One of the most unhappy things we could do, would be to refuse selling those lands in less quantities than by the million of acres: it would certainly be a cause of disgust, if not of separation. If the object was to prevent the settlement of the country, it would be another thing; but that cannot be accomplished, it is not in the power of any force on earth to prevent the increase of the population now begun; it is therefore much better that we should incline them to friendship, than oblige them to become our enemies. The emigrants who reach the Western country will not stop until they find a place where they can securely seat themselves. Your lands first offer: their fertility and agreeableness will tempt them to pitch there; but to secure them, they must have a well-grounded hope that the lands they cultivate may become their own. To encourage this, you must open that territory to them, and let them have lands for pay. You must go further, you must open the land office in that country, because it will be impossible for the indigent persons to travel for an office-right. You can then establish a government among them, and derive advantages from them which are now totally lost. They wish for your government and laws, and will be gratified with the indulgence; but they wish also to acquire property under them; they wish for your lands, and what good reason can be offered to warrant a denial? If they cannot get your land, they must go further, and obtain it of foreigners, who are desirous of having them at any rate, who will give them lands without pay.

These observations are sufficient, no doubt, to evince the necessity of doing something with respect to the Western territory, and something different from what has hitherto been done. In order that the Committee may have a full view of my ideas, I will read the plan I have in my hand, upon which a law may be founded.

He here read a previous resolution, to be followed by the plan, which was to this effect:

Resolved, That it is the opinion of this committee, that an act of Congress ought to pass for establishing and regulating a land-office, for the sale of the vacant and unappropriated land in the Western territory.

[Here, by way of separate resolutions, followed in detail the constituent parts of this office, and the routine in which the business should be conducted, directing the expense of the office to be supported by the fees payable before the warrants and patents were delivered.]

Mr. CLYMER did not believe the committee were prepared for a decision at this time. He considered the subject to be as intricate and difficult as it was interesting; and therefore hoped full time would be given for investigation. Many persons had purchased large quantities of lands of the late Congress, with a view to sell them out in small lots, to accommodate the people who are inclined to settle upon them. If Congress now open a land office for the sale of small quantities, it will no doubt overcast the prospect of advantage which induced the former, and may induce future purchasers to apply for large grants. These observations, and others which would readily occur to every gentleman, would satisfy the committee that they ought not to precipitate the business. For this reason, he moved the rising of the committee. [Pg 101]

Mr. MADISON had no objection to the rising of the committee, as the means of obtaining information; but he thought the business deserving of the earliest attention. The clear and full manner in which the gentleman from Pennsylvania had opened the subject to the view of the committee, left no doubt on his mind of the propriety of taking some early measures to accomplish the business in the manner suggested by that gentleman. The facts and intelligence mentioned were too important to be passed lightly over. He should, for the present, agree to rise, but hoped the subject would be resumed in the House.

The question was taken on the first resolution moved by Mr. SCOTT, and passed in the affirmative; the others remaining on the table.

The committee then rose and reported progress.

FRIDAY, June 5.

Admission of Rhode Island into the Union.

Mr. BENSON presented for consideration, the resolution which he yesterday gave notice of his intention of introducing in relation to the admission of Rhode Island into the Union, and moved that the House immediately go into a Committee of the Whole on the state of the Union, for the purpose of discussing his proposition.

The resolution is in the following words:

The Congress of the United States do resolve and declare it to be their most earnest desire, that the Legislature of the State of Rhode Island and Providence Plantations, do recommend to the people of that State to choose delegates to meet in convention and to whom the constitution of the United States is to be submitted,

conformably to the unanimous resolution of the United States in Congress assembled, of the 28th of September, 1787.

Mr. PAGE.—I think of Rhode Island as the worthy gentleman from New York does; but, as a member of Congress, I doubt the propriety of this body interfering in the business. If I put myself, for a moment, into the situation of a citizen of a State that has refused to accede to the constitution of the United States, I must admit that I should watch your actions with a jealous eye; I should be apprehensive of undue influence, if I were to see you throw your weight into the scale. But what occasion is there for adopting such a resolution? Are gentlemen afraid to leave them to their own unbiased judgment? For my part I am not: it will demonstrate the goodness of the constitution, if it be adopted upon mature consideration, without any aid but its own intrinsic value. As to amendments, when we come to consider of them, I dare say they will be such as to make the constitution more agreeable; but, for the present, I think it improper to have any thing to do with the gentleman's motion; I hope he may be prevailed upon to withdraw it; he has done his duty by bringing it forward; but if it does not meet the approbation of the House, it will be a useless waste of time to give it any further discussion. The gentleman has shown sufficiently his attachment to the Federal Government, by the earnestness he shows to have it adopted throughout the United States. But, in addition to this, let him consider where such measures may lead us. Because the Legislature of Rhode Island have neglected or refused to submit the consideration of the constitution to a convention, we are to recommend it, and express a most earnest desire that they will comply. But suppose they decline doing what you require, what is next to be done? I hope gentlemen will hesitate before they go any further. I think we should be employed more in the line of our duty, by attending to the interests of our constituents, and completing the organization of a Government they ordered, than to spend our time about business which is not within our powers. Why should we interfere with the concerns of our sister States who have not yet joined the new Government? I trust the gentleman will see the impropriety of his motion, and agree to withdraw it.

Mr. SMITH, (of South Carolina.)—I think we ought to go into committee, and hear what the gentleman has to say on the subject. Though I must acknowledge I am at present against the adoption of the resolution he has proposed; yet it is possible, when he has stated his reasons, and pointed out the necessity of it, that I may alter my opinion; but I wonder why the gentleman has omitted North Carolina.

Mr. SHERMAN.—I think Rhode Island stands in a different situation from North Carolina. When this constitution was formed in the convention, North Carolina was represented there; she, as well as the adopting States, submitted that instrument to a convention of the people; but not having adopted it, she has again called a convention, and is proceeding to reconsider it as fast as convenient; so that such a request as is now proposed would be unnecessary with respect to them. As Rhode Island did not send members to the first convention, there was a delicacy in transmitting the proceedings to them, and Congress could not, perhaps, apply to them with the same propriety as to another. But all we are now to consider, I believe, is, that we invite the State of Rhode Island to join our confederacy; what will be the effect of such a measure we cannot tell till we try it.

Mr. MADISON.—I believe, Mr. Speaker, there are cases in which it is prudent to avoid coming to a decision at all, and cases where it is desirable to evade debate; if there were not cases of this kind, it would be unnecessary to guard our discussions with the previous question.^[28] My idea on the subject now before the House is, that it would be improper in this body to expose themselves to have such a proposition rejected by the Legislature of the State of Rhode Island. It would likewise be improper to express a desire on an occasion where a free agency ought to be employed, which would carry with it all the force of a command. How far this is contemplated on the present occasion, I cannot tell; but I heartily wish that as little may be said about it as possible. I conceive this to be one of the cases to which the previous question is applicable; and, if the gentleman means to call the House to a direct decision on this motion, I shall step between, and interpose the previous question.

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Mr. AMES.—I am against the previous question being taken, because I wish the House to consider the motion made by the gentleman from New York; it is admitted to be a question of considerable importance; if it is, it ought to be considered; otherwise, we are shutting the door on information, and putting it out of our power to ascertain the propriety or impropriety of the motion.

I should be glad to know if any gentleman contemplates the State of Rhode Island dissevered from the Union; a maritime State, situated in the most convenient manner for the purpose of smuggling, and defrauding our revenue. Surely, a moment's reflection will induce the House to take measures to secure this object. Do gentlemen imagine that State will join the Union? If they do, what is the injury arising from the adoption of the resolution intended to be submitted to the committee? Is there any impropriety in desiring them to consider a question which they have not yet decided? It has been suggested by an honorable gentleman, that this desire will operate as a demand. If a wish of Congress can bring them into the Union, why should we decline to express such a wish?

The previous question being insisted upon, was put—"Shall the main question be now put?" and it was determined in the negative. Adjourned.

MONDAY, June 8.

MICHAEL JENIFER STONE, from Maryland, appeared, and took his seat.

Department of Foreign Affairs.

The House then resolved itself into a Committee of the Whole on the bill for establishing an executive department, to be denominated the Department of Foreign Affairs. Mr. TRUMBULL in the chair.

The first clause, after recapitulating the title of the officer and his duties, had these words: "To be removable from office by the President of the United States."

Mr. WHITE.—The constitution gives the President the power of nominating, and, by and with the advice and consent of the Senate, appointing to office. As I conceive the power of appointing and dismissing to be united in their natures, and a principle that never was called in question in any Government, I am averse to that part of the clause which subjects the Secretary of Foreign Affairs to be removed at the will of the President. In the constitution, special provision is made for the removal of the judges; that I acknowledge to be a deviation from my principle; but as it is a constitutional provision, it is to be admitted. In all cases not otherwise provided for in the constitution, I take it, that the principle I have laid down is the governing one. Now the constitution has associated the Senate with the President in appointing the heads of departments. The Secretary of Foreign Affairs is the head of a department; for the words of the law declare, that there shall be a department established, at the head of which shall be an officer to be so denominated. If, then, the Senate are associated with the President in the appointment, they ought also to be associated in the dismissal from office. Upon the justness of this construction, I take the liberty of reviving the motion made in the Committee of the Whole, for striking out these words: "to be removable from office by the President of the United States."

Mr. SMITH, (of South Carolina.)—The gentleman has anticipated me in his motion; I am clearly in sentiment with him that the words ought to go out. It is in the recollection of the committee, that when the subject was last before us, this power was excepted to; and although the words were then allowed to stand, it was generally understood that it should be further debated. I then was opposed to giving this power to the President, and am still of opinion that we ought not to make this declaration, even if he has the power by the constitution.

I would premise that one of these two ideas is just: either that the constitution has given the President the power of removal, and therefore it is nugatory to make the declaration here; or it has not given the power to him, and therefore it is improper to make an attempt to confer it upon him. If it is not given to him by the constitution, but belongs conjointly to the President and Senate, we have no right to deprive the Senate of their constitutional prerogative; and it has been the opinion of sensible men that the power was lodged in this manner. A publication of no inconsiderable eminence in the class of political writings on the constitution, has advanced this sentiment. The author, or authors, (for I have understood it to be the production of two gentlemen of great information,) of the work published under the signature of *Publius*, has these words:

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"It has been mentioned as one of the advantages to be expected from the co-operation of the Senate in the business of appointments, that it would contribute to the stability of the administration. The consent of that body would be necessary to displace as well as appoint. A change of the Chief Magistrate, therefore, would not occasion so violent or so general a revolution in the officers of the Government, as might be expected if he were the sole disposer of offices. Where a man in any station has given satisfactory evidence of his fitness for it, a new President would be restrained from attempting a change in favor of a person more agreeable to him, by the apprehension that the discountenance of the Senate might frustrate the attempt, and bring some degree of discredit upon himself. Those who can best estimate the value of a steady administration, will be most disposed to prize a provision which connects the official existence of public men with the approbation or disapprobation of that body, which, from the greater permanency of its own composition, will, in all probability, be less subject to inconstancy than any other member of the Government."

Here this author lays it down, that there can be no doubt of the power of the Senate in the business of removal. Let this be as it may, I am clear that the President alone has not the power. Examine the constitution; the powers of the several branches of Government are there defined; the President has particular powers assigned him; the Judiciary have in like manner powers assigned them; but you will find no such power as removing from office given to the President. I call upon gentlemen to show me where it is said that the President shall remove from office. I know they cannot do it. Now, I infer from this, that, as the constitution has not given the President the power of removability, it meant that he should not have that power; and this inference is supported by that clause in the constitution which provides that all civil officers of the United States shall be removed from office on impeachment for, and on conviction of treason, bribery, or other high crimes and misdemeanors. Here is a particular mode described for removing; and if there is no other mode directed, I contend that the constitution contemplated only this mode.

I imagine, sir, we are declaring a power in the President which may hereafter be greatly abused; for we are not always to expect a Chief Magistrate in whom such entire confidence can be placed as in the present. Perhaps gentlemen are so much dazzled with the splendor of the virtues of the present President, as not to be able to see into futurity. The framers of the constitution did not confine their views to the first person who was looked up to to fill the Presidential chair. If they

had, they might have omitted those checks and guards with which the powers of the Executive are surrounded. They knew, from the course of human events, that they could not expect to be so highly favored of heaven as to have the blessing of his administration more than seven or fourteen years; after which, they supposed a man might get into power, who, it was possible, might misbehave. We ought to follow their example, and contemplate this power in the hands of an ambitious man, who might apply it to dangerous purposes. If we give this power to the President, he may, from caprice, remove the most worthy men from office. His will and pleasure will be the slight tenure by which an office is to be held, and of consequence you render the officer the mere state-dependant, the abject slave of a person who may be disposed to abuse the confidence his fellow-citizens have placed in him.

Mr. HUNTINGTON.—I think the clause ought not to stand. It was well observed that the constitution was silent respecting the removal, otherwise than by impeachment. I would likewise add, that it mentions no other cause of removal than treason, bribery, or other high crimes and misdemeanors. It does not, I apprehend, extend to cases of infirmity or incapacity. Indeed, it appears hard to me, that after an officer has become old in an honorable service, he should be impeached for this infirmity. The constitution, I think, must be the only rule to guide us on this occasion; as it is silent with respect to the removal, Congress ought to say nothing about it, because it implies that we have a right to bestow it, and I believe this power is not to be found among the enumerated powers delegated by the constitution to Congress.

Mr. SEDGWICK.—I wish the words to be struck out, because I conceive them to be unnecessary in this place. I do conceive, Mr. Speaker, that this officer will be the mere creature of the law; and that very little need be said to prove to you that of necessity this ought to be the case. I apprehend, likewise, that it requires but a small share of abilities to point out certain causes for which a person ought to be removed from office, without being guilty of treason, bribery, or malfeasance; and the nature of things demands that it should be so. Suppose, sir, a man becomes insane by the visitation of God, and is likely to ruin our affairs, are the hands of Government to be confined from warding off the evil? Suppose a person in office, not possessing the talents he was judged to have at the time of the appointment, is the error not to be corrected? Suppose he acquires vicious habits, an incurable indolence, or total neglect of the duties of his office, which forebode mischief to the public welfare, is there no way to arrest the threatened danger? Suppose he becomes odious and unpopular by reason of the measures which he pursues, (and this he may do without committing any positive offence against the law,) must he preserve his office in despite of the public will? Suppose him grasping at his own aggrandizement, and the elevation of his connections, by every means short of the treason defined by the constitution, hurrying your affairs to the precipice of destruction, endangering your domestic tranquillity, plundering you of the means of defence, by alienating the affections of your allies, and promoting the spirit of discord; is there no way suddenly to seize the worthless wretch, and hurl him from the pinnacle of power? Must the tardy, tedious, desultory road, by way of impeachment, be travelled to overtake the man who, barely confining himself within the letter of the law, is employed in drawing off the vital principle of the Government? Sir, the nature of things, the great objects of society, the express objects of this constitution, require that this thing should be otherwise. Well, sir, this is admitted by gentlemen; but they say the Senate is to be united with the President in the exercise of this power. I hope, sir, that is not the case; because it would involve us in the most serious difficulty. Suppose a discovery of any of those events which I have just enumerated were to take place when the Senate is not in session, how is the remedy to be applied? This is a serious consideration, and the evil could be avoided no other way than by the Senate's sitting always. Surely no gentleman of this House contemplates the necessity of incurring such an expense. I am sure it will be very objectionable to our constituents; and yet this must be done, or the public interest be endangered by keeping an unworthy officer in place until that body shall be assembled from the extremes of the Union. It has been said that there is a danger of this power being abused if exercised by one man. Certainly the danger is as great with respect to the Senate, who are assembled from various parts of the continent, with different impressions and opinions. It appears to me that such a body is more likely to misuse this power than the man whom the united voice of America calls to the Presidential chair. As the nature of the Government requires the power of removal, I think it is to be exercised in this way by a hand capable of exerting itself with effect, and, the power must be conferred upon the President by the constitution, as the executive officer of the Government.

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Mr. MADISON.—If the construction of the constitution is to be left to its natural course with respect to the executive powers of this Government, I own that the insertion of this sentiment in law may not be of material importance, though, if it is nothing more than a mere declaration of a clear grant made by the constitution, it can do no harm; but if it relates to a doubtful part of the constitution, I suppose an exposition of the constitution may come with as much propriety from the Legislature, as any other department of the Government. If the power naturally belongs to the Government, and the constitution is undecided as to the body which is to exercise it, it is likely that it is submitted to the discretion of the Legislature, and the question will depend upon its own merits.

I am clearly of opinion with the gentleman from South Carolina, (Mr. SMITH,) that we ought in this, and every other case, to adhere to the constitution, so far as it will serve as a guide to us, and that we ought not to be swayed in our decisions by the splendor of the character of the present Chief Magistrate, but to consider it with respect to the merit of men who, in the ordinary course of things, may be supposed to fill the chair. I believe the power here declared is a high one, and, in some respects, a dangerous one; but, in order to come to a right decision on this point, we must consider both sides of the question: the possible abuses which may spring from

the single will of the First Magistrate, and the abuse which may spring from the combined will of the Executive and the Senatorial disqualification.

When we consider that the First Magistrate is to be appointed at present by the suffrages of three millions of people, and in all human probability in a few years' time by double that number, it is not to be presumed that a vicious or bad character will be selected. If the Government of any country on the face of the earth was ever effectually guarded against the election of ambitious or designing characters to the first office of the State, I think it may with truth be said to be the case under the constitution of the United States. With all the infirmities incident to a popular election, corrected by the particular mode of conducting it, as directed under the present system, I think we may fairly calculate that the instances will be very rare in which an unworthy man will receive that mark of the public confidence which is required to designate the President of the United States. Where the people are disposed to give so great an elevation to one of their fellow-citizens, I own that I am not afraid to place my confidence in him, especially when I know he is impeachable for any crime or misdemeanor before the Senate, at all times; and that, at all events, he is impeachable before the community at large every four years, and liable to be displaced if his conduct shall have given umbrage during the time he has been in office. Under these circumstances, although the trust is a high one, and in some degree, perhaps, a dangerous one, I am not sure but it will be safer here than placed where some gentlemen suppose it ought to be.

Mr. VINING.—I hoped, Mr. Chairman, after the discussion this subject had received on a former occasion, that it would have been unnecessary to re-examine it. The arguments against the clause are reiterated: but, I trust, without a chance of success. They were fully answered before; and I expect the impressions made at that time are not already effaced. The House, as well as the Committee of the Whole, have determined that those words shall be inserted in the bill; the special committee could therefore do no less than place them where they are; a deference is due to the decision of the House.

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The House has determined to make a declaration of their construction of the constitution. I am perfectly in sentiment with the majority on this occasion; and contend, that if this power is not in the President, it is not vested in any body whatever. It cannot be within the legislative power of the Senate, because it is of an adverse nature; it cannot be within the executive power of the Senate, because they possess none but what is expressly granted by the constitution. If gentlemen will point out where the constitution confers this power upon the Senate, I will read my recantation, and subscribe to the justness of their doctrine.

I am not satisfied that removability shall be acquired only by impeachment. Were the advocates of this doctrine aware of its consequences, when they advanced it? The Senate has the sole power of trying impeachments; the President is here out of the question. If no officer can be constitutionally removed but by impeachment, it applies to subordinate officers as well as heads of departments. For the constitution only gives power to Congress to establish officers by law, and vests the appointment in the President. If these officers are not removable but by impeachment, what is to become of our affairs, when any of the accidents occur which were enumerated by the gentleman from Massachusetts (Mr. SEDGWICK)? Are we to take the circuitous route of impeachment? The dilatory and inefficient process by that mode, will not apply the remedy to the evil till it is too late to be of advantage. Experience has fixed an eternal stigma upon the system of impeachment; witness the case I mentioned, the other day, of Warren Hastings before the British Lords; what delays and uncertainty with the forms of trial, details of evidence, arguments of counsel, and deliberate decision! I ask gentlemen, can there be a greater evil than this in any Government? Why, then, will gentlemen advocate a doctrine so obnoxious to the principles of the constitution, when a more favorable construction is at hand?

Mr. WHITE.—Mention has been made of impeachments, as the only mode of removing an officer. I will explain my ideas on this point, in order that the committee may be masters of my particular objections to the clause. I consider impeachments necessary to be employed in cases respecting an officer who is appointed during good behavior. Thus the judges can only be removed by impeachment. The President and Vice President hold their offices for the terms mentioned in the constitution, not liable to be removed from office in any other way. These circumstances are a deviation from my general principle; but have nevertheless a proper ground to be supported on. The electors who appoint the President, cannot assemble to exercise the authority which would naturally be in them. With respect to the judges, it is found necessary for the proper and uncorrupt administration of justice, and the security of freedom, to have them independent in their stations, so that they be not removable at pleasure. To them, therefore, the doctrine of impeachment is peculiarly applicable. It may properly be extended further, in cases where the President is desirous of retaining an officer who ought not to be retained. This House has the power of controlling him, and may impeach the officer before the Senate. In either of these three cases impeachments are necessary.

Mr. BOUDINOT.—This is a question, Mr. Speaker, that requires full consideration, and ought only to be settled on the most candid discussion. It certainly involves the right of the Senate to a very important power. At present, I am so impressed with the importance of the subject, that I dare not absolutely decide on any principle, although I am firmly persuaded we ought to retain the clause in the bill; and, so far as it has been examined, I agree that it is a legislative construction of the constitution, necessary to be settled for the direction of your officers. But if it is a deviation from the constitution, or in the least degree an infringement upon the authority of the other branch of the Legislature, I shall most decidedly be against it. But I think it will appear, on a full consideration of this business, that we can do no otherwise than agree to this construction, in order to preserve to each department the full exercise of its powers, and to give this House

security for the proper conduct of the officers who are to execute the laws.

Mr. SMITH, (of South Carolina.)—I have attended to the arguments of the gentlemen who oppose the motion for striking out, and I apprehend that their reasoning is not perfectly consistent. The construction of some gentlemen is, that the power of removal is given to the President by the constitution. Others are of opinion that the constitution is silent; and therefore the House ought to give it. To oppose these adverse arguments, I must return to my strong ground on which my opponents dare not venture. I state again, that if the constitution has given the power, it is unnecessary to give it here; or if it has not given it, we have no right to confer it, because it is not within the enumerated powers delegated to Congress.

Gentlemen have said that it is proper to give a legislative construction of the constitution. I differ with them on this point. I think it an infringement of the powers of the Judiciary. It is said, we ought not to blend the legislative, executive, or judiciary powers, further than is done by the constitution; and yet the advocates for preserving each department pure and untouched by the others, call upon this House to exercise the powers of the judges in expounding the constitution. What authority has this House to explain the law? But if it has this privilege, the Senate is also invested with it as part of the Legislature; and, in exercising it on the present question, we shall be likely to differ. If the constitution is silent, and gentlemen admit this, it is possible the Senate may view it with a favorable eye to their own right, and reject the bill on account of this clause. A great deal of mischief has arisen in the several States, by the Legislatures undertaking to decide constitutional questions. Sir, it is the duty of the Legislature to make laws; your judges are to expound them.

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Mr. GERRY.—Some gentlemen consider this as a question of policy; but to me it appears a question of constitutionality, and I presume it will be determined on that point alone. The best arguments I have heard urged on this occasion came from the honorable gentleman from Virginia, (Mr. MADISON.) He says the constitution has vested the executive power in the President; and that he has a right to exercise it under the qualifications therein made. He lays it down as a maxim, that the constitution vesting in the President the executive power, naturally vests him with the power of appointment and removal. Now I would be glad to know from that gentleman by what means we are to decide this question. Is his maxim supported by precedent drawn from the practice of the individual States? The direct contrary is established. In many cases the Executives are not in particular vested with the power of appointment; and do they exercise that power by virtue of their office? It will be found that other branches of the Government make appointments. How then can gentlemen assert that the powers of appointment and removal are incident to the Executive Department of Government? To me it appears at best but problematical. Neither is it clear to me that the power that appoints naturally possesses the power of removal. As we have no certainty on either of these points, I think we must consider it as established by the constitution.

It appears very clear to me, that however this power may be distributed by the constitution, the House of Representatives have nothing to do with it. Why then should we interfere in the business? Are we afraid that the President and Senate are not sufficiently informed to know their respective duties? Our interposition argues that they want judgment, and are not able to adjust their powers without the wisdom of this House to assist them; to say the least on this point, it must be deemed indelicate for us to intermeddle with them. If the fact is, as we seem to suspect, that they do not understand the constitution, let it go before the proper tribunal; the judges are the constitutional umpires on such questions. Why, let me ask gentlemen, shall we commit an infraction of the constitution for fear the Senate or President should not comply with its directions?

Mr. AMES.—When this question was agitated at a former period, I took no part in the debate. I believe it was then proposed, without any idea or intention of drawing on a lengthy discussion, and to me it appeared to be well understood and settled by the House; but since it has been reiterated and contested again, I feel it my bounden duty to deliver the reasons for voting in the manner I then did, and shall now do. Mr. Chairman, I look upon every question which touches the constitution as serious and important, and therefore worthy of the fullest discussion, and the most solemn decision. I believe, on the present occasion, we may come to something near certainty, by attending to the leading principles of the constitution. In order that the good purposes of a Federal Government should be answered, it was necessary to delegate considerable powers; and the principle upon which the grant was made, intended to give sufficient power to do all possible good, but to restrain the rulers from doing mischief.

The constitution places all executive power in the hands of the President, and could he personally execute all the laws, there would be no occasion for establishing auxiliaries; but the circumscribed powers of human nature in one man, demand the aid of others. When the objects are widely stretched out, or greatly diversified, meandering through such an extent of territory as that the United States possess, a minister cannot see with his own eyes every transaction, or feel with his hands the minutiae that pass through his department. He must therefore have assistants. But in order that he may be responsible to his country, he must have a choice in selecting his assistants, a control over them, with power to remove them when he finds the qualifications which induced their appointment cease to exist. There are officers under the constitution who hold their office by a different tenure—your judges are appointed during good behavior; and from the delicacy and peculiar nature of their trust, it is right it should be so, in order that they may be independent and impartial in administering justice between the Government and its citizens. But the removability of the one class, or immovability of the other, is founded on the same principle, the security of the people against the abuse of power. Does any gentleman imagine that an officer is entitled to his office as to an estate? Or does the Legislature establish them for the

convenience of an individual? For my part I conceive it intended to carry into effect the purposes for which the constitution was intended.

The executive powers are delegated to the President, with a view to have a responsible officer to superintend, control, inspect, and check the officers necessarily employed in administering the laws. The only bond between him and those he employs, is the confidence he has in their integrity and talents; when that confidence ceases, the principal ought to have power to remove those whom he can no longer trust with safety. If an officer shall be guilty of neglect or infidelity, there can be no doubt but he ought to be removed; yet there may be numerous causes for removal which do not amount to a crime. He may propose to do a mischief; but I believe the mere intention would not be cause of impeachment. He may lose the confidence of the people upon suspicion, in which case it would be improper to retain him in service; he ought to be removed at any time, when, instead of doing the greatest possible good, he is likely to do an injury to the public interest by being continued in the administration.

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I presume gentlemen will generally admit that officers ought to be removed when they become obnoxious; but the question is, how shall this power be exercised? It will not, I apprehend, be contended, that all officers hold their offices during good behavior. If this be the case, it is a most singular Government. I believe there is not another in the universe that bears the least semblance to it in this particular; such a principle, I take it, is contrary to the nature of things. But the manner how to remove is the question. If the officer misbehaves, he can be removed by impeachment; but in this case is impeachment the only mode of removal? It would be found very inconvenient to have a man continued in office after being impeached, and when all confidence in him was suspended or lost. Would not the end of impeachment be defeated by this means? If Mr. Hastings, who was mentioned by the gentleman from Delaware (Mr. VINING) preserved his command in India, could he not defeat the impeachment now pending in Great Britain? If that doctrine obtains in America, we shall find impeachments come too late; while we are preparing the process, the mischief will be perpetrated, and the offender will escape. I apprehend it will be as frequently necessary to prevent crimes as to punish them; and it may often happen that the only prevention is by removal. The superintending power possessed by the President, will perhaps enable him to discover a base intention before it is ripe for execution. It may happen that the Treasurer may be disposed to betray the public chest to the enemy, and so injure the Government beyond the possibility of reparation; should the President be restrained from removing so dangerous an officer, until the slow formality of an impeachment was complied with, when the nature of the case rendered the application of a sudden and decisive remedy indispensable?

But it will, I say, be admitted, that an officer may be removed. The question then is, by whom? Some gentlemen say by the President alone; and others, by the President, by and with the advice of the Senate. By the advocates of the latter mode, it is alleged, that the constitution is in the way of the power of removal being by the President alone. If this is absolutely the case, there is an end to all further inquiry. But before we suffer this to be considered as an insuperable impediment, we ought to be clear that the constitution prohibits him the exercise of what, on a first view, appears to be a power incident to the executive branch of the Government. The gentleman from Virginia (Mr. MADISON) has made so many observations to evince the constitutionality of the clause, that it is unnecessary to go over the ground again. I shall therefore confine myself to answer only some remarks made by the gentleman from South Carolina, (Mr. SMITH.) The powers of the President are defined in the constitution; but it is said, that he is not expressly authorized to remove from office. If the constitution is silent also with respect to the Senate, the argument may be retorted. If this silence proves that the power cannot be exercised by the President, it certainly proves that it cannot be exercised by the President, by and with the advice and consent of the Senate. The power of removal is incident to Government; but not being distributed by the constitution, it will come before the Legislature, and, like every other omitted case, must be supplied by law.

Mr. LIVERMORE.—I am for striking out this clause, Mr. Chairman, upon the principles of the constitution, from which we are not at liberty to deviate. The honorable gentleman from Massachusetts, (Mr. SEDGWICK,) calls the Minister of Foreign Affairs the creature of the law, and that very properly; because the law establishes the office, and has the power of creating him in what shape the Legislature pleases. This being the case, we have a right to create the office under such limitations and restrictions as we think proper, provided we can obtain the consent of the Senate; but it is very improper to draw as a conclusion, from having the power of giving birth to a creature, that we should therefore bring forth a monster, merely to show we had such power. I call that creature a monster that has not the proper limbs and features of its species. I think the creature we are forming is unnatural in its proportions. It has been often said, that the constitution declares the President, by and with the advice and consent of the Senate, shall appoint this officer. This, to be sure, is very true, and so is the conclusion which an honorable gentleman (Mr. WHITE) from Virginia drew from it, that an officer must be discharged in the way he was appointed.

I believe, Mr. Chairman, this question depends upon a just construction of a short clause in the constitution. "The President shall have power, by and with the advice and consent of the Senate, to appoint ambassadors, other public ministers and consuls, judges of Supreme Court, and all other officers of the United States." Here is no difference with respect to the power of the President to make treaties and appoint officers, only it requires in the one case a larger majority to concur than in the other. I will not by any means suppose that gentlemen mean, when they argue in favor of removal by the President alone, to contemplate the extension of the power to

the repeal of treaties; because, if they do, there will be little occasion for us to sit here. But let me ask these gentlemen, as there is no real or imaginary distinction between the appointment of ambassadors and ministers, or Secretaries of Foreign Affairs, whether they mean that the President should have the power of recalling or discarding ambassadors and military officers, for the words in the constitution are "all other officers," as well as he can remove your Secretary of Foreign Affairs. To be sure, they cannot extend it to the judges; because they are secured under a subsequent article, which declares they shall hold their offices during good behavior; they have an inheritance which they cannot be divested of, but on conviction of some crime. But I presume gentlemen mean to apply it to all those who have not an inheritance in their offices. In this case, it takes the whole power of the President and Senate to create an officer, but half the power can uncreate him. Surely a law passed by the whole Legislature cannot be repealed by one branch of it; so I conceive, in the case of appointments, it requires the same force to supersede an officer as to put him in office.

I acknowledge, that the clause relative to impeachment is for the benefit of the people; it is intended to enable their representatives to bring a bad officer to justice who is screened by the President; but I do not conceive, with the honorable gentleman from South Carolina, (Mr. SMITH,) that it by any means excludes the usual ways of superseding officers. It is said in the constitution, that the House shall have the power of choosing their own officers. We have chosen a clerk, and, I am satisfied, a very capable one; but will any gentleman contend we may not discharge him and choose another and another as often as we see cause? And so it is in every other instance; where they have the power to make, they have likewise the power to unmake. It will be said by gentlemen, that the power to make does not imply the power of unmaking; but I believe they will find very few exceptions in the United States.

Mr. SHERMAN.—I wish, Mr. Chairman, that the words may be left out of the bill, without giving up the question either way as to the propriety of the measure. Many of the honorable gentlemen who advocate this clause have labored to show that the President has, constitutionally, the power of removal. If this be a well-founded opinion, they ought not to let the words remain in the bill, because they are of such a nature as to imply that he had not the power before it was granted him by the law.

If gentlemen would consent to make a general law, declaring the proper mode of removal, I think we should acquire a greater degree of unanimity, which, on this occasion, must be better than carrying the question against a large minority.

The call for the question being now very general, it was put, shall the words "to be removable by the President," be struck out?

It was determined in the negative; being yeas 20, nays 34.

WEDNESDAY, June 24.

Department of Foreign Affairs.

The engrossed bill "for establishing an Executive Department, to be denominated the Department of Foreign Affairs," was read the third time.

Mr. SUMTER.—This bill appears to my mind so subversive of the constitution, and in its consequences so destructive to the liberties of the people, that I cannot consent to let it pass without expressing my detestation of the principle it contains. I do it in this public manner, in order to fulfil what I think to be my duty to my country, and to discharge myself of any concern in a matter that I do not approve.

Mr. PAGE discovered the fate of the bill; he knew it must pass, but, nevertheless, he would decidedly give it his negative, and he hoped the respectable minority which he had the honor of voting with hitherto on the question of removability, would unite with him firmly in their opposition; and in order to record to their constituents the sentiments they maintained, he moved to take the question by the yeas and nays.

One-fifth of the members present joined in requiring the yeas and nays; whereupon they were taken, and are,

YEAS.—MESSRS. AMES, BENSON, BOUDINOT, BROWN, BURKE, CADWALADER, CARROLL, CLYMER, CONTEE, FITZSIMONS, GILMAN, GOODHUE, GRIFFIN, HARTLEY, HEISTER, HUGER, LAWRENCE, LEE, MADISON, MOORE, MUHLENBERG, SCHUREMAN, SCOTT, SEDGWICK, SENEY, SINNICKSON, SYLVESTER, TRUMBULL, and VINING.—29.

NAYS.—MESSRS. COLES, GERRY, GROUT, HATHORN, HUNTINGTON, JACKSON, LEONARD, LIVERMORE, MATTHEWS, PAGE, PARKER, PARTRIDGE, VAN RENSSELAER, SHERMAN, SMITH, of Maryland, SMITH, of South Carolina, STONE, STURGIS, SUMTER, THATCHER, TUCKER, and WHITE.—22.

So the question was determined in the affirmative, and the clerk directed to carry the bill to the Senate, and desire their concurrence.

Department of War.

The House then went into a committee on the bill for establishing the Department of War. Mr. TRUMBULL in the chair.

Mr. BENSON proposed, with respect to the Secretary's being removable by the President, a similar amendment to that which had been obtained in the bill establishing the Department of Foreign Affairs.

Mr. SHERMAN thought it unnecessary to load this bill with any words on that subject; he conceived the gentleman ought to be satisfied with having had the principle established in the other bill.

Mr. PAGE was of the same opinion, but further thought it argued a doubt, even in the mind of the majority, of the truth of their principles, and they wanted, by repetition, to force that upon the mind which was not impressed by right reason. The question on the amendment was taken without further debate, and carried in the affirmative, twenty-four to twenty-two.

Some other small alterations being made, the committee rose, and reported the bill as amended; which being partly considered, the House adjourned. [Pg 109]

THURSDAY, June 25.

Department of War.

The House resumed the consideration of the amendments reported by the Committee of the Whole to the bill for establishing the War Department; which being agreed to, the bill was ordered to be engrossed.

Treasury Department.

The House then resolved itself into a Committee of the Whole on the bill for establishing the Treasury Department, Mr. TRUMBULL in the chair. The second clause being under consideration,

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

Mr. TUCKER.—The objection made by the gentleman near me is, undoubtedly, well founded. I think it proper to strike out all the words alluded to, because the following are sufficient to answer every valuable purpose, namely, "to prepare and report estimates of the public revenue and public expenditures." If we authorize him to prepare and report plans, it will create an interference of the executive with the legislative powers; it will abridge the particular privilege of this House; for the constitution expressly declares, that all bills for raising revenue shall originate in the House of Representatives. How can the business originate in this House, if we have it reported to us by the Minister of Finance? All the information that can be required, may be called for, without adopting a clause that may undermine the authority of this House, and the security of the people. The constitution has pointed out the proper method of communication between the executive and legislative departments; it is made the duty of the President to give, from time to time, information to Congress of the state of the Union, and to recommend to their consideration such measures as he shall judge necessary and expedient. If revenue plans are to be prepared and reported to Congress, here is the proper person to do it; he is responsible to the people for what he recommends, and will be more cautious than any other person to whom a less degree of responsibility is attached. Under this clause, you give the Secretary of the Treasury a right to obtrude upon you plans, not only undigested, but even improper to be taken up.

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

Mr. BENSON.—If the proposed amendment prevail, the bill will be nearly nugatory. The most important service that can be rendered by a gentleman who is at the head of the Department of Finance, is that of digesting and reporting plans for the improvement of the revenue, and supporting public credit; and, for my part, I shall despair of ever seeing your revenue improved, or the national credit supported, unless the business is submitted into the hands of an able individual. I thought this subject was well understood, from the debate on the original motion. It was then insisted upon by an honorable gentleman, Mr. GERRY, who opposed the appointment of a Secretary of the Treasury, that his important duties ought to be "to consider of the means of improving the revenue, and introducing economy into the expenditures, and to recommend general systems of revenue." Now, what more than this is required by the clause?

For my part, I am at a loss to see how the privilege of the House is infringed. Can any of the

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

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

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Mr. PAGE.—I can never consent to establish, by law, this interference of an executive officer in business of legislation; it may be well enough in an absolute monarchy, for a minister to come to a Parliament with his plans in his hands, and order them to be enregistered or enacted; but this practice does not obtain even in a limited monarchy like Britain. The minister there, who introduces his plans, must be a member of the House of Commons. The man would be treated with indignation, who should attempt in that country to bring his schemes before Parliament in any other way. Now, why we, in the free republic of the United States, should introduce such a novelty in legislation, I am at a loss to conceive. The constitution expressly delegates to us the business of the revenue; our constituents have confidence in us, because they suppose us acquainted with their circumstances; they expect, in consequence of this knowledge, we will not attempt to load them with injudicious or oppressive taxes; but they have no such security, if we are blindly to follow perhaps an unskilful minister. It does not answer me, Mr. Chairman, to say the House has a right of deliberating and deciding upon these plans, because we may be told, if you prune away this part or that part of the system, you destroy its efficiency. Therefore we must act with caution; we must either take or reject the whole; but if we reject the whole, sir, we are to depend upon ourselves for a substitute. How are we to form one? For my part, I should not despair, that the united wisdom of this House could procure one; but if we are to do this in the second instance, why cannot we attempt it in the first? I have no objection to our calling upon this or any other officer for information; but it is certainly improper to have him authorized by law to intrude upon us whatever he may think proper. I presume, sir, it is not supposed by the worthy gentleman from New York (Mr. BENSON) that we shall be at a loss to conceive what information would be useful or proper for us to require, that we must have this officer to present us with what he chooses. When the President requires an opinion of him, the constitution demands him to give it; so under the law, let him send his opinion in here when it is asked for. If any further power is given him, it will come to this at last: we, like the Parliament of Paris, shall meet to register what he dictates. Either these reports of the Secretary are to have weight, or they are not; if they are to have weight, the House acts under a foreign influence, which is altogether improper and impolitic; if they are to have no weight, we impose a useless duty upon the officer, and such as is no mark of our wisdom.

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

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

Mr. LIVERMORE.—I shall vote for striking out the clause, because I conceive it essentially necessary so to do. The power of originating money bills within these walls, I look upon as a sacred deposit which we may neither violate nor divest ourselves of, although at first view it may appear of little importance who shall form a plan for the improvement of the revenue. Although every information tending to effect this great object may be gratefully received by this House, yet it behoves us to consider to what this clause may lead, and where it may terminate. Might it not, by construction, be said that the Secretary of the Treasury has the sole right of digesting and reporting plans for the improvement of the revenue? This construction may appear a little

extraordinary, but it is not more so than some constructions heretofore put upon other words; but however extraordinary it may be, it may take place, and I think the best way to avoid it, will be to leave out the words altogether. It is certainly improper that any person, not expressly intrusted by our constituents with the privilege of taking their money, should direct the quantum and the manner in which to take it.

Mr. SEDGWICK.—If the principle prevails for curtailing this part of the Secretary's duty, we shall lose the advantages which the proposed system was intended to acquire. The improvement and management of the revenue is a subject that must be investigated by a man of abilities and indefatigable industry, if we mean to have our business advantageously done. If honorable gentlemen will for a moment consider the peculiar circumstances of this country, the means of information attainable by the individual members of this House, and compare them with the object they have to pursue, they will plainly perceive the necessity of calling to their aid the advantages resulting from an establishment like the one contemplated in the bill; if they weigh these circumstances carefully, their objections, I trust, will vanish.

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

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

Mr. HARTLEY rose to express his sentiments, as he did on every occasion, with diffidence in his own abilities; but he looked upon the clause as both unsafe and inconsistent with the constitution. He thought the gentleman last up proved too much by his arguments; he proved that the House of Representatives was, in fact, unnecessary and useless; that one person could be a better judge of the means to improve and manage the revenue, and support the national credit, than the whole body of Congress. This kind of doctrine, Mr. Chairman, is indelicate in a republic, and strikes at the root of all legislation founded upon the great democratic principle of representation. It is true, mistakes, and very injurious ones, have been made on the subject of finance by some State Legislatures; but I would rather submit to this evil, than, by my voice, establish tenets subversive of the liberties of my country.

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

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

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

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

Do gentlemen, said he, consider the importance of the power they give the officer by the clause? Is it not part of our legislative authority? And does not the constitution expressly declare that the House solely shall exercise the power of originating revenue bills? Now, what is meant by reporting plans? It surely includes the idea of originating money bills, that is, a bill for improving the revenue, or, in other words, for bringing revenue into the treasury. For if he is to report plans, they ought to be reported in a proper form, and complete. This is giving an indirect voice in legislative business to an executive officer. If this be not the meaning of the clause, let gentlemen say what is, and to what extent it shall go; but if my construction is true, we are giving up the most essential privilege vested in us by the constitution. But what does this signify? The

officer is responsible, and we are secure. This responsibility is made an argument in favor of every extension of power. I should be glad to understand the term. Gentlemen say the Secretary of the Treasury is responsible for the information he gives the House—in what manner does this responsibility act? Suppose he reports a plan for improving the revenue, by a tax which he thinks judicious, and one that will be agreeable to the people of the United States; but he happens to be deceived in his opinion, that his tax is obnoxious, and excites a popular clamor against the minister—what is the advantage of his responsibility? Nothing. Few men deserve punishment for the error of opinion; all that could be done would be to repeal the law, and be more cautious in future in depending implicitly on the judgment of a man who had led us into an impolitic measure. Suppose the revenue should fall short of his estimate, is he responsible for the balance? This will be carrying the idea further than any Government hitherto has done. What then is the officer to be responsible for, which should induce the House to vest in him such extraordinary powers?

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

Mr. MADISON.—After hearing and weighing the various observations of gentlemen, I am at a loss to see where the danger lies. These are precisely the words used by the former Congress, on two occasions, one in 1783, the other in a subsequent ordinance, which established the Revenue Board. The same power was also annexed to the office of Superintendent of Finance, but I never yet heard that any inconvenience or danger was experienced from the regulation; perhaps, if the power had been more fully and frequently exercised, it might have contributed more to the public good.

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

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

With respect to originating money bills, the House has the sole right to do it; but if the power of reporting plans can be construed to imply the power of originating revenue bills, the constitution is inconsistent with itself, in giving the President authority to recommend such measures as he may think expedient or necessary; but the construction is too unnatural to require further investigation.

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

Mr. STONE was not afraid of giving the officer the power of reporting plans, because he was sure Congress would, in every case, decide upon their own judgment. A future Congress would not pay such a deference, even to their predecessors, as to follow in their footsteps, unless they were convinced of the good policy of their measures. He thought if the House wanted to make use of the information acquired by the Secretary, they ought to give him notice of their intention; consequently, something of this kind was proper in the bill.

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

Mr. Baldwin.—I do not see what we are guarding against by striking out the words, unless gentlemen mean to go so far as to introduce a prohibitory clause, and declare that the Secretary

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

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

Mr. PAGE's motion for striking out the clause being put and negatived:

The question on Mr. FITZSIMON's motion to amend the bill, by striking out the word report, and inserting prepare, was taken and carried by a great majority.

After which the House adjourned.

FRIDAY, June 26.

A number of the members attending the interesting conference which to-day took place with the Senate on the impost and tonnage bills, no business was done in this House.

Saturday, June 27.

Revenue Bill.

Mr. *Boudinot*, from the managers on the part of this House in the conference with the Senate on the subject of the amendments to the Impost Bill, reported that the conference had agreed to pass the bill as amended by the Senate, with some additional amendments, viz: the duty on distilled spirits of Jamaica proof, to be reduced from fifteen cents to ten cents per gallon. The duty on all other spirits, to be reduced from twelve to eight cents per gallon. The duty on beer, ale, porter, or cider, imported in casks, from eight to five cents per gallon. The duty on beer imported in bottles, from twenty-five to twenty cents per gallon. The duty on coal, from three to two cents per bushel.

MONDAY, July 13.

Western Lands.

The House resolved itself into a Committee of the Whole on the state of the Union. Mr. BOUDINOT in the chair.

Mr. SCOTT requested that the report of the committee on the Western Territory might be read, which was read accordingly, as follows:

Resolved, That it is the opinion of this committee, that an act of Congress should pass for establishing a Land Office, and to regulate the terms of granting vacant and unappropriated lands in the Western Territory.

Mr. SCOTT.—In endeavoring, sir, to open the interesting subject now before you, I shall avoid the repetition of those ideas which I threw out on a former occasion, as far as my memory will serve me, and the nature of the subject will permit.

This subject, sir, will appear of great magnitude in point of interest, if we consider the extent of the territory; I think I shall not be far beyond the mark, if I say it is one thousand miles long by five hundred broad; nor if I say it is sufficient to contain two millions of farms; nevertheless, for greater caution, say it will contain one million, (which is notoriously and greatly within the real contents,) and that each of these farms may be peopled by six souls, they will amount to six millions of inhabitants, double the number of the present inhabitants of the United States. From this view, it is an object of great concern. It will appear also an object of concern, if we contemplate the climate, the soil, and the waters of that country; consider that it lies in the heart of the temperate zone; its soil infinitely more rich and more fertile than any in the Atlantic States; its waters pure and good—in a word, it is such a territory as must command inhabitants, and will be peopled. Its situation in the middle of our continent, gives the climate a salubrity that accommodates it to the emigrants from both Northern and Southern States. It is meeting them on a middle ground, softening the harsh restrictions of the rugged North, and breathing bland the zephyr grateful to the sun-scorched South. In short, it is such as gives to all who have seen it the utmost satisfaction—it is both healthy and agreeable.

It may perhaps be objected, that the measure now proposed will lead or tend to a depopulation of the Atlantic States, and therefore ought not to be adopted. This is a circumstance I by no means wish. I am as far from desiring a depopulation of the Atlantic shores, as I am from fearing it on this ground. I am confident it will not operate in any considerable degree to bring about that

event; but if it should be thought it would, that could be no solid objection against the measure. Whilst the desire of emigration continues, and lands are to be procured, settlers will find their way into that territory; nor is it in the power of Congress to withhold lands altogether, because they are to be got of others on better terms. There is superior encouragement held out to the people settling on the other side of the river Mississippi, where the soil is fertile, and the climate equally agreeable. In proof of this assertion, I will read to the committee the translation of a kind of proclamation issued by the Governor of the Spanish posts at the Illinois. [This paper contains an invitation to all persons inclined to settle in the Western country, offering as inducements, lands without charge, exemptions from taxes, protection in civil and religious liberties, besides provision and the implements of husbandry.] After this, Mr. S. proceeded: Now, sir, if Congress fear to sell their lands lest it tend to depopulate the Atlantic States, what must they apprehend from propositions like these? They will certainly have all the effect which encouragement from this quarter can have. It may be said, that Americans will not venture to live under the Spanish Government, or settle a Spanish colony. To this it may be replied, that when people, from their necessities or inclinations, are determined to emigrate, in order to mitigate their distresses, they think little of the form of government; all they care for is relief from their present or approaching wants and troubles.

Nobody will emigrate from the Atlantic States but a certain description of men, and they will go whether you hold out this encouragement to them or not; they will pay little regard to Congressional restrictions. And here let me make one remark, drawn from my own observation. The forming settlements in a wilderness upon the frontiers, between the savages and the least populated of the civilized parts of the United States, requires men of enterprising, violent, nay, discontented and turbulent spirits. Such always are our first settlers in the ruthless and savage wild; they serve as pioneers to clear the way for the more laborious and careful farmer. These characters are already in that country by thousands, and their number is daily increasing, and will continue to increase; for congenial spirits will assimilate maugre all our endeavors to the contrary. But how will you prevent them? I should be glad to see a plan for hemming in the emigration to that territory; I think the thing wholly impracticable, therefore it becomes the immediate interest of Congress, to direct the emigration to a proper point; direct it to their own territory, rather than be inactive spectators of its silent, though rapid course to the Spanish and British dependencies; rather sell your lands and get something for them, than let your citizens leave your dominions. By improving a part, you add to the value of the remainder; their population will produce a hardy race of husbandmen and warriors, always at the command of the United States, to support and defend your liberty and property. These being facts, I leave it to the wisdom of the House to draw the inference.

I will make one further remark, with respect to the encouragement or discouragement of emigration. Suppose it was in the power of Congress to stop the course of the impetuous current, which has already won its way through insuperable obstructions, and spread itself over the fertile lands of the Ohio. I ask, with perfect security, if it is not such an act of contumacy, and inconsistency with the fundamental principles of the Government, that Congress could not adopt it? Consider that many of your citizens are destitute of the comforts, nay, the common necessaries of life, without a prospect of providing for the subsistence of themselves and families: I ask, would Congress prevent the emigration of such persons if they could? I think not; they would not act as kind protecting fathers to their people if they did. I presume this would be too serious an objection for any man to face, with a restraining proposition. I question if any man would be hardy enough to point out a class of citizens by name, that ought to be the servants of the community; yet, unless that is done, to what class of the people could you direct such a law? But if you passed such an act, it would be tantamount to saying that there is some class which must remain here, and by law must be obliged to serve the others, for such wages as they please to give.

This being the case, let us make the best of liberty, our people, and our land. Your citizens, I tell you, are already there by thousands; they are going by thousands more, and are every hour growing up into consequence. They never expect to return into the Atlantic States; plant them in your soil, add this wealth of population to your own, and form an empire illustrious as it is extended. Remember, ye sages of my country, an historic truth recorded for your instruction, that empire has been slowly, but invariably, moving from East to West; emigration has uniformly receded in that direction, from the time that our common parents quitted the garden of Eden, till the present hour; nor doubt but it will continue to pursue that course, as long as there are lands to be inhabited.

Much will depend upon the energy and force of the Government established in that country; it ought to be such as will furnish sufficient power for its own internal purposes, and also to secure it to the Union. But that is not the only tie by which its union is held. That country is attached to the Atlantic States by its natural situation. To be convinced of this truth, nothing more is necessary than to look upon the chart: all the commerce of that country must come through the States upon the sea-coast. We know, at Pittsburg, that we are a thousand miles nearer to the market than settlers at the mouth of the Ohio river. When we export our produce by that and the Mississippi, we know we can get easier home with our returns by the way of Philadelphia, than the others can by turning up and stemming the current of the Mississippi. Therefore, the imports for all that territory must come through the United States. From these considerations, I conclude it would be madness in the extreme for them to think of a separation, unless they were driven to it by a fatal necessity; they will be too sensible of its ill effects ever to attempt it.

But suppose, for a moment, that they break off from the Union, and even become our enemies, it

would be good policy in us to get as much as we can from them first, especially as they are disposed to give it us; let us make them extinguish part of our national debt before they leave us. The soil and climate of that country, as I said before, will be great inducements for emigrants to settle there. If they were to break off, they would know how to get money enough from the sale of the territory to support their Government, without any other resource whatever. If I, as a resident in that country, had the remotest view of a separation from the Atlantic States, I should be sorry to see Congress sell an acre of that land; for selling it, in that case, would be neither more nor less than preventing us from putting the money into our pockets when we became independent. If they meditate independency, the most likely way to make them so, will be to let their lands alone, in order to supply them with funds sufficient to support them in the measure. If they are sold, it will not be in their power.

I apprehend it will be found that a Land Office will effect these objects better than any other plan that can be devised. If this should be effectual, and no doubt can be entertained but it will, the inhabitants of the United States cannot, with a good grace, be called upon for heavy taxes in order to pay the interest on a debt which can be so easily and properly extinguished. Every individual who contemplates the subject, will see how much it is his interest to buy a few dollars in certificates, and purchase a piece of land with them, which will annihilate the debt, and prevent the demand for taxes to pay the interest; besides, it will remain as a security to reimburse the principal to the proprietor, as the population of the country extends; but, at all events, it would be but advancing four or five years' interest, and the whole debt would be absorbed.

If we mean to sell our lands for ready money, or mean to trust, we have a superior advantage. It is more probable that the necessitous person who wants the land for the subsistence of himself and family, will labor harder to procure a property of this kind, and secure it for himself, than the speculator who never means to pay a farthing until he has received it from the sale of the land; besides, the necessitous person is better able to buy of Government than of the speculator, because he can get it cheaper. The purchasers of large tracts retail out their land to this class of men, and certainly charge them something for their trouble. But if we sell on credit, as under the Proprietary Government was the practice in Pennsylvania, those who take out small quantities get their land surveyed, and set themselves down; they cultivate the ground, and erect buildings for their own accommodation. Land, in this improved state, furnishes a better security to Government for any arrearage of purchase money, than a large tract sold on speculation, and which lies in the same state of nature as it did when it was disposed of, perhaps adding thereto the expense of making the survey. If the land must revert to Congress at last for default of payment, we get nothing in the latter case; whereas, when sold in lots, if a man has settled himself down, and paid for his warrant and survey, which costs the Union nothing, but for the first price and interest thereon, it must strike every gentleman's mind that it would be disagreeable, after a man had made a settlement for three or four years, to have to turn out. Rather than do this, he would make every exertion to discharge the price: if his situation was so wretched as not to furnish the means, some of his neighbors, on such security, might befriend him; but at any rate Government would be secure. By this argument, I do not mean to insist that Congress should sell their lands on trust; they may do so, or sell for ready pay, as their wisdom may think eligible. I shall be satisfied either way.

I think the convenience of the people is a subject not unworthy of being taken into view. My plan proposes that they should be able to perfect their titles on the spot. I fear not the objection which has been raised. It may be said, the titles ought not to be completed until it was done immediately under the eye of Congress. Let this be as it may, I will make one remark: can we not have every tie, every check, and security upon these officers that we have upon the collectors of the revenue? I think there is as much room for confidence in the one case as in the other. We can take care that the Secretary of the Land Office shall send in his accounts of patents and warrants. I think we may depend here upon a true return.

The Receiver of the office shall take nothing but public securities, which are not quite so great a temptation to embezzlement or illicit practices as money. The Surveyor will be a check upon both. I think the gentlemen employed in this business cannot be of very trifling character. In short, this department may be as well checked and balanced as any other; the expense of it will be nothing, because the officer may be supported out of the fees. This being the case, I shall conclude with moving that the committee adopt the resolution reported by the committee, and recommend it to the House to appoint a select committee to bring in a bill accordingly.

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Mr. FITZSIMONS asked if it would not be better to settle all the principles of the bill first, that the select committee might not lose their labor, as had been once or twice experienced, for want of this precaution.

He was in favor of some measure of this kind, though he had some doubts of the necessity there was supposed to be of establishing a Land Office.

The question was now taken on the resolution, and agreed to.

Compensation of the President, &c.

Mr. VINING wished to call the attention of the House to a business he apprehended not very lengthy; it was the report of a committee on the subject of compensation to be made to the President, Vice President, the members of the Senate and House of Representatives, for their services; he wished gentlemen to consider the situation of every one concerned in this business,

themselves, and the continent at large. He hoped they would consent to take it up, and he flattered himself the discussion would not last longer than a day.

Mr. WHITE wished to go into a Committee of the Whole on the business.

Mr. FITZSIMONS did not like to enter upon a lengthy discussion of a point that was incapable of much elucidation by reasoning; he therefore was against going into a committee at this stage of the business. He observed, that the committee had reported something, and the members had been pretty generally consulted on the same. He hoped the House would despatch the business without delay or loss of time, if they were at all inclined to take it up.

Mr. WHITE thought it necessary to go into a committee, because there were a number of things mentioned, the reasons for which appeared to him very uncertain.

Mr. VINING said it was a subject of considerable delicacy, and he supposed very few gentlemen would be inclined to speak three or four times on a point; yet this was all the advantage gained by going into a committee. He was no more interested than others; every gentleman might judge of his own case, but after it had been before a committee of twelve, in order to get the fullest sense of the House upon the subject, he was inclined to receive it without so much circumlocution. He observed, that the business had originated in a Committee of the Whole, and it was unusual to recommit it without showing some reasons why.

Mr. WHITE gave up his motion for a Committee of the Whole, and said, before he consented to the report, he should be glad to know in what style it was expected that the President would live. He observed there was provision for the expenses of a house, furniture, secretaries, clerks, carriages and horses. Perhaps the sum proposed might be too much or too little. He should like to see an estimate of how much was necessary for keeping the table, the equipage, &c. before he decided. He hoped the committee would elucidate this subject.

There was another thing he wished to inquire of them. The Vice President's salary was charged at five thousand dollars; he could not conceive upon what principle that sum was reported. Did it bear a proportion to his services, or was it in proportion to what the members of the Senate and this House were to be allowed? There is nothing which obliges him to be attentive to his business. No doubt but the gentleman who holds that office at present will be regardful and diligent in executing the business assigned him; yet there is nothing to prevent the Vice President from residing at home and receiving his salary, without coming within the walls of the Senate room. The Union is obliged to support him; but I, said he, would make that support conditional; he should have a liberal provision while in public life, but no longer. As to delicacy, I know of none, sir, that ought to be used while we are in pursuit of the public good. I speak therefore with candor what are my sentiments on this subject. Other gentlemen, no doubt, do the same; but I am clearly for examining into the principles before I agree to the conclusion.

Mr. PAGE was sorry to see gentlemen spinning out the time to little purpose; certainly, after having the subject under consideration for nearly three months, they might be able to decide.

If this business was fixed, and gentlemen knew they were to have but moderate salaries, it might perhaps tend to make them more expeditious; but at all events, they ought to know the rate at which they attend, in order to regulate their expenses. To some it might be a matter of no concern, because they could bear every thing of this kind for a twelvemonth, without inconvenience; but they ought to consider the situation of others. We are, said he, keeping the President here without any provision for his support; but in this we may think ourselves right, because, in his patriotic ardor, his love for his country, he told us he was willing to pursue that illustrious example which he set during the period of our calamity; he refused compensation for his services. But the constitution requires that he shall receive a compensation, and it is our duty to provide it. We must also provide something for our own expenses, or it may reduce gentlemen not better prepared than I am to depend upon a friend for what the public ought to furnish.

Mr. VINING had said the subject was delicate, but he did not conceive there was any indelicacy in asking or answering questions on this or any other occasion, where the good of his country was concerned.

Mr. LAWRENCE did not know, whether the sum proposed was enough for the President or not; but according to the terms of the constitution, it ought to be granted as one sum, because he is to receive no other emolument whatever from the United States, or either of them. Now, if it is declared he shall receive twenty thousand dollars, and, exclusive of that sum, we make him an allowance for furniture, horses, carriages, &c., such an allowance is an emolument beyond the compensation contemplated in the constitution; but I have no objection to blend these sums together, declaring the whole to be the compensation required by the constitution. Besides, if we establish salaries for his secretaries and clerks, we establish them officers of the Government; this will be improper, because it infringes his right to employ a confidential person in the management of those concerns, for which the constitution has made him responsible. For these reasons, Mr. L. moved to strike out all that related to horses, carriages, furniture, &c.

Mr. SHERMAN thought it much better to give a net sum, because the President would then have no accounts to settle with the United States.

Mr. SEDGWICK considered this a constitutional question, and therefore thought it deserved serious investigation. The provision made in the report, for paying the expenses of enumerated articles, does not leave the President in the situation intended by the constitution, which was, that he should be independent of the Legislature, during his continuance in office; that he should have a compensation for his services, not to be increased or diminished during that period; but there is

nothing that will prevent us from making further allowances, provided that the twenty thousand dollars is all that is given as a compensation. By this construction, one of the most salutary clauses in the constitution will be rendered nugatory. From these considerations, he was led to believe that the report was founded on unconstitutional principles.

Mr. BALDWIN said, the Committee of the Whole, when the business was before them, had not determined any thing on this point; that, consequently, the select committee were to frame a report upon such principles as they judged proper. In order then to have every thing distinct and accurate, they had brought their opinion forward in the form it now appears. If it be deemed proper to grant an aggregate sum, the House would no doubt add to the twenty thousand dollars, what it was supposed these expenses would amount to.

However, he did not think the constitution was infringed; it was intended that the compensation should not be increased or diminished, during the President's continuance in office. Now it might be as well fixed, by making the allowance in part money, and part furniture, &c. as by declaring a precise sum; it will still be a stated compensation.

Mr. TUCKER thought furniture and plate ought always to be provided by government, because, if it was necessary for every new President to buy these articles, it might put him to great inconvenience, unless he received a year's salary in advance; besides, when he retired from his situation, they would not sell for half the first cost. He therefore wished this part of the report to stand, together with the rent of a house; but would join in striking out all the rest.

Mr. MADISON did not think the report interfered with either the spirit or letter of the constitution, and therefore was opposed to any alteration, especially with respect to the property of a fixed nature. He was sure, if the furniture and plate, and house rent, could be allowed, some of the other articles might also. The horses and carriages will cost money, and sell for little, after being used for four years; this will be a certain loss to the President, or his family; besides the House have already undertaken to defray expenses of this kind, and so set a precedent for the enumeration which had been reported.

Mr. WHITE said, if a certain sum was assigned for the expenses, the report would be better; but as it now stood, there was no certainty in it. One President might circumscribe it to a quarter part of the expense another would; consequently, the compensation could not be fixed.

He admitted the propriety of paying the salary in advance for the first year, as mentioned by the gentleman from South Carolina. He expected this would be sufficient to defray the extra expenses, without subjecting the President to any inconvenience.

Mr. BOUDINOT.—If the Legislature may provide the house and furniture, they may go further on the same principle, and provide for the rest; he was satisfied it should be so, because it could be no infringement on the constitution.

Mr. LIVERMORE hoped the words would be struck out; indeed he was sorry they had ever been put in. The clause in the constitution is intended to tie down the Legislature, as well as the President; they shall make him no compliments while in office, he shall receive nothing but a fixed compensation for his services. Give him then this compensation, let it be equal to his usefulness; but do not direct him to employ so much to one use, and so much to another; it cannot be called a compensation when you direct how it is to be expended; besides, it was wrong on another account; why should we pretend to direct him in the style in which he shall live? Let him have a salary, and expend it in the manner he shall think proper.

Mr. PAGE was for striking out all the words, because he conceived it would be against the spirit of the constitution. It would be much more handsome to make one general provision, than to be thus particular in enumerating the articles of expense. It has been hinted, that these articles of expense would amount to half the sum mentioned in the report to be given as a compensation; if so, he would propose to strike out all that related to the subject, and so insert twenty-five or thirty thousand, as the House shall deem most eligible.

Mr. STONE thought the President ought to be at liberty to live in any style he thought proper, and that the House ought to give him such compensation as they thought his services merited. If you furnish him with a house, horses, and carriages, you declare that this is the house, the horses, and the carriages which he shall use. There is certainly some degree of indelicacy in this; if he was a private gentleman, he would be at liberty to use such as he liked best. Suppose he dislikes them, and will not have them, he is guilty of a breach of the law, is it intended by the House to impeach him for it? I apprehend it is not, for no part of the constitution gives us a right to dictate to him on this head. He would rather let the President set the example how he ought to live, than see the Legislature direct him. Economy is by no means disadvantageous to the United States; if the President chooses to live in an economical manner, we ought not to prevent him.

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Mr. VINING thought, as the President was the representative of the nation, that there ought to be a proper degree of dignity attached to the office; he did not wish for splendor, but hoped to avoid the appearance of penury. If he was right in this opinion, the House had a right to show what they expected of the President, and, consequently, had a right to enter into the enumeration proposed in the report, and establish a uniform rule of conduct in the presidential chair.

With respect to its constitutionality, his mind was perfectly easy, the constitution appeared to be silent; if so, the House had the right of interfering. He wondered how gentlemen could agree to provide plate and furniture, yet hesitate with respect to the clerks and secretary. Were not the latter as necessary as the former? If so, they ought to be equally provided for.

The question on Mr. LAWRENCE'S motion was now taken, and decided in the affirmative.

Mr. PAGE now moved to strike out twenty thousand dollars, and insert thirty thousand.

Mr. SMITH inquired whether it was the intention of the House to saddle the President with the expense incurred, in consequence of their resolution of the 15th April. He understood that near ten thousand dollars had been laid out in purchasing furniture, and putting the house in order for his reception; it might be disagreeable to the President to take it. Perhaps he would be a considerable loser by such a bargain, and many of the things might be of a nature he disliked. He thought the House had been inconsistent with itself in ordering these things for the President, and then refusing to let them be applied to his use.

Mr. SHERMAN thought the House need not be embarrassed on this point. The expense is to be paid by the United States, and the furniture will be their property, to do what they please with. Neither did he think the House inconsistent, because it was the object of the Legislature, by their former vote, to provide only for the temporary accommodation of the President.

Mr. BENSON said, the business had been properly conducted. It was not in contemplation to throw the furniture or any other expense upon the President. He presumed the property belonged to the United States, but they would sell to the President such part as he chose to purchase. As to the house, the President was not confined to it; he might give it up when he pleased, and take another if he thought proper.

The question on striking out twenty thousand and inserting thirty thousand was divided, and the first part was agreed to, but the latter rejected.

It was now moved to strike out the words secretary and clerks.

Mr. MADISON thought the Executive Magistrate ought not to have the power of creating officers; yet if he appointed his secretary and clerks, and they were recognized, either with respect to salary or official acts, they became officers of the Government.

Mr. BENSON did not think it necessary to recognize any such officers; they were to be esteemed the mere instruments of the President, and not as sharing in the administration.

The motion was put, and carried in the affirmative, and then the House adjourned.

THURSDAY, July 16.

Compensation of the President, &c.

The House resumed the consideration of the Report of the Committee on the Compensation to the President, Vice President, and Members of Congress.

The blank occasioned by striking out on Monday last, was now proposed to be filled.

Mr. LIVERMORE moved to fill it with 18,000 dollars.

Mr. BURKE said, there were some members of the committee in favor of 15,000 dollars; others indeed were for a much larger sum—he believed they went so far as 70,000 dollars; that 20,000 dollars was an accommodation, and as such he had agreed to it; but he was of opinion that 15,000 dollars was sufficient; that 20,000 had been once agreed to, but the expenses were added at a subsequent meeting of the committee; now, as the House had concurred in striking out 20,000 dollars, and a proposition was come forward more correspondent to his judgment, he should give it support.

Mr. FITZSIMONS presumed it was not a question before the House what the report of the committee had been, nor were the sentiments any gentleman had there delivered to operate against the sense expressed by the committee in their report; if any thing done in committee was to influence the decision of the House, it must be the report, which spoke the sense of the majority. He further presumed, that when the 20,000 dollars were struck out, after all the expense had been erased, it was in the contemplation of the honorable mover to increase the sum so as to include both articles. It was with this view he voted in favor of striking out the 20,000 dollars.

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Mr. TUCKER said it might happen, that the expenses a President would incur at the first entering on the office would be so great as to injure his private fortune and distress his family. A quarter's salary might be insufficient to defray the expense; yet if the President continued but three months in office, this sum would be all he was entitled to. He thought it just and requisite to provide against accidents of this kind, if it could be done consistently with the constitution. With this object in view, he would propose that the President's compensation should be 26,000 dollars for the first year, and 16,000 dollars for every other year; that 10,000 dollars should be paid him in advance, on his coming to the chair, and the remainder in quarterly payments. Its amount, he said, would be nearly what was proposed by the gentleman from New Hampshire (Mr. LIVERMORE); and if the House was disposed to fix on that sum, as a proper compensation, they might, without any material change, admit his proposition; but if they meant to grant either a greater or a less sum, he hoped they would accommodate it to his principle.

Mr. STONE said, that a sum of 25,000 dollars would be as small a sum as would answer the purpose; and provided that amount should be agreed to, the expense of the Executive would be less to the people than that of any Government in the world. If it is considered that the unavoidable expense will be great, and that the assistance of two or more secretaries will be necessary for the President to discharge his high and important trust, and that it cannot be expected that persons in such a station should be in straitened or dependent circumstances, this sum will not be found to exceed the absolute expense, with a moderate compensation for the

services of the President. It is also a maxim of sound policy, that executive officers should be independent.

Mr. WHITE.—Sir, I do not say that 25,000 dollars will or will not be sufficient; but in order to determine the necessary sum, I should wish to know the style in which the President is expected to live. If a style of magnificence and splendor is to be adopted, the sum is too small; and if economy is pursued, it may be too much. Until this is known, it will be extremely difficult to decide upon a proper sum; and when I give my vote, I wish to give it on such information as will satisfy my mind with respect to its propriety, and show my constituents the reasonableness of the measure. Will he live in a more expensive style than the former Presidents of Congress, or will he live nearly in the same? If so, what was that expense, or what will be the probable increase? How was that money applied, and what will now be necessary? If these questions can be answered, gentlemen may decide with more precision than they can while the subject is left afloat.

Mr. BALDWIN said, it was impossible to get the information the gentleman required, the committee had made all the examination in their power with respect to the actual expense of supporting the office. They found former Presidents of Congress, whose office, by the by, was less important, and whose assistants were less numerous, expended 7,000, 8,000, and so on to 13,000 dollars annually. From this, some gentlemen were led to believe 17,000 dollars might be sufficient in this instance. But we were, said he, left without any thing satisfactory on this subject, and when the question was pressed on the committee, they varied from 15,000 to 25,000 dollars; we were therefore obliged to average the sum.

We were satisfied that it must be left to experiment to determine what the allowance ought to be; and we were certain that the gentleman who had to make the first experiment would do it in such a manner as to give satisfaction to every body. He knows the way to blend dignity and economy; and I would rather, on this account, make the allowance too much than too little. I would, therefore, prefer making the experiment at 25,000 dollars; a sum that, in the President's hands, will give umbrage to no one.

Mr. BOUDINOT made some further observations respecting the examination made by the committee, from which it appeared that the expenses of the President of the United States would exceed the expenses of the late President of Congress in a variety of cases. Two secretaries would be wanting; they must be men of abilities and information; but the committee conceived extra provision would be made for them by the House. If the whole was to be comprehended in one grant to the President, he would rather increase the sum reported by the committee than diminish it. Originally he was in favor of allowing 16,000; but then he thought the expense of secretaries, carriages, furniture, &c., was to be an additional allowance. Since the House had determined otherwise, he favored an addition to the 20,000 dollars.

Mr. JACKSON was disposed to move 30,000 dollars; but he was willing to accommodate, and agree to 25,000 dollars.

Mr. VINING observed, that the committee had no documents whereby they could form a judgment; they had no light to guide them. They could not foresee what ambassadors and foreign ministers might be sent to this country, nor the expenses the President must necessarily incur upon that account, to support the honor and dignity of the United States. He further remarked, that there are cases in which generosity is the best economy, and no loss is ever sustained by a decent support of the Magistrate. A certain appearance of parade and external dignity is necessary to be supported. Did I, said he, represent a larger State, I would speak with more confidence on the subject. We are haunted by the ghost of poverty; we are stunned with the clamor of complaint throughout the States. But under the auspices of an energetic Government, our funds will be established and augmented, and, I make no doubt, will be found sufficient to answer all the purposes of the Union. But our calculations ought not to be confined to the present moment alone. If it should be contended by any gentleman, that we have it not in our power to support the Government in a proper style, then there is an end of the business. We should remember that the present time is the season for organizing the Government. A patient and mature deliberation is requisite to investigate it, and by that means the amount of the civil list will be increased; in future, the sessions will be short, and the load of expense greatly diminished. He was opposed to any reduction of the sum, as he had always thought it too small, and would rather propose to fill the blank with 30,000 dollars.

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Mr. PAGE mentioned that 30,000 dollars had been proposed; though he thought the sum adequate, it was not sufficient to support pomp and parade. Those, he said, were entirely out of the question. He had made a calculation upon the probable necessary expenses, and found, that exclusive of that dignity and pageantry talked of, this sum would suffice. If he had contemplated the splendor and pageantry alluded to, he should not have thought of 30,000 dollars, nor 40,000 dollars, for he believed 100,000 dollars insufficient. But if the committee, upon investigation, were convinced that 20,000 dollars would be a compensation for his services, exclusive of an allowance for his expenses, when the whole was taken together it must at least amount to 30,000 dollars; for this reason he moved to fill the blank with that sum.

The question on 30,000 dollars was put, and rejected.

Mr. PAGE then moved 25,000 dollars, which was carried; affirmative 30, negative 17.

The House then proceeded to the second part of the report, viz: "That there be paid in like quarterly payments to the Vice President of the United States, 5,000 dollars per annum."

Mr. WHITE.—I do not like the principle on which this provision is made for the Vice President; there is nothing, I believe, in the constitution which gives him a right to an annual sum; it fixes no

duty upon him as Vice President, requiring a constant attendance. He may be called upon to act as President, and then I would give him the salary of the President; at other times, he is to preside as President of the Senate, then I would pay him for his services in that character. On this principle, I shall move to strike out the clause; if that is agreed to, I propose to offer one, allowing him the pay of President, when he acts as President; and a daily pay during the time he acts as President of the Senate.

Mr. PAGE would second the motion for striking out five thousand dollars, but with a different view from what had been intended by his worthy colleague. He wished it struck out, in order to introduce a larger sum. His idea was, that a proper proportion was not observed between the salary of the First and Second Magistrates. As to the utility of the office, he had nothing to say. He had no hand in forming the constitution; if he had, perhaps he should never have thought of such an officer; but as we have got him, we must maintain him; and those gentlemen who talk of respectability being attached to high offices, must admit, in a comparative view, that he is not supported with dignity, provided a situation derives its dignity from the money given him by way of salary; for his part, he thought money, abstractedly considered, could not bestow dignity. Real dignity of character proceeds from a much nobler source; but he apprehended the people of the United States, whose representative the Vice President was, would be displeased to see so great a distinction made between the President and him.

Mr. SEDGWICK said, the arguments of the honorable gentleman from Virginia (Mr. WHITE) did not strike him with any force, nor did he see the impropriety spoken of. One reason why the pay of the members of the Senate and House is per diem is, because they contemplate their being together but a very inconsiderable part of their time; but I suppose, said he, that every gentleman who has considered the subject, has determined in his own mind that the Vice President ought to remain constantly at the seat of Government; he must always be ready to take the reins of Government when they shall fall out of the hands of the President; hence it will be necessary that he should, for this cause, if not for any other, preclude himself from every object of employment, and devote his whole time to prepare himself for the great and important charge for which he is a candidate. Under these circumstances, it is necessary that he should be provided with a constant salary, to support that rank which we contemplate for him to bear; I therefore conceive it must be such a perpetual salary as the President is entitled to receive. If the principles of the motion are inadmissible, it cannot be supported by argument, because very little information can be obtained on which to ground our reasoning.

Mr. SENEY said, that, according to the constitution, a compensation is to be made for services performed. The Vice President may absent himself the whole time. He proposed giving him a handsome allowance while employed, but thought he ought to be paid per diem.

Mr. SHERMAN adverted to the circumstance of salaries being allowed to Lieutenant Governors in the several States where such officers are appointed; so that, according to this mode, the grant made to the Vice President would correspond with the practice of the States individually. It appeared also, he said, to be necessary, inasmuch as this officer would be taken from all other business.

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Mr. WHITE.—If I thought, sir, the attendance of the Vice President as necessary as that of the President, I would not hesitate to allow him an annual salary; but I do not conceive it to be so necessary; it is not made so by the constitution. If he had been appointed Vice President as a perpetual counsel for the President, it would have altered the case; he would then have had services to render, for which we ought to compensate him. The honorable gentleman from Massachusetts (Mr. SEDGWICK) has intimated that he will be precluded from following any other business; there is nothing in the constitution which precludes him from following what profession he thinks proper. I am willing to pay him a full and liberal allowance for all the services he renders; but I do not think we are authorized to institute sinecures for any man.

It ought to be considered that the Vice President has personal advantages from the appointment to that office; it holds him up as the successor of the President; the voice of the people is shown to be considerably in his favor; and if he be a deserving person, there will be but little doubt of his succeeding to the presidential chair; not that I would make this an argument to diminish his compensation. I would pay him amply for all the services he renders, at least as amply as the Government and circumstances of the people will admit. When performing the duties of President, he should receive the salary as such.

The constitution has stipulated, that the President shall be compensated for his services, that we shall ascertain it by law; but it has not said one syllable with respect to the pay of the Vice President; hence I consider it would be improper to pay him on any other principle than in proportion to his services. If these require five thousand dollars a year, it may be made to amount to that sum, at so much per diem.

As to the observations of the gentleman from Connecticut, (Mr. SHERMAN,) that Lieutenant Governors receive salaries in the several States, and therefore it will be proper to grant one to the Vice President, in order to comport with the practice of the States individually, I shall only remark, that in some States they have no such officer; in others, where they have such an officer, they give him no pay at all; in some, they are paid according to their attendance on business, in the manner that I propose to pay the Vice President. But admitting that every State had an officer of this kind, and that they paid him a salary like that proposed in the report, it would be no argument why the General Government should pursue a practice inconsistent with that economy and sense of propriety which it ought to be the study of the Representatives of the people of the United States to preserve to their constituents.

Mr. MADISON.—I do not concur, Mr. Speaker, in sentiment, with my colleague on this subject. I conceive, sir, if the constitution is silent on this point, that it is left to the Legislature to decide according to its nature and its merits. The nature of the office will require that the Vice President shall always be in readiness to render that service which contingencies may require; but I do not apprehend it to be in our power to derive much advantage from any guides furnished by the examples of the several States; because we shall find them differently provided for by the different Governments. If we consider that the Vice President may be taken from the extremity of the continent, and be from the nature of his office obliged to reside at or within the convenient reach of the seat of Government, to take upon him the exercise of the President's functions, in case of any accident that may deprive the Union of the services of their first officer, we must see, I think, it will often happen that he will be obliged to be constantly at the seat of Government. No officer under a State Government can be so far removed as to make it inconvenient to be called upon when his services are required; so that, if he serve without a salary, it may be he can reside at home, and pursue his domestic business; therefore the application in that case does not appear to me to be conclusive.

My colleague says that he will derive advantages from being in the line of appointment to the presidential chair. If he is to be considered as the apparent successor of the President, to qualify himself the better for that office, he must withdraw from his other avocations, and direct his attention to the obtaining a perfect knowledge of his intended business.

The idea that a man ought to be paid only in proportion to his services, holds good in some cases, but not in others. It holds good in legislative business, but not in the executive or judicial departments. A judge will be sometimes unemployed, as in the case of the Vice President; yet it is found necessary to claim the whole of his time and attention to the duties for which he is appointed. If the principle of proportioning the allowance to the quantum of services performed obtains, it will be found that the Judiciary will be as dependent on the legislative authority, as if the Legislature was to declare what shall be their salary for the succeeding year; because, by abridging their services at every session, we could reduce them to such a degree, as to require a very trifling compensation indeed. Neither do I, Mr. Speaker, consider this as a sinecure; but that will appear from the reasons already given. The office of a judge is liable, in some degree, to the same objection; but these kinds of objections are levelled against the institutions themselves. We are to consider his appointment as a part of the constitution; and if we mean to carry the constitution into full effect, we ought to make provision for his support, adequate to the merits and nature of the office.

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Mr. AMES said that the Vice President's acceptance of his appointment was a renunciation of every other avocation. When a man is taken from the mass of the people for a particular office, he is entitled to a compensation from the public; during the time in which he is not particularly employed, he is supposed to be engaged in political researches for the benefit of his country.

Every man is eligible, by the constitution, to be chosen to this office; but if a competent support is not allowed, the choice will be confined to opulent characters. This is an aristocratic idea, and contravenes the spirit of the constitution.

Mr. SENEY.—This, sir, is a subject of a delicate nature, and the discussion of it rather disagreeable; but I think it my duty to declare my sentiments freely upon it. No argument has been adduced to convince me that the Vice President ought to receive an allowance any more than the other members of the Legislature. He cannot be compelled to perform any duty. This is an important subject, and ought to be maturely considered, as a great deal depends on the decision which will now take place.

Mr. BURKE observed that the situation of our finances was so much embarrassed, as to disempower us from giving such ample salaries as we might, under different circumstances, think necessary; that it was but reasonable the Vice President should receive a compensation adequate to the second officer in the Government. He will be subject to extra expenses by living at the seat of Government, and will be obliged to maintain his dignity. Mr. B. further suggested that the sum might not be fully sufficient, but in our present situation, it was as much as we could afford.

Mr. AMES, in his reply to Mr. SENEY's observations, pointed out the difference of the situation of the Vice President and the members of the Legislature.

Mr. SEDGWICK made some additional remarks of a similar nature, and further observed, it would be necessary that the members of the House should return and associate with their constituents, in order to learn their sentiments and their feelings, and witness their situation and wants, that they may consequently resume their former occupations: but with respect to the Vice President, his acceptance must be considered as an abandonment of every other pursuit; he must reside at the seat of Government, and will necessarily incur extra expenses in consequence of his office.

Mr. STONE.—I am for giving such salaries to the officers of this Government, as will render them easy in their situation. But we are confined by the constitution; salaries are to be given for services performed; they are considered in no other light. The Vice President cannot be viewed in any other light than that of the President of the Senate. I am for his being paid per diem, but would allow him a generous support. I do not think five thousand dollars are sufficient; I would allow him a larger sum, which allowance, per diem, would amount to what would be fully adequate.

Mr. SMITH, of South Carolina, said, that by the constitution the Vice President could not be considered as a Senator, and therefore could not, with any propriety, be paid as such. Considering him as an officer in the Government, next in dignity to the President, and

particularly designated by the constitution, he must support a correspondent dignity in his style of living, and consequently ought to have a competent allowance for that purpose. He did not think five thousand dollars would be considered too much, and would vote for that sum. The idea of a daily allowance must be given up, as inapplicable to the situation assigned him by the constitution. He is there recognized as Vice President, and as such ought to be provided for. A daily pay of twenty-five or thirty dollars would appear a large compensation; yet if Congress sat but one hundred days, which, in all probability, would be the length of their future sessions, it would be insufficient for his support. But suppose it one hundred and fifty days; this, at thirty dollars per day, would come so near the proposed salary, that the saving would be an inconsiderable trifle; but if the session was longer, it might amount to more than is contemplated by any gentleman.

Mr. PAGE was clearly for making the allowance by annual salary, because the office was permanent; a daily allowance could not be relied upon, because if the Senate sat but a few days, it would be incompetent, even at one hundred dollars per day; whereas, if the session was of long continuance, that sum would be more than the services could require, if they are to hold a comparison with those of the President. If the House agreed to strike out the five thousand dollars he would propose eight thousand, which was not one third of what was given to the President.

Mr. BOUDINOT.—The question seems to turn merely on this point, whether the Vice President shall receive a per diem allowance, or an annual salary? The constitution ought to serve as the ground on which to determine it; therefore we are to consider the point of view in which this office is placed by that instrument. The second article calls him into view with the President; he is to be elected in the same manner as the President, in order to obtain the second best character in the Union to fill the place of the first, in case it should be vacated by any unforeseen accident. The constitution considers him a respectable officer; he is to supersede the President, when it shall happen that the First Magistrate dies or is removed on impeachment and conviction. These are the great objects of his appointment. His duty as President of the Senate is only collateral; consequently he ought to be respected, and provided for according to the dignity and importance of his principal character. If still inferior duties were attached to him, would it be an argument for reducing the compensation to an equality with what ought to be granted, if he performed such inferior duties only? I apprehend it is a principle of this nature which urges gentlemen on to press the amendment. I cannot see any reason for differing with the constitution on a point in which I think it ought to guide our decision.

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I think there is an affinity between the duration of the office and the compensation. The constitution establishes the office for four years; the compensation ought to be made commensurate with that idea.

The question on Mr. WHITE's motion was taken and lost, as was Mr. PAGE's motion for striking out 5,000 and inserting 8,000 dollars.

The proposition being then agreed to,

The House proceeded to consider the following: That the daily pay of the members of the Senate, and House of Representatives, for their attendance at the time appointed for the meeting of their respective Houses, and for the time they shall be going to, and returning therefrom, allowing the travel of twenty miles for each day, be six dollars, and of the Speaker of the House of Representatives twelve dollars.

Mr. SEDGWICK moved to amend this proposition, so as to give to the members of the Senate six dollars per day, and five to the members of the House of Representatives. His reason for introducing this distinction was, that the convention had made it in the constitution. The Senators are required to be of an advanced age, and are elected for six years. Now this term taken out of the life of a man, passed the middle stage, may be fairly deemed equal to a whole life; for it was to be expected, that few, if any, of the Senators could return to their former occupations when the period for retirement arrived; indeed after six years spent in other pursuits, it may be questioned whether a man would be qualified to return with any prospect of success.

He did not say six dollars was more than a compensation for their services and expenses; but as economy ought to be particularly studied by the Legislature, he had moved to reduce it. He hoped gentlemen would pay some deference to the public opinion, on the present occasion; this he thought to be in favor of small salaries. Not but a different sentiment might prevail in some of the States; perhaps different circumstances might warrant the difference of opinion. It was probable that five dollars laid out in that part of the Union from which he came, would be more advantageous to the person, than a like sum laid out at the other extremity of the continent; but he believed, nevertheless, that something would be left to those gentlemen out of the five dollars per day, after their expenses were paid; but even if a little self-denial was the consequence of this reduction, it would do but little harm; whereas the precedent might have a salutary influence upon the future administration of the Government.

Mr. JACKSON.—I am opposed to this discrimination, because all have alike abandoned their particular pursuits in life, and all have equally engaged in the service of their common country. On what principle can this distinction then be contended for? Is it expected that a Senator shall eat more, or drink more costly liquors, than a member of the House of Representatives? I presume it is not; their expenses must be nearly equal. I can see but one reason that can be assigned for this difference, which is, that the Senate may sit longer than the House; but considering they are to receive pay accordingly, this reason is of no weight. The duties of both

Houses are equal, and the pay ought to be alike.

I will submit to the gentleman who brought this motion forward, whether it is not much worse to the personal interest of men in business to be taken off in the prime of life, than after the successful pursuit of some profession at an advanced age, when the natural and proper time of retirement arrives; and if so, his argument falls to the ground. But if the reverse is true, it will not support his motion, because, if we look around, our senses will inform us that this House contains as venerable and aged members as any within the walls of the Senate; thus again we are upon a footing. Now, unless gentlemen mean that we should depress ourselves, and thereby set the Senate above us, I cannot conceive what foundation there will be for a discrimination.

Mr. LEE.—I am in favor of the motion for discriminating between the Senate and this House, because the constitution has done it in a variety of modes. The qualifications are superior; a Senator must be a man advanced in life, and have been nine years a citizen of the United States; while a younger man who has been but seven years a citizen, may obtain a seat in this House.

The constitution has made a difference in the mode of election. The Senators are selected with peculiar care; they are the purified choice of the people, and the best men are likely to be preferred by such a choice; those who have shown the fullest proofs of their attachment to the public interest, and evinced to their countrymen their superior abilities. In order to bring forth such characters to partake of our public councils, I think every motive of honor and of interest ought to be called into action. If men are not brought forth who will maintain their own dignity, and promote the public interest by a firm and independent conduct, regardless of every risk, regardless of the voice of calumny or popular clamor, our Government will soon lose its importance and its energy. I contemplate, Mr. Speaker, the Senate as a barrier between the Executive and this branch of the Legislature, shielding the people from any apprehension of being attacked by an aspiring Magistracy on the one hand, and on the other from being desolated by the anarchy often generated by a time-servingness to veering popularity. We shall gain these desirable objects at a trifling price, if we make a distinction of two or three dollars per day—a trifling allowance indeed to our most worthy sages. But, said the gentleman last up, there are as young men in the Senate as in this House; although there be, the time will come when none but the most venerable and respectable of our citizens, men whose hoary heads are silvered over with the honors of an experienced old age, men illustrious by their virtues and capacity, will have the public confidence ensured to them by the purity and notoriety of their principles.

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Now is the time to deliberate and view every future circumstance which may arise from our decision; the importance of this principle hereafter, is infinitely above every advantage which the present members may derive from it. By it alone you may secure dignity and permanency to the Government, and happiness under its administration.

It is with difficulty, Mr. Speaker, that you can draw forth men of age and much experience to participate in the political concerns of their country. Retirement and reflection are incident to that period of life; they are sought for, and, when obtained, they are highly prized. The wise and virtuous sage, who from the monitions of nature has discovered that his remaining years will be but few, must be incited by every motive that can operate on the human heart to continue those labors which he seeks to bury the remembrance of in the depths of solitude. Honor may stimulate the ingenuous mind; but interest is a great reason of action, and may be usefully employed to influence old age.

What I have now urged is in favor of the constitutional distinction; I approve of the amendment, but I wish the sum had been left out, that the provision might be determined according to the sense of the House, and not affect the principal question of discrimination. I am satisfied, sir, that there is no heart within these walls but beats with patriotic ardor, and has determined to pursue the noblest object, the public good. Nothing but the anxiety I feel for this, as connected with the present question, could have induced me to trouble the House with a repetition of what was dilated upon, on a former occasion. Let it then be considered, that on our decision depend the dignity of the Legislature, and the perpetuity of that Government, the glory and the hopes of the people of America, which, if now disappointed, must be succeeded by confusion and gloomy despair.

Mr. WHITE.—I object, sir, to a discrimination. I cannot perceive that difference in the constitution alluded to by the gentlemen. Among the Senators and the people in some of the ancient commonwealths, an artificial and political distinction was established, which was the case at Rome, in particular. There the Senators were considered as possessing some degree of divinity, and the rest of the people were not admitted to associate with them. Can it be supposed that the name of Senators will render those members superior to their fellow-citizens? I cannot see any difference in the general estimation between a Senator and a Representative, however great their sentiments may vary in their respective States; and cannot conceive why any discrimination should be made in their allowances.

The independence of the members of this House may be injured by such a distinction; and the Senate, at some future day, may have it in their power to carry points, and be enabled to prolong the session, when it may be of great inconvenience to the House.

Mr. MADISON was of opinion that a discrimination was necessary; he observed, that it had been evidently contemplated by the constitution, to distinguish in favor of the Senate, that men of abilities and firm principles, whom the love and custom of a retired life might render averse to the fatigues of a public one, may be induced to devote the experience of years, and the acquisitions of study, to the service of their country. And unless something of this kind is adopted, it may be difficult to obtain proper characters to fill the Senate, as men of enterprise

and genius will naturally prefer a seat in the House, considering it to be a more conspicuous situation.

Mr. MOORE did not see the propriety of the discrimination proposed; the business of each House is equal, or if there is a difference in their legislative concerns, it is in favor of the House. He had no idea of giving the public money for such an idle purpose as the support of a fanciful dignity and superiority. His idea of the business was, each member ought to be compensated for his services, and nothing further.

Mr. VINING.—The arguments brought forward by my honorable friend from Virginia, (Mr. LEE,) have not proved satisfactory to my mind, that his favorite opinion with respect to discrimination is right. He has told us that the sages of America will be selected, and placed in this distinguished situation. True, sir, I expect venerable and respectable characters will find their way into every branch of the Government; but when I consider the mode in which the Senate is elected, I apprehend we may have there men whose wealth has created them the influence necessary to get in. If any thing is to be expected by this refined choice, it is that men of rank and opulence will draw the regard of the small and select circle of a State Legislature; while the Representatives in this House, being the choice of their fellow-citizens, among whom rank and dignity are rather unpopular, will consist of men in middling circumstances. Now if any thing is to be drawn from arguments like these, it is in favor of this House. But the whole of this is a subject on which we are better able to decide from our feelings, than from our discussions.

I am against the motion for another reason, sir; it goes to reduce the compensation, which I think is already set too low, to furnish good security for the happy administration of the Government. In considering this subject, there are two important objects necessary to engage the attention of the Legislature. First, that the compensation be not made an object for indigence to pursue; and second, that it be not so low as to throw the business of legislation into the hands of rich and aspiring nabobs, but such as to compensate a man in the middle grade of life. These are generally men of business, who are fittest to conduct the concerns of their fellow-citizens. Now, in compensating this class of men, (for I would have the compensation proportioned to this class,) I do not take into consideration the sacrifices they make, by dedicating their time and abilities to the service of their country; but I confine myself merely to a compensation for their time and services. If the compensation is made an object for indigence, we shall have the sessions protracted to an extreme length, and the expense will be increased; if we make the reward barely commensurate with the services, you will have men of abilities, who will despatch the public business, and return to their private pursuits. If the business is done without pay, it may be productive of the most enormous evils. Were every member of the British House of Commons allowed a thousand guineas a year, they would be less venal; we should not find them purchasing their seats, and selling their votes, for places and pensions. The very money given in this way would furnish a handsome compensation for every member, and add something considerable, annually, to their sinking fund.

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I apprehend, in establishing a compensation, we shall put it in the power of gentlemen, while here, to live as independent as they can at home. Perhaps I hazard a conjecture, when I say there is not a gentleman on this floor, I am certain there are not many, but have found, from experience, that six dollars per day is adequate to that object; certainly it cannot be the wish of any man to make the public service unpleasant, by rendering the situation of the members of Congress less eligible than a solitary retirement from patriotic pursuits would be. Any man who lives decently, will find six dollars a day not more than sufficient to defray the expense of a casual residence in a splendid city.

The experiment has been made. If a gentleman keeps a servant and his horses, and means to reciprocate the civilities he receives, I again assert the compensation is inadequate. It is true, we may live for two dollars a day; but how? There is a dignity attached to the situation of a Representative, with respect to his country; and the compensation might be seven or eight dollars per day, without granting the members more than a bare compensation. From all these considerations, I am induced to hope that gentlemen will indulge a little, and rather support an increase, than a diminution of pay.

As to the discrimination, it has been once decided against by a considerable majority; I have no doubt but it will now meet a similar fate; but be the decision of the House what it may, with respect to the quantum, or manner of compensation, I shall never fear to deliver my sentiments. On the present occasion, I wish them known to my constituents, and I am much mistaken if they are not coincident with their own.

Mr. SENEY.—I am sorry, sir, that the question of discrimination has been brought before the House. Can any reason be assigned for making this distinction? Are the services of the Senate of more importance than those of the Representatives? I think not. Gentlemen have brought forward the constitution upon this occasion, but I conceive it to be opposite to the very principle they mean to advocate. This will destroy the independence of the several branches, which is to be strictly observed. If a discrimination should be established in favor of the Senate, will it not naturally tend to create a sense of inferiority in the minds of the Representatives? And the time may come when they may find it their interest to become subservient to the views of the Senate. I feel so sensibly, sir, the impropriety and unconstitutionality of this measure, that had I the most distant idea it would comport with the sentiments of a majority of the members of this House, I should call for the yeas and nays on a division of the House upon the question. But as I do not conceive that to be the case, I shall waive the proposition for the present.

Mr. SEDGWICK said, that whenever he had a motion to make before the House, he endeavored to

satisfy himself of the reasonableness and propriety of it. If he thought it proper, he did not consider the mode of decision that might be adopted of any material consequence; but in determining the present question, he hoped the yeas and nays would not be called. There is a principle in mankind which revolts at the idea of inferiority; a proposition, for example, shall be made, that has for its object the establishment of a superiority (howsoever necessary;) that principle is alarmed and excited to opposition; to discuss such a question as the present, we ought to be divested of every partiality and prejudice, that might bias our judgment in deciding an affair that will not bear the test of reason and experience. I conceive the precedence of the Senate has been clearly pointed out by the Constitution. There are grades in society which are necessary to their very existence. This is a self-evident proposition; it is recognized by every civilized nation, and by the House in the report before us. For what reason have we made a difference between the President and Vice President? Is it not on account of his superior station and his dignity? And between the Vice President and the Senate? This distinction is likewise established by the constitution in the difference of the terms for which the members of the Senate and those of the House of Representatives are chosen. The time for which the Senate is chosen, demonstrates the propriety of a difference being made in the pay they ought to receive; the duties of their office require they should renounce every other avocation; their attention will be wholly taken up in the discharge of public business; therefore they should have an adequate and an independent allowance. The generality of the members being so far advanced in years, will drop every idea of engaging any more in their several professions, after having once engaged in the service of their country. Their age, wisdom, and experience, all warrant this discrimination. He concluded by saying, that the real dignity of the House was, he thought, so far from being diminished by adopting the proposition, that he conceived it was essentially connected with it.

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Mr. STONE thought the House ought not to assist in elevating one branch of the Government more above the other than the constitution had done. This had given influence to the Senate by a negative in the cases of treaties and appointments. It had given importance to the House, by vesting them with the sole power of originating money bills. But both these powers could be exercised without a discrimination being made in the pay of the members; therefore he inferred that it was not contemplated by the constitution to make any such distinction.

A discrimination may eventually operate to the public injury; the House of Representatives may be desirous of terminating the session, but the Senate, finding the compensation they receive quite agreeable, may be inclined to protract it. He thought the true way of deciding on this subject, was to make the same allowance to both, and let it be such as not to induce them to protract the session on the one hand, or have a tendency to hurry over the business on the other.

Mr. JACKSON said, in reply to the inquiry of Mr. SEDGWICK—"Why have we made a difference between the President and the Vice President?" that the whole of the President's time would be taken up in the duties of his station; that the Vice President might retire to his farm whenever he thought proper. We refer, said he, to the wisdom of the Senate; but how is this superior wisdom to be discerned? If on this account a distinction is to be made, it necessarily follows that a difference should be made between the members of this House, and those of the Senate. We cannot be too cautious how we establish an undue pre-eminence, and give an influence and importance to one branch of the Legislature over the other. All governments incline to despotism, as naturally as rivers run into the sea. Despotism makes its way gradually, by slow and imperceptible steps; despotic power is never established all at once; we shall, ere we are aware, get beyond the gulf, and then we shall be astonished how we reached there. The services of the Senate are not more arduous than ours; their proper business is legislation, and I will never consent to any discrimination. If I imagined the question would be determined in favor of discrimination, I would call the yeas and nays, and should it be determined in favor of it, I will still call them on purpose that my constituents may see that I have voted against a measure which I look upon as injurious to the Government.

Mr. PAGE.—If he thought the discrimination proposed would have the tendency which some gentlemen apprehended, he would be the last man on the floor to support it. He would be as careful as any man how he extended the influence of any part of the Government, or gave it the least inclination towards aristocracy. But he apprehended gentlemen were deceived in their principle—he did not believe the doctrine that money confers importance, and he wished to evince to the world, that money, under this Government would have no such effect. The Senate having more duties to perform, may require a larger pecuniary gratification; but this will not add to their importance. It will require something of this kind to stimulate gentlemen to undertake the service; for his part, he might consent to come here for two years, in order to assist in public business, but no inducement, hardly, could engage him to undertake it for six years. On this consideration, he thought the Senate ought to have annual salaries, and to such an amount as would render their situation independent and eligible.

If gentlemen are afraid of an aristocracy, they ought to be careful not to make the compensation too low, so as to exclude men of middling fortunes; the men of rank and distinguished opulence might serve without any pecuniary compensation; but the Government would not be safe, if it was exclusively in such hands. He wished to discriminate in favor of the Senate, but he would rather increase their pay to eight dollars, than reduce that of the members of this House, while he considered it but a moderate compensation.

The question on Mr. SEDGWICK's motion was taken, and lost by a considerable majority.

The House having now gone through the report, it was *Ordered*, that a bill or bills be brought in, pursuant thereto, and that Messrs. BURKE, STONE, and MOORE, be a committee to prepare and bring

in the same: with instructions to insert a clause or clauses, making provision for a reasonable compensation to the Secretary of the Senate, and Clerk of the House of Representatives, respectively, for their services.

After which the House adjourned.

WEDNESDAY, July 22.

Western Lands.

The House then resolved itself into a Committee of the whole House on the state of the Union, Mr. BOUDINOT in the chair; and, after some time spent therein, the committee rose and reported that they had had the state of the Union under consideration, and come to a resolution thereupon, which was read and then delivered in at the clerk's table, where the same was twice read, and agreed to by the House, as follows:

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Resolved, That an act of Congress ought to pass for establishing a Land Office, and for regulating the terms and manner of granting vacant and unappropriated lands, the property of the United States; that the said office be under the superintendence of the Governor of the Western Territory; that the land to be disposed of be confined to the following limits, viz:

That the tracts or parcels to be disposed of to any one person, shall not exceed — acres; that the price to be required for the same shall be — per acre; and that every person actually settled within the said limits shall be entitled to the pre-emption of a quantity not exceeding — acres, including his settlement.

Ordered, That a bill or bills be brought in, pursuant to the said resolution, and that Mr. SCOTT, Mr. SYLVESTER, and Mr. MOORE, do prepare and bring in the same.

THURSDAY, July 23.

Home Department.

On motion of Mr. VINING, the House resolved itself into a Committee of the Whole on the state of the Union, Mr. BOUDINOT in the chair.

Mr. VINING introduced a resolution for the adoption of the committee, by which it is declared: That an Executive department ought to be established, and to be denominated the Home Department; the head of which to be called the Secretary of the United States for the Home Department; whose duty it shall be to correspond with the several States, and to see to the execution of the laws of the Union; to keep the great seal, and affix the same to all public papers when necessary; to keep the lesser seal, and to affix it to commissions, &c.; to make out commissions, and enregister the same; to keep authentic copies of all public acts, &c., and transmit the same to the several States; to procure the acts of the several States, and report on the same when contrary to the laws of the United States; to take into his custody the archives of the late Congress; to report to the President plans for the protection and improvement of manufactures, agriculture, and commerce; to obtain a geographical account of the several States, their rivers, towns, roads, &c.; to report what post-roads shall be established; to receive and record the census; to receive reports respecting the Western Territory; to receive the models and specimens presented by inventors and authors; to enter all books for which patents are granted; to issue patents, &c.; and, in general, to do and attend to all such matters and things as he may be directed to do by the President.

Mr. BENSON objected to some of the duties mentioned in the resolution. He thought the less the Government corresponded with particular States the better, and there could be no necessity for an officer to see to the execution of the laws of the United States, when there was a Judiciary instituted with adequate powers.

Mr. WHITE was not convinced that there was a necessity for establishing a separate department for all or any of the duties contained in the resolution. The correspondence with the States belonged to the Executive. To see to the execution of the laws was the duty of the Judiciary. The great seal might be kept by the Secretary of Foreign Affairs; the lesser seal might be deposited in the same hands. Commissions might be made out by the departments to which the officer is connected. The Secretary of the Senate and Clerk of the House might transmit the public acts, and keep records thereof. What have Congress to do with the acts of States? If they interfere with the constitutional powers of the Government, the Judges will prevent their operation. The papers of the late Congress may be distributed among the officers to which they relate; the rest may be deposited with the officers of Congress. The want of the reports on manufactures, agriculture, and commerce, may be supplied by Congress. The post-roads may be left to the Postmaster General. The census must be returned to Congress, and they will preserve it among their files. And it can hardly be thought necessary to establish a great department for the purpose of receiving the models, specimens, and books presented by authors and inventors. If none of these things are requisite to be done by a great department, why should the United States incur the expense which such an arrangement must necessarily draw along with it.

Mr. HUNTINGTON thought the Secretary of Foreign Affairs was not so much overcharged with business but that he might attend to the major part of the duties mentioned in the resolution.

Mr. VINING said, he had waited until the great Executive departments were established; but none of those had embraced the duties contained in his proposition, which he conceived to be of great importance; many of the duties were as essential as those of any other department, except the Treasury. As for their belonging to the Executive, as was said by the gentleman from Virginia, he admitted it; but they were, nevertheless, as proper to be put into the hands of a principal officer under the President, as the War office, or office of Foreign Affairs; the duties of these were especially within the Executive department of the Government. He conceived that the President ought to be relieved from the inferior duties of his station, by officers assigned to attend to them under his inspection; he could then, with a mind free and unembarrassed with the minutiae of business, attend to the operations of the whole machine.

If the office was admitted to be necessary, and he was certain the performance of the duties were useful and essential, the expense could be no solid objection, because the information it would furnish would more than counterbalance that article.

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The question he conceived to be reduced to this, whether a confidential officer would not be more useful than any other, and whether the duties could be distributed among the officers already instituted. For his part, he conceived most of them foreign to either of those officers; and that they could not be performed with advantage any other way than by an officer appointed specially for the purpose. He thought every gentleman would admit that the duties were important, and he assured them that his only reason for bringing the motion forward was, to provide for the public good. He had no personal motives in pressing it; he disclaimed every idea of serving any particular man by the arrangement, and rested it solely upon its merits.

Mr. SEDGWICK believed the honorable gentleman in his assertions, that he had no personal motive in pressing this business. He believed that he thought it essential, and if his sentiments were the same, he would join the gentleman in supporting the motion; but after duly considering the subject, he was inclined to believe that the office was unnecessary, and that it would be squandering the public money, at a time when the greatest economy is requisite. He thought the principal part of the duties might be assigned to the Secretary of Foreign Affairs; and he would, if the committee negatived the present motion, introduce another for that purpose.

Mr. GERRY thought the burthens of the people would be sufficiently great in providing the supplies absolutely necessary for the support of the Government; therefore it would be improper to add expenses which might possibly be avoided. The people are viewing the proceedings of Congress with an attentive solicitude, and if they observe that we erect offices for which there is no apparent necessity, they will be apt to think we are providing sinecures for men whom we favor; they will reluctantly pay what is extracted from their earnings to a Government which they think is regardless of economy. They will suspect a further view in the change of Government. They will suppose that we contemplate the establishment of a monarchy, by raising round the Executive a phalanx of such men as must be inclined to favor those of whom they hold their places.

Mr. VINING.—Why do gentlemen say that such an office is unnecessary, when they are forced to admit that all the duties are essential? Or how can they say it is more expensive to establish it in this way than in another? Suppose these duties distributed in the manner which some gentlemen have mentioned, is it not fairly to be presumed that the departments to which any of them are attached, will require an extra pay for these extra services? If so, will there be any economy in this mode of procedure? All that is to be wished for, is to have a confidential person employed, let his salary be what you please: if it is not worth fifteen hundred dollars per annum, let it be five hundred. But it would be better to have a principal to manage the business than to have it consigned to clerks in the other departments.

Mr. LAWRENCE said that something was necessary to be done with respect to the business brought forward by the honorable gentleman from Delaware. He conceived that an officer of the rolls, or some inferior officer, ought to be appointed to transact the business detailed in the resolution; he did not insist upon making a great department.

Mr. SEDGWICK agreed with the gentleman from New York; but, he thought, the business might be thrown into some other department, and save to the Union the expense of the one which the gentleman from Delaware wished to establish, by the name of the Home Department. He thought the resolution proposed altogether so improper, that he hoped the committee would rise.

A desultory conversation arose, whether the committee should decide upon the resolution or not; after which a question was taken on the rising of the committee, and decided in the negative.

Then the question was put on the first part of Mr. VINING's proposition, viz: "That an Executive Department ought to be established, to be denominated the Home Department;" and lost by a considerable majority.

FRIDAY, July 24.

Committee of Ways and Means.

Mr. FITZSIMONS.—The finances of America have frequently been mentioned in this House as being very inadequate to the demands. I have ever been of a different opinion, and do believe that the funds of this country, if properly drawn into operation, will be equal to every claim. The estimate of supplies necessary for the current year appears very great from a report on your table, and which report has found its way into the public newspapers. I said on a former occasion, and I repeat it now, notwithstanding what is set forth in the estimate, that a revenue of three millions

of dollars in specie, will enable us to provide every supply necessary to support the Government, and pay the interest and instalments on the foreign and domestic debt. If we wish to have more particular information on these points, we ought to appoint a Committee of Ways and Means, to whom, among other things, the estimate of supplies may be referred, and this ought to be done speedily, if we mean to do it this session.

Mr. GERRY said, the estimate reported by a committee was as accurate as possible. From this it appeared, that eight millions of dollars would be necessary for the support of Government, for the interest and instalments becoming due, and for the arrearages already due. He remarked, that we had been already dunned on this subject by foreigners, and that Congress would have to make provision for their payment. If three millions of dollars were employed to this use, it would only be carrying the arrearages into another year; but, as they must be paid at last, he recommended making an immediate exertion as a better way of giving satisfaction than procrastination would be. He thought it best to lay the real situation of this country before the House, and not endeavor to make things appear better than they really are.

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With respect to the publication of the estimate in the papers, he knew nothing about it; he admitted that it was such a one as ought not to be published by order of Congress. He approved of the idea of appointing a Committee of Ways and Means, if it were only to ascertain what part of the interest on the debt should be paid, and what of the principal extinguished within the current year, from the funds already provided.

FRIDAY, July 31.

Mr. SCOTT, from the committee appointed for the purpose, brought in a bill for establishing a Land Office for the Western Territory, which was read and laid on the table.

On motion,

Resolved, That a standing committee be appointed to examine the enrolled bills, and to present the same to the President for his approbation and signature.

Messrs. WHITE and PARTRIDGE were accordingly appointed.

Mr. WHITE, of the committee appointed to examine into the measures taken by Congress and the State of Virginia, respecting the lands reserved for the use of the officers and soldiers of said State, &c., brought in a report, which was read and laid on the table.

The House then resumed the consideration of the amendments agreed upon in Committee of the Whole, to the bill for registering and clearing vessels; which being finished, the bill was ordered to be engrossed for a third reading on Monday next.

A message from the Senate informed the House that they had passed the bill for establishing the Treasury Department, with amendments; to which they desired the concurrence of the House.

Mr. SEDGWICK, from the committee appointed for the purpose, brought in a bill to provide for the safe keeping of the acts, records, and great seal of the United States, for the publication, preservation, and authentication of the acts of Congress, &c.; which was read and laid on the table.

MONDAY, August 3.

A message from the Senate informed the House that they had passed the bill for the establishment of light-houses, beacons, and buoys, with several amendments; to which they desired the concurrence of this House.

The amendments of the Senate were immediately considered and agreed to.

The engrossed bill for regulating the coasting trade was read a third time; and, on motion, recommitted to a Committee of the Whole, to be taken up to-morrow.

The bill for establishing a Land Office for the Western Territory was read a second time, and made the order of the day for Thursday.

The bill to provide for the safe keeping of the acts, records, great seal, &c., was read, and made the order of the day for Friday.

The report of the committee on amendments to the constitution was, on motion of Mr. MADISON, made the order of the day for Wednesday sennight.

Mr. BENSON made a motion as follows:

Resolved, That a committee be appointed to join with a committee of the Senate to be appointed for the purpose, to consider of and report when it will be convenient and proper that an adjournment of the present session of Congress should take place; and to consider and report such business now before Congress, necessary to be finished before the adjournment, and such as may be conveniently postponed to the next session; and also to consider and report such matters not now before Congress, but which it will be necessary should be considered and determined by Congress before an adjournment.

TUESDAY, August 4.

Compensation of Members.

Mr. BURKE, from the committee appointed for the purpose, brought in a bill for allowing a compensation to the members of both Houses, and to their respective officers; this bill provides that the compensation shall be as follows, viz:

To each member of the Senate and House, six dollars per day.

The Speaker of the House, twelve dollars per day.

To the Secretary of the Senate, and Clerk of the House, each fifteen hundred dollars a year, and two dollars a day each during the session of the Legislature; one principal clerk to each, at three dollars a day during the session; one engrossing clerk to each, at two dollars a day during the session.

Serjeant-at-arms, three dollars a day during the session.

Doorkeeper to the House and Senate, each seven hundred and thirty dollars a year.

Assistant doorkeepers, during the session, one dollar and fifty cents a day each. This bill was laid on the table.

WEDNESDAY, August 5.

The House then resolved itself into a Committee of the Whole, on the bill for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses, Mr. BOUDINOT in the chair.

Mr. GOODHUE moved to strike out six dollars, as the pay of each member per diem.

Mr. CARROLL inquired, if it was not out of order for the committee to alter principles, after they had been settled by the House.

Mr. PAGE wanted to know whether the gentleman meant to increase or diminish the sum, for he presumed it was not intended to be left a blank altogether; but he hoped the House would do neither. It had been settled, after mature deliberation, at six dollars; the House certainly thought that sum enough, and if it was more, that it would be too much; he was satisfied with this determination, and would adhere to it. Perhaps the gentleman meant to strike out the six dollars, in order to make a discrimination between the members of this House and the Senate; if so, he had better move to increase the compensation of the Senators, and here he would second him, because he thought their services required more.

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He would once more mention his fears relative to a small sum. He dreaded the abuse of economy, and was suspicious that a parsimonious provision would throw the Government into the hands of bad men, by which the people might lose every thing they now held dear. He thought few would serve for a smaller sum than he would, and he was confident the allowance was as moderate as any man could expect. Gentlemen who come a great distance are put to considerable expense, and their domestic arrangements destroyed: instead of laying up money by their attendance here, it was almost certain they would spend part of their private estates.

If it is meant that the republic should be provided with good and wholesome laws, a proper provision should be made to bring into the councils of the Union such men as are qualified to secure them well; it is not to be expected that the spirit of patriotism will lead a man into the perpetual habit of making such exertions and sacrifices as are too often necessary in the hour of danger. No man ought to be called into the services of his country, and receive less than will defray the expenses he incurs by performing his duty. If he does, the public affairs, in the time of tranquillity, will get exclusively into the hands of nabobs and aspiring men, who will lay the foundation of aristocracy, and reduce their equals to the capacity of menial servants or slaves.

Mr. SEDGWICK seconded the motion for striking out. He had endeavored to view this subject impartially, uninfluenced by any local considerations or circumstances; and under these impressions, he was led to believe, from all the information he had received, whether from abroad, or from an examination in his own mind, of the effects it would produce, that it would be expedient to establish the compensation at a lower sum. He really did not see any solid ground for the apprehensions which his worthy friend from Virginia (Mr. PAGE) had discovered. He had heard it often said, that if salaries and allowances to public officers were small, you would not be able to command the services of good men; but it was contradicted by the fact. He would instance the late appointments, and ask gentlemen whether they conceived better men could have been procured, if the compensation had been doubled? If it was fair to reason by experience and analogy, he should conclude there would be no difficulty in procuring good and respectable men, to serve in this House, at a less rate than six dollars per day. He had never yet observed that men of small property shrunk from the expense of serving in the councils of their country.

He thought the practice of the States was opposed to so high a compensation; many of the State Legislatures allowed their members a dollar and ten shillings a day, and yet they were served by good men.

He had been informed that it was thought by men of sense and intelligence, that although six dollars might not be too great an allowance for the services of the members of this House, yet, considering the present circumstances of the people, it would be good policy to reduce the same. He inclined to this opinion himself.

Impressed with these ideas, and knowing that it was generally the opinion of the people, that six

dollars was more than a moderate compensation to the members of this House, he should support the motion for striking out with a view to reduce the sum.

Mr. VINING said, the gentleman from Maryland (Mr. CARROLL) had taken the subject up in a proper point of view, by inquiring into the point of order. He begged gentlemen to consider the manner in which the subject had been discussed already—twice in the House, and twice in committee; every decision had been the same; why should the point so often determined be again agitated? It is contrary to all parliamentary proceeding, and the House will never know when principles are settled.

He was certain that six dollars was but a moderate compensation, if a member is to reside at the metropolis of the United States. He would admit that they could live for less, in some more central part of the country; but the gentlemen from the eastward should recollect that a small allowance would be an argument for removing Congress from this city, and when that time arrived, he should consent to a lower sum, but not till then.

Mr. FITZSIMONS did not expect to hear the subject discussed again; he thought it unnecessary, because he believed every gentleman would decide more upon his own feelings than upon the arguments that could be adduced; he would, however, just remind the committee, that six dollars was about the average of what the members from the several States had under the late confederation.

Mr. SEDGWICK.—According to the observation made by the gentleman from Pennsylvania, it will be deemed insolent to reason on this subject: what I offered before, I brought forward with candor; but shall we be precluded from debate, because a subject has been once discussed? Sir, when I moved, some days ago, to reduce the pay of the members to five dollars, I was rather indifferent about it; but since then, I have been so well convinced of the necessity there is for such a measure, that I cannot decline pressing it once more upon the committee.

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Mr. STONE thought the public mind would not be much influenced by the trifling difference between five and six dollars. They pay greater regard to the decisions of the House, on more important subjects. The gentleman from Massachusetts says his correspondents inform him, that the public mind is agitated on this subject; if we are to judge what is the state of the public mind from what our friends say, I should be apt to think the public mind quite unconcerned on the present question; for among all my correspondents, not one has deigned to notice it.

The question was now taken on striking out, and there appeared sixteen in favor of it, and thirty-five against it; so the motion passed in the negative.

Mr. MADISON renewed the motion for making a difference in the pay of the members of the Senate and the House of Representatives, which was also lost.

Mr. GOODHUE moved to strike out twelve dollars, the pay assigned the Speaker, and insert ten.

Mr. PAGE hoped his motion would share the fate of the two last; he was certain that twelve dollars was not more than a compensation for the Speaker's services; three times the sum would not induce him to accept such a situation.

Mr. BURKE was against the motion, because he thought that twelve dollars was not a reward for the Speaker's labor. The Speaker of the House of Commons in England has an annual salary of £8000 sterling.

Mr. CARROLL thought the Chair of the House of Representatives was one of the most important and dignified offices under the Government, and as such ought to be provided for.

This motion was lost by a great majority.

The committee rose and reported progress.

THURSDAY, August 6.

Compensation of Members.

The House then again went into a Committee of the Whole, on the bill for allowing a compensation to the members of Congress; and after some time spent therein, the committee rose and reported the bill as amended: then the House proceeded to consider the same.

Mr. THATCHER moved to insert five dollars instead of six, as the pay of the members.

Mr. PARTRIDGE observed, that money was more valuable now than it had been some years past; if, therefore, six dollars was the average of what the delegates received heretofore, five dollars was now equal to that sum. In short, he was convinced that six dollars was too much, and in justice to his constituents, and his own conscience, he would vote against it, and perpetuate his vote by calling the yeas and nays upon the question.

Mr. GERRY.—I was not present when this subject was last before the House, therefore I cannot say what was understood on this point; but I have seen some account of the debate in the papers, from which I am led to believe, that gentlemen view this matter in a very narrow point of light. It appears to me a question, in which one's popularity is more concerned than any thing else. Gentlemen perhaps suppose that by voting for five instead of six dollars, they will establish such a character for economy and patriotism as will redound to their honor; but I can easily conceive, that men of knowledge and sentiment, yes, our constituents in general, will discover, in a glaring light, the ruinous consequences of such a measure in a very short period. The difference of pay,

as it now stands in the bill, and what my colleague has moved for, is one dollar a day, and on this important question the yeas and nays are to be called. For my part, I shall deliver my sentiments freely; I am willing to leave the question to the people to decide; I care not about the pay, and I can assure them I never wish to have a seat in this House again: but I wish to guard against the subversion of the public liberty—against the introduction of pensions—against exposing the Legislature to corruption.

I would have gentlemen consider the principles upon which they are to pay the President, their Judges and themselves; the constitution says, the members of this House and the Senate shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. The President shall receive, at stated times, a compensation for his services, neither to be increased nor diminished; the Judges shall, at stated times, receive for their services a compensation, not to be diminished during their continuance in office; hence it appears that the provision for the three branches is to be made on the same principle, namely a compensation for their services. Now, though it is certainly a little embarrassing that we should have to estimate the value of our own services, yet we are bound to do it, and that upon a fixed principle. It has been said, that the Parliament of Britain receive no pay. This may be the case, but if they examine back, they will find that pay, of a mark per day, was regularly established for them. If we consider the difference of the value of money two or three centuries ago, we shall find this no inconsiderable allowance. But the policy of the British ministry has been, of late, to extend the influence of the Crown; the pay of members has dropped into disuse; but every one knows by what means a majority in Parliament is obtained and secured. Now, such is the extent of these means, that I venture to say, two important members of the House of Commons receive more per annum than the whole compensation given to the members of both Houses of Congress. I leave it to the world to judge, whether the people are likely to be better served by men who receive their wages of the Monarch, and who own themselves the servants of the Crown, or by those who are immediately paid by and dependent upon themselves. While Britain had funds enough to support this plan, they did tolerably well; but when the evil extended itself, and they feared they could no longer continue it without having recourse to other means, they bethought themselves of unconstitutional ones; they were desirous of obtaining a revenue out of this country, and placing upon our establishment men whom they could not provide for at home. This cause lost them America, and this cause will lose them every dependency, where they attempt to play the like game.

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From this view, the importance of an independent Legislature may be seen. Will gentlemen then say, that to gratify a thoughtless regard for economy, they will risk the most invaluable part of the Government? If gentlemen say it is justice to their constituents, I am willing to appeal to their tribunal; let them know the reason upon which we act, and I will abide by their determination; but I am against being influenced by an apprehension that the people will disapprove our conduct. I am not afraid of being left out, even if it were thought a disgrace to be left out. I would risk that disgrace rather than agree to an establishment which I am convinced would end in the ruin of the liberties of my fellow-citizens. It would give my heart more satisfaction to fall the victim of popular resentment, than to establish my popularity at the expense of their dearest interest.

As I mentioned before, the principle upon which we fix our own pay must go through the other branches of the Government. Your President ought to be retrenched to 16 or 18,000 dollars; your judges must be kept poor; and I leave gentlemen to consider the happy consequences arising from a dependent and corrupt Judiciary. Your Legislature may be corrupt, and your Executive aspiring; but a firm, independent Judiciary will stop the course of devastation, at least it will shield individuals from rapine and injustice; but remove this security, and tyranny and oppression will rush forward as a flood, and overwhelm the country.

It has been said, that the proposed compensation bears no proportion to the pay of the members of the State Legislatures; let me ask, do members of the State Legislatures forego their business? Do they leave their State and relinquish their occupations? Does the lawyer neglect his client? Does the merchant forego his commerce, or the farmer his agriculture? No, sir, the short period they are in session, and the opportunity of being in the vicinity affords them of going home, even during their sitting, enables them to pursue their other avocations, while performing their duties in the Legislature. But are not gentlemen who come from the most distant parts of the Union, compelled to relinquish every thing to attend here? The representation from the States is so small, that a member can be ill spared at any time; his absence must give him pain, when even that absence is necessary, but cannot be often allowed. In short, I would have the allowance such, as to secure the services of men of abilities in every rank of life; or if that cannot be obtained, I would have all that part of the bill struck out, which relates to a compensation for the services of the members of this House.

Mr. PAGE said, if gentlemen were satisfied that five dollars per day was enough to compensate them and defray their expenses, because they resided in a part of the Union where every thing was to be procured so much cheaper, they might receive that sum and leave the residue in the Treasury; by this means they would demonstrate their love of economy and disinterestedness.

Mr. VINING thought gentlemen who were satisfied with four or five dollars, might move to amend the clause, so as to make it read "not exceeding six dollars per day," and then they might charge as much less as they deemed prudent.

Mr. BOUDINOT said, that whatever measures he supported, he did it upon principle, not from a desire of acquiring popularity; he was satisfied that six dollars per day was not extravagant compensation, but considering the situation of the country, and the delicacy of their own

situation, he would vote for five dollars, and he thought it sufficient to secure men of ability. He asked the gentleman from Massachusetts (Mr. GERRY) if he expected the paltry consideration of getting a dollar a day more, was to induce men of abilities and integrity to come forward and render their country their services?

He admitted that many gentlemen would find it difficult to bear all their expenses with five dollars a day; but the compensation could not be on a principle of discrimination, and therefore the House could not make particular provision for such gentlemen. Others might think a less sum sufficient, but no discrimination could here take place; it was therefore necessary to accommodate, and upon this principle he hoped the House would agree to five dollars per day; nor would this be any variation from the principle established by the committee who reported the bill. They had taken the pay of the delegates to the late Congress, and struck an average, which was found to be about five dollars and a half; they had reported six, but from the principles he had before mentioned, he thought it better to agree to five.

Mr. GERRY.—The gentleman from Jersey, who was last up, says he does not think six dollars per day more than sufficient; but that he will, from a principle of delicacy, vote for five. I am as great a friend to delicacy as any man, but I would not sacrifice essentials to a false delicacy. It seems, from such sentiments, as if we were afraid to administer a constitution which we are bound to administer. How are those sentiments reconcilable to the oath we have taken? The constitution requires that we shall, by law, compensate the services of the members of both Houses.

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It has been said, that money is now more valuable than it was a few years since. I admit the fact, sir, but four dollars per day was better under the old plan of Government than six or eight under this, because a delegate was then engaged for the whole year, but now he is to attend at intervals. Some members were continued several years successively, and consequently found it more advantageous. But this mode of reasoning is fallacious; the question ought to be determined upon its own merits. But if gentlemen are for sacrificing justice and propriety to delicacy, or any other motive, let them come forward and agree to what I mentioned before; let them strike out all that relates to their own compensation; they are called upon by their own arguments to do this.

Mr. SEDGWICK did not rise to speak to the question, but merely to reply to some observations that have fallen from the gentlemen who opposed the present motion, particularly his colleague. The want of candor and liberality might render gentlemen unpleasant in their situation; but the consequences arising from such causes, were often still more unpleasant. His colleague had insinuated, in a pointed manner, that the gentlemen who were in favor of a reduction, were actuated by motives not only improper and unworthy of a man of character, but such as appeared base to his mind. It was said, that those who proposed this reduction, did it merely to court popularity. Whether the gentleman, his colleague, who brought forward the motion to-day, sacrificed more at that shrine than his colleague who had opposed it, he left to those to determine who noticed their conduct; but he believed they could never be charged with such meanness. For his own part, if he had sacrificed in this way, as his conduct had always been consistent with his sentiments, it must have been known, and his character would long ere this have been blasted in the manner it would have justly deserved. If he had done it heretofore, he hoped the stigma would not be affixed upon him, for a conduct founded upon the solid and substantial reasons he had advanced when the subject was last before the House.

Mr. BOUDINOT.—The gentleman from Massachusetts makes me say, that six dollars a day is not too much. I said it was not extravagant, but more than I thought was proper upon due consideration of the circumstances of this country. This is still my opinion, and upon it I shall ground my vote. I believe no gentleman in this House regards his popularity, when set in competition with his duty; my conduct has ever been open, and I leave the world to judge from that what are my principles. I shall therefore take no further notice of what has been said on that subject, but conclude with wishing, for the honor of the House, and the dignity of the gentlemen, that all our debates may be conducted with candor and moderation.

Mr. AMES wished the call for the yeas and nays was withdrawn; because he thought they lost their usefulness by a too frequent use. He was in favor of the motion, but he did not wish to have his name entered on the minutes on that account.

Mr. PARTRIDGE said, it was well known he never courted popularity; he never sought a seat in this House, or any other public body; but he insisted upon his right, as a member, to call for the yeas and nays, when he thought the public interest might be benefited by it; however, as the bill was not to be finished to-day, he would waive that call.

The question was taken on Mr. GOODHUE'S motion, and passed in the negative, by a large majority. The bill was ordered to be engrossed, and the House adjourned.

THURSDAY, August 13.

Amendments to the Constitution.

The House then resolved itself into a Committee of the Whole, Mr. BOUDINOT in the chair, and took the amendments under consideration. The first article ran thus: "In the introductory paragraph of the constitution, before the words 'We the people,' add 'Government being intended for the benefit of the people, and the rightful establishment thereof being derived from their authority alone.'"

Mr. SHERMAN.—I believe, Mr. Chairman, this is not the proper mode of amending the constitution.

We ought not to interweave our propositions into the work itself, because it will be destructive of the whole fabric. We might as well endeavor to mix brass, iron, and clay, as to incorporate such heterogeneous articles; the one contradictory to the other. Its absurdity will be discovered by comparing it with a law. Would any legislature endeavor to introduce into a former act a subsequent amendment, and let them stand so connected? When an alteration is made in an act, it is done by way of supplement; the latter act always repealing the former in every specified case of difference.

Besides this, sir, it is questionable whether we have the right to propose amendments in this way. The constitution is the act of the people, and ought to remain entire. But the amendments will be the act of the State Governments. Again, all the authority we possess is derived from that instrument; if we mean to destroy the whole, and establish a new constitution, we remove the basis on which we mean to build. For these reasons, I will move to strike out that paragraph and substitute another.

The paragraph proposed was to the following effect:

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the following articles be proposed as amendments to the constitution, and when ratified by three-fourths of the State Legislatures shall become valid to all intents and purposes, as part of the same.

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Under this title, the amendments might come in nearly as stated in the report, only varying the phraseology so as to accommodate them to a supplementary form.

Mr. MADISON.—Form, sir, is always of less importance than the substance; but on this occasion, I admit that form is of some consequence, and it will be well for the House to pursue that which, upon reflection, shall appear to be the most eligible. Now it appears to me, that there is a neatness and propriety in incorporating the amendments into the constitution itself; in that case the system will remain uniform and entire; it will certainly be more simple, when the amendments are interwoven into those parts to which they naturally belong, than it will if they consist of separate and distinct parts. We shall then be able to determine its meaning without references or comparison; whereas, if they are supplementary, its meaning can only be ascertained by a comparison of the two instruments, which will be a very considerable embarrassment. It will be difficult to ascertain to what parts of the instrument the amendments particularly refer; they will create unfavorable comparisons; whereas, if they are placed upon the footing here proposed, they will stand upon as good foundation as the original work.

Nor is it so uncommon a thing as gentlemen suppose; systematic men frequently take up the whole law, and, with its amendments and alterations, reduce it into one act. I am not, however, very solicitous about the form, provided the business is but well completed.

Mr. SMITH did not think the amendment proposed by the honorable gentleman from Connecticut was compatible with the constitution, which declared, that the amendments recommended by Congress, and ratified by the Legislatures of three-fourths of the several States, should be part of this constitution; in which case it would form one complete system; but according to the idea of the amendment, the instrument is to have five or six suits of improvements. Such a mode seems more calculated to embarrass the people than any thing else, while nothing in his opinion was a juster cause of complaint than the difficulties of knowing the law, arising from legislative obscurities that might easily be avoided. He said, that it had certainly been the custom in several of the State Governments, to amend their laws by way of supplement. But South Carolina had been an instance of the contrary practice, in revising the old code; instead of making acts in addition to acts, which is always attended with perplexity, she has incorporated them, and brought them forward as a complete system, repealing the old. This is what he understood was intended to be done by the committee; the present copy of the constitution was to be done away, and a new one substituted in its stead.

Mr. LIVERMORE was clearly of opinion, that whatever amendments were made to the constitution, they ought to stand separate from the original instrument. We have no right, said he, to alter a clause, any otherwise than by a new proposition. We have well-established precedents for such a mode of procedure in the practice of the British Parliament, and the State Legislatures throughout America. I do not mean, however, to assert that there has been no instance of a repeal of the whole law on enacting another; but this has generally taken place on account of the complexity of the original, with its supplements. Were we a mere legislative body, no doubt it might be warrantable in us to pursue a similar method; but it is questionable whether it is possible for us, consistent with the oath we have taken, to attempt a repeal of the constitution of the United States, by making a new one to substitute in its place; the reason of this is grounded on a very simple consideration. It is by virtue of the present constitution, I presume, that we attempt to make another; now, if we proceed to the repeal of this, I cannot see upon what authority we shall erect another; if we destroy the base, the superstructure falls of course. At some future day it may be asked upon what authority we proceeded to raise and appropriate public moneys. We suppose we do it in virtue of the present constitution; but it may be doubted whether we have a right to exercise any of its authorities while it is suspended, as it will certainly be from the time that two-thirds of both Houses have agreed to submit it to the State Legislatures; so that, unless we mean to destroy the whole constitution, we ought to be careful how we attempt to amend it in the way proposed by the committee. From hence, I presume it will be more prudent to adopt the mode proposed by the gentleman from Connecticut, than it will be to risk the destruction of the whole by proposing amendments in the manner recommended by the committee.

Mr. VINING disliked a supplementary form, and said it was a bad reason to urge the practice of former ages, when there was a more convenient method of doing the business at hand. He had seen an act entitled an act to amend a supplement to an act entitled an act for altering part of an act entitled an act for certain purposes therein mentioned. If gentlemen were disposed to run into such jargon in amending and altering the constitution, he could not help it; but he trusted they would adopt a plainness and simplicity of style on this and every other occasion, which should be easily understood. If the mode proposed by the gentleman from Connecticut was adopted, the system would be distorted, and, like a careless written letter, have more attached to it in a postscript than was contained in the original composition.

The constitution being a great and important work, ought all to be brought into one view, and made as intelligible as possible.

Mr. CLYMER was of opinion with the gentleman from Connecticut, that the amendments ought not to be incorporated in the body of the work, which he hoped would remain a monument to justify those who made it; by a comparison, the world would discover the perfection of the original, and the superfluity of the amendments. He made this distinction, because he did not conceive any of the amendments essential, but as they were solicited by his fellow-citizens, and for that reason they were acquiesced in by others; he therefore wished the motion for throwing them into a supplementary form might be carried.

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Mr. STONE.—It is not a matter of much consequence, with respect to the preservation of the original instrument, whether the amendments are incorporated or made distinct; because the records will always show the original form in which it stood. But in my opinion, we ought to mark its progress with truth in every step we take. If the amendments are incorporated in the body of the work, it will appear, unless we refer to the archives of Congress, that GEORGE WASHINGTON, and the other worthy characters who composed the convention, signed an instrument which they never had in contemplation. The one to which he affixed his signature purports to be adopted by the unanimous consent of the delegates from every State there assembled. Now if we incorporate these amendments, we must undoubtedly go further, and say that the constitution so formed was defective, and had need of alteration; we therefore purpose to repeal the old and substitute a new one in its place. From this consideration alone, I think we ought not to pursue the line of conduct drawn for us by the committee. This perhaps is not the last amendment the constitution may receive; we ought therefore to be careful how we set a precedent which, in dangerous and turbulent times, may unhinge the whole.

Mr. LIVERMORE.—The mode adopted by the committee might be very proper, provided Congress had the forming of a constitution in contemplation; then they, or an individual member, might propose to strike out a clause and insert another, as is done with respect to article 3, section 2. But certainly no gentleman acquainted with legislative business would pretend to alter and amend, in this manner, a law already passed. He was convinced it could not be done properly in any other way than by the one proposed by the gentleman from Connecticut.

Mr. GERRY asked, if the mode could make any possible difference, provided the sanction was the same; or whether it would operate differently in any one instance? If it will not, we are disputing about form, and the question will turn on the expediency. Now one gentleman tells you, that he is so attached to this instrument, that he is unwilling to lose any part of it; therefore, to gratify him, we may throw it into a supplementary form. But let me ask, will not this as effectually destroy some parts, as if the correction had been made by way of incorporation? or will posterity have a more favorable opinion of the original, because it has been amended by distinct acts? For my part, I cannot see what advantage can accrue from adopting the motion of the honorable gentleman from Connecticut, unless it be to give every one the trouble of erasing out of his copy of the constitution certain words and sentences, and inserting others. But, perhaps, in our great veneration for the original composition, we may go further, and pass an act to prohibit these interpolations, as it may injure the text.

It is said that the present form of the amendments is contrary to the 5th article. I will not undertake to define the extent of the word amendment, as it stands in the fifth article; but I suppose if we proposed to change the division of the powers given to the three branches of the Government, and that proposition is accepted and ratified by three-fourths of the State Legislatures, it will become as valid, to all intents and purposes, as any part of the constitution; but if it is the opinion of gentlemen that the original is to be kept sacred, amendments will be of no use, and had better be omitted; whereas, on the other hand, if they are to be received as equal in authority we shall have five or six constitutions, perhaps differing in material points from each other, but all equally valid; so that they may require a man of science to determine what is or is not the constitution. This will certainly be attended with great inconvenience, as the several States are bound not to make laws contradictory thereto, and all officers are sworn to support it, without knowing precisely what it is.

Mr. STONE asked the gentleman last up, how he meant to have the amendments incorporated? Was it intended to have the constitution republished, and the alterations inserted in their proper places? He did not see how it was practicable to propose amendments, without making out a new constitution, in the manner brought forward by the committee.

Mr. LAWRENCE could not conceive how gentlemen meant to engraft the amendments into the constitution. The original one, executed by the convention at Philadelphia, was lodged in the archives of the late Congress; it was impossible for this House to take, and correct, and interpolate that without making it speak a different language: this would be supposing several things which never were contemplated. But what would become of the acts of Congress? They

will certainly be vitiated, unless they are provided for by an additional clause in the constitution.

Mr. BENSON said, that this question had been agitated in the select committee, and determined in favor of the form in which it was reported; he believed this decision was founded in a great degree upon the recommendation of the State conventions, which had proposed amendments in this very form. This pointed out the mode most agreeable to the people of America, and therefore the one most eligible for Congress to pursue; it will likewise be the most convenient way. Suppose the amendments ratified by the several States; Congress may order a number of copies to be printed, into which the alterations will be inserted, and the work stand perfect and entire.

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Mr. MADISON.—The gentleman last up has left me but one remark to add, and that is, if we adopt the amendment, we shall so far unhinge the business, as to occasion alterations in every article and clause of the report.

Mr. HARTLEY hoped the committee would not agree to the alteration, because it would perplex the business. He wished the propositions to be simple and entire, that the State Legislatures might decide without hesitation, and every man know what was the ground on which he rested his political welfare. Besides, the consequent changes which the motion would induce, were such as, he feared, would take up some days, if not weeks; and the time of the House was too precious to be squandered away in discussing mere matter of form.

Mr. JACKSON.—I do not like to differ with gentlemen about form; but as so much has been said, I wish to give my opinion; it is this: that the original constitution ought to remain inviolate, and not be patched up, from time to time, with various stuffs resembling Joseph's coat of many colors.

Some gentlemen talk of repealing the present constitution, and adopting an improved one. If we have this power, we may go on from year to year, making new ones; and in this way, we shall render the basis of the superstructure the most fluctuating thing imaginable, and the people will never know what the constitution is. As for the alteration proposed by the committee, to prefix before "We the people" certain dogmas, I cannot agree to it; the words, as they now stand, speak as much as it is possible to speak; it is a practical recognition of the right of the people to ordain and establish Governments, and is more expressive than any other mere paper declaration.

But why will gentlemen contend for incorporating amendments into the constitution? They say, that it is necessary for the people to have the whole before them in one view. Have they precedent for this assertion? Look at the constitution of Great Britain; is that all contained in one instrument? It is well known, that *magna charta* was extorted by the barons from King John some centuries ago. Has that been altered since by the incorporation of amendments? Or does it speak the same language now, as it did at the time it was obtained? Sir, it is not altered a tittle from its original form. Yet there have been many amendments and improvements in the constitution of Britain since that period. In the subsequent reign of his son, the great charters were confirmed with some supplemental acts. Is the *habeas corpus* act, or the statute *De Tallagio non concedendo* incorporated in *magna charta*? And yet there is not an Englishman but would spill the last drop of his blood in their defence; it is these, with some other acts of Parliament and *magna charta*, that form the basis of English liberty. We have seen amendments to their constitution during the present reign, by establishing the independence of the judges, who are hereafter to be appointed during good behavior; formerly they were at the pleasure of the Crown. But was this done by striking out and inserting other words in the great charter? No, sir, the constitution is composed of many distinct acts; but an Englishman would be ashamed to own that, on this account, he could not ascertain his own privileges or the authority of the Government.

The constitution of the Union has been ratified and established by the people; let their act remain inviolable; if any thing we can do has a tendency to improve it, let it be done, but without mutilating and defacing the original.

Mr. SHERMAN.—If I had looked upon this question as mere matter of form, I should not have brought it forward or troubled the committee with such a lengthy discussion. But, sir, I contend that amendments made in the way proposed by the committee are void. No gentleman ever knew an addition and alteration introduced into an existing law, and that any part of such law was left in force; but if it was improved or altered by a supplemental act, the original retained all its validity and importance, in every case where the two were not incompatible. But if these observations alone should be thought insufficient to support my motion, I would desire gentlemen to consider the authorities upon which the two constitutions are to stand. The original was established by the people at large, by conventions chosen by them for the express purpose. The preamble to the constitution declares the act: but will it be a truth in ratifying the next constitution, which is to be done perhaps by the State Legislatures, and not conventions chosen for the purpose? Will gentlemen say it is "We the people" in this case? Certainly they cannot; for, by the present constitution, we, nor all the Legislatures in the Union together, do not possess the power of repealing it. All that is granted us by the 5th article is, that whenever we shall think it necessary, we may propose amendments to the constitution; not that we may propose to repeal the old, and substitute a new one.

Gentlemen say, it would be convenient to have it in one instrument, that people might see the whole at once; for my part, I view no difficulty on this point. The amendments reported are a declaration of rights; the people are secure in them, whether we declare them or not; the last amendment but one provides that the three branches of Government shall each exercise its own rights. This is well secured already; and, in short, I do not see that they lessen the force of any article in the constitution; if so, there can be little more difficulty in comprehending them whether they are combined in one, or stand distinct instruments.

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Mr. SMITH read extracts from the amendments proposed by several of the State conventions at the time they ratified the constitution, from which, he said, it appeared that they were generally of opinion that the phraseology of the constitution ought to be altered; nor would this mode of proceeding repeal any part of the constitution but such as it touched, the remainder will be in force during the time of considering it and ever after.

As to the observations made by the honorable gentleman from Georgia, respecting the amendments made to the constitution of Great Britain, they did not apply; the cases were nothing like similar, and, consequently, could not be drawn into precedent. The constitution of Britain is neither the *magna charta* of John, nor the *habeas corpus* act, nor all the charters put together; it is what the Parliament wills. It is true, there are rights granted to the subject that cannot be resumed; but the constitution, or form of government, may be altered by the authority of Parliament, whose power is absolute without control.

Mr. SHERMAN.—The gentlemen who oppose the motion say we contend for matter of form; they think it nothing more. Now we say we contend for substance, and therefore cannot agree to amendments in this way. If they are so desirous of having the business completed, they had better sacrifice what they consider but a matter of indifference to gentlemen, to go more unanimously along with them in altering the constitution.

The question on Mr. SHERMAN'S motion was now put and lost.^[29]

FRIDAY, August 14.

ABIEL FOSTER, from New Hampshire, appeared and took his seat.

SATURDAY, August 15.

Amendments to the Constitution.

FREEDOM OF CONSCIENCE.

Article 1. Section 9. Between paragraphs two and three insert, "no religion shall be established by law, nor shall the equal rights of conscience be infringed."

Mr. SYLVESTER had some doubts of the propriety of the mode of expression used in this paragraph. He apprehended that it was liable to a construction different from what had been made by the committee. He feared it might be thought to have a tendency to abolish religion altogether.

Mr. VINING suggested the propriety of transposing the two members of the sentence.

Mr. GERRY said, it would read better if it was, that no religious doctrine shall be established by law.

Mr. SHERMAN thought the amendment altogether unnecessary, inasmuch as Congress had no authority whatever delegated to them by the constitution to make religious establishments; he would, therefore, move to have it struck out.

Mr. CARROLL.—As the rights of conscience are, in their nature, of peculiar delicacy, and will little bear the gentlest touch of governmental hand; and as many sects have concurred in opinion, that they are not well secured under the present constitution, he said he was much in favor of adopting the words. He thought it would tend more towards conciliating the minds of the people to the Government than almost any other amendment he had heard proposed. He would not contend with gentlemen about the phraseology, his object was to secure the substance in such a manner as to satisfy the wishes of the honest part of the community.

Mr. MADISON said, he apprehended the meaning of the words to be, that Congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience. Whether the words are necessary or not, he did not mean to say, but they had been required by some of the State Conventions, who seemed to entertain an opinion that under the clause of the constitution, which gave power to Congress to make all laws necessary and proper to carry into execution the constitution, and the laws made under it, enabled them to make laws of such a nature as might infringe the rights of conscience, and establish a national religion; to prevent these effects he presumed the amendment was intended, and he thought it as well expressed as the nature of the language would admit.

Mr. HUNTINGTON said, that he feared, with the gentleman first up on this subject, that the words might be taken in such a latitude as to be extremely hurtful to the cause of religion. He understood the amendment to mean what had been expressed by the gentleman from Virginia; but others might find it convenient to put another construction upon it. The ministers of their congregations to the eastward were maintained by the contributions of those who belonged to their society; the expense of building meeting-houses was contributed in the same manner. These things were regulated by by-laws. If an action was brought before a Federal Court on any of these cases, the person who had neglected to perform his engagements could not be compelled to do it; for a support of ministers, or building of places of worship, might be construed into a religious establishment.

By the charter of Rhode Island, no religion could be established by law; he could give a history of the effects of such a regulation; indeed the people were now enjoying the blessed fruits of it. He hoped, therefore, the amendment would be made in such a way as to secure the rights of

conscience, and a free exercise of the rights of religion, but not to patronize those who professed no religion at all.

Mr. MADISON thought, if the word national was inserted before religion, it would satisfy the minds of honorable gentlemen. He believed that the people feared one sect might obtain a pre-eminence, or two combine together, and establish a religion to which they would compel others to conform. He thought if the word national was introduced, it would point the amendment directly to the object it was intended to prevent.

Mr. LIVERMORE was not satisfied with that amendment; but he did not wish them to dwell long on the subject. He thought it would be better if it was altered, and made to read in this manner, that Congress shall make no laws touching religion, or infringing the rights of conscience.

Mr. GERRY did not like the term national, proposed by the gentleman from Virginia, and he hoped it would not be adopted by the House. It brought to his mind some observations that had taken place in the conventions at the time they were considering the present constitution. It had been insisted upon by those who were called anti-federalists, that this form of Government consolidated the Union; the honorable gentleman's motion shows that he considers it in the same light. Those who were called anti-federalists at that time complained that they had injustice done them by the title, because they were in favor of a Federal government, and the others were in favor of a national one; the federalists were for ratifying the constitution as it stood, and the others not until amendments were made. Their names then ought not to have been distinguished by federalists and anti-federalists, but rats and anti-rats.

Mr. MADISON withdrew his motion, but observed that the words "no national religion shall be established by law," did not imply that the Government was a national one; the question was then taken on Mr. Livermore's motion, and passed in the affirmative, thirty-one for, and twenty against it.

Amendments to the Constitution.

RIGHT OF INSTRUCTION.

"The freedom of speech and of the press, and the right of the people peaceably to assemble and consult for the common good, and to apply to the Government for a redress of grievances," being the clause under consideration, Mr. TUCKER, of South Carolina, moved to add thereto these words — *to instruct their representatives.*

Mr. HARTLEY wished the motion had not been made, for gentlemen acquainted with the circumstances of this country, and the history of the country from which we separated, differed exceedingly on this point. The members of the House of Representatives, said he, are chosen for two years, the members of the Senate for six.

According to the principles laid down in the Constitution, it is presumable that the persons elected know the interests and the circumstances of their constituents, and being checked in their determinations by a division of the Legislative power into two branches, there is little danger of error. At least it ought to be supposed that they have the confidence of the people during the period for which they are elected; and if, by misconduct, they forfeit it, their constituents have the power of leaving them out at the expiration of that time—thus they are answerable for the part they have taken in measures that may be contrary to the general wish.

Representation is the principle of our Government; the people ought to have confidence in the honor and integrity of those they send forward to transact their business; their right to instruct them is a problematical subject. We have seen it attended with bad consequences, both in England and America. When the passions of the people are excited, instructions have been resorted to and obtained, to answer party purposes; and although the public opinion is generally respectable, yet at such moments it has been known to be often wrong; and happy is that Government composed of men of firmness and wisdom to discover, and resist popular error.

If, in a small community, where the interests, habits, and manners are neither so numerous nor diversified, instructions bind not, what shall we say of instructions to this body? Can it be supposed that the inhabitants of a single district in a State, are better informed with respect to the general interests of the Union, than a select body assembled from every part? Can it be supposed that a part will be more desirous of promoting the good of the whole than the whole will of the part? I apprehend, sir, that Congress will be the best judges of proper measures, and that instructions will never be resorted to but for party purposes, when they will generally contain the prejudices and acrimony of the party, rather than the dictates of honest reason and sound policy.

In England this question has been considerably agitated. The representatives of some towns in Parliament have acknowledged, and submitted to the binding force of instructions, while the majority have thrown off the shackles with disdain. I would not have this precedent influence our decision; but let the doctrine be tried upon its own merits, and stand or fall as it shall be found to deserve.

It appears to my mind, that the principle of representation is distinct from an agency, which may require written instructions. The great end of meeting is to consult for the common good; but can the common good be discerned without the object is reflected and shown in every light. A local or partial view does not necessarily enable any man to comprehend it clearly; this can only result from an inspection into the aggregate. Instructions viewed in this light will be found to

embarrass the best and wisest men. And were all the members to take their seats in order to obey instructions, and those instructions were as various as it is probable they would be, what possibility would there exist of so accommodating each to the other as to produce any act whatever? Perhaps a majority of the whole might not be instructed to agree to any one point, and is it thus the people of the United States propose to form a more perfect union, provide for the common defence, and promote the general welfare?

Sir, I have known within my own time so many inconveniences and real evils arise from adopting the popular opinions on the moment, that, although I respect them as much as any man, I hope this Government will particularly guard against them, at least that they will not bind themselves by a constitutional act, and by oath, to submit to their influence; if they do, the great object which this Government has been established to attain, will inevitably elude our grasp on the uncertain and veering winds of popular commotion.

Mr. PAGE.—The gentleman from Pennsylvania tells you, that in England this principle is doubted; how far this is consonant with the nature of the Government I will not pretend to say; but I am not astonished to find that the administrators of a monarchical Government are unassailable by the weak voice of the people; but under a democracy, whose great end is to form a code of laws congenial with the public sentiment, the popular opinion ought to be collected and attended to. Our present object is, I presume, to secure to our constituents and to posterity these inestimable rights. Our Government is derived from the people; of consequence the people have a right to consult for the common good; but to what end will this be done, if they have not the power of instructing their representatives? Instruction and representation in a republic, appear to me to be inseparably connected; but were I the subject of a monarch, I should doubt whether the public good did not depend more upon the prince's will than the will of the people. I should dread a popular assembly consulting for the public good, because, under its influence, commotions and tumults might arise that would shake the foundation of the monarch's throne, and make the empire tremble in expectation. The people of England have submitted the crown to the Hanover family, and have rejected the Stuarts. If instructions upon such a revolution were considered binding, it is difficult to know what would have been the effects. It might be well, therefore, to have the doctrine exploded from that kingdom; but it will not be advanced as a substantial reason in favor of our treading in the same steps.

The honorable gentleman has said, that when once the people have chosen a representative, they must rely on his integrity and judgment during the period for which he is elected. I think, sir, to doubt the authority of the people to instruct their representatives, will give them just cause to be alarmed for their fate. I look upon it as a dangerous doctrine, subversive of the great end for which the United States have confederated. Every friend of mankind, every well-wisher of his country, will be desirous of obtaining the sense of the people on every occasion of magnitude; but how can this be so well expressed as in instructions to their representatives? I hope, therefore, that gentlemen will not oppose the insertion of it in this part of the report.

Mr. CLYMER.—I hope the amendment will not be adopted; but if our constituents choose to instruct us, that they may be left at liberty to do so. Do gentlemen foresee the extent of these words? If they have a constitutional right to instruct us, it infers that we are bound by those instructions; and as we ought not to decide constitutional questions by implication, I presume we shall be called upon to go further, and expressly declare the members of the Legislature bound by the instruction of their constituents. This is a most dangerous principle, utterly destructive of all ideas of an independent and deliberative body, which are essential requisites in the Legislatures of free Governments; they prevent men of abilities and experience from rendering those services to the community that are in their power, destroying the object contemplated by establishing an efficient General Government, and rendering Congress a mere passive machine.

Mr. SHERMAN.—It appears to me, that the words are calculated to mislead the people, by conveying an idea that they have a right to control the debates of the Legislature. This cannot be admitted to be just, because it would destroy the object of their meeting. I think, when the people have chosen a representative, it is his duty to meet others from the different parts of the Union, and consult, and agree with them to such acts as are for the general benefit of the whole community. If they were to be guided by instructions, there would be no use in deliberation; all that a man would have to do, would be to produce his instructions, and lay them on the table, and let them speak for him. From hence I think it may be fairly inferred, that the right of the people to consult for the common good can go no further than to petition the Legislature, or apply for a redress of grievances. It is the duty of a good representative to inquire what measures are most likely to promote the general welfare, and, after he has discovered them, to give them his support. Should his instructions, therefore, coincide with his ideas on any measure, they would be unnecessary; if they were contrary to the conviction of his own mind, he must be bound by every principle of justice to disregard them.

Mr. JACKSON was in favor of the right of the people to assemble and consult for the common good; it had been used in this country as one of the best checks on the British Legislature in their unjustifiable attempts to tax the colonies without their consent. America had no representatives in the British Parliament, therefore they could instruct none, yet they exercised the power of consultation to a good effect. He begged gentlemen to consider the dangerous tendency of establishing such a doctrine; it would necessarily drive the House into a number of factions. There might be different instructions from every State, and the representation from each State would be a faction to support its own measures.

If we establish this as a right, we shall be bound by those instructions; now, I am willing to leave both the people and representatives to their own discretion on this subject. Let the people

consult and give their opinion; let the representative judge of it; and if it is just, let him govern himself by it as a good member ought to do; but if it is otherwise, let him have it in his power to reject their advice.

What may be the consequence of binding a man to vote in all cases according to the will of others? He is to decide upon a constitutional point, and on this question his conscience is bound by the obligation of a solemn oath; you now involve him in a serious dilemma. If he votes according to his conscience, he decides against his instructions; but in deciding against his instructions, he commits a breach of the constitution, by infringing the prerogative of the people, secured to them by this declaration. In short, it will give rise to such a variety of absurdities and inconsistencies, as no prudent Legislature would wish to involve themselves in.

Mr. GERRY.—By the checks provided in the constitution, we have good grounds to believe that the very framers of it conceived that the Government would be liable to maladministration, and I presume that the gentlemen of this House do not mean to arrogate to themselves more perfection than human nature has as yet been found to be capable of; if they do not, they will admit an additional check against abuses which this, like every other Government, is subject to. Instruction from the people will furnish this in a considerable degree.

It has been said that the amendment proposed by the honorable gentleman from South Carolina (Mr. TUCKER) determines this point, "that the people can bind their representatives to follow their instructions." I do not conceive that this necessarily follows. I think the representative, notwithstanding the insertion of these words, would be at liberty to act as he pleased; if he declined to pursue such measures as he was directed to attain, the people would have a right to refuse him their suffrages at a future election.

Now, though I do not believe the amendment would bind the representatives to obey the instructions, yet I think the people have a right both to instruct and bind them. Do gentlemen conceive that on any occasion instructions would be so general as to proceed from all our constituents? If they do, it is the sovereign will; for gentlemen will not contend that the sovereign will presides in the Legislature. The friends and patrons of this constitution have always declared that the sovereignty resides in the people, and that they do not part with it on any occasion; to say the sovereignty vests in the people and that they have not a right to instruct and control their representatives is absurd to the last degree. They must either give up their principle, or grant that the people have a right to exercise their sovereignty to control the whole Government, as well as this branch of it. But the amendment does not carry the principle to such an extent, it only declares the right of the people to send instructions; the representative will, if he thinks proper, communicate his instructions to the House, but how far they shall operate on his conduct, he will judge for himself.

The honorable gentleman from Georgia (Mr. JACKSON) supposes that instructions will tend to generate factions in this House; but he did not see how it could have that effect, any more than the freedom of debate had. If the representative entertains the same opinion with his constituents, he will decide with them in favor of the measure; if other gentlemen, who are not instructed on this point, are convinced by argument that the measure is proper, they will also vote with them; consequently the influence of debate and of instruction is the same.

The gentleman says further, that the people have the right of instructing their representatives; if so, why not declare it? Does he mean that it shall lie dormant and never be exercised? If so, it will be a right of no utility. But much good may result from a declaration in the constitution that they possess this privilege; the people will be encouraged to come forward with their instructions, which will form a fund of useful information for the Legislature. We cannot, I apprehend, be too well informed of the true state, condition, and sentiment of our constituents, and perhaps this is the best mode in our power of obtaining information. I hope we shall never shut our ears against that information which is to be derived from the petitions and instructions of our constituents. I hope we shall never presume to think that all the wisdom of this country is concentrated within the walls of this House. Men, unambitious of distinctions from their fellow-citizens, remain within their own domestic walk, unheard of and unseen, possessing all the advantages resulting from a watchful observance of public men and public measures, whose voice, if we would descend to listen to it, would give us knowledge superior to what could be acquired amidst the cares and bustles of a public life; let us then adopt the amendment, and encourage the diffident to enrich our stock of knowledge with the treasure of their remarks and observations.

Mr. MADISON.—I think the committee acted prudently in omitting to insert these words in the report they have brought forward; if, unfortunately, the attempt of proposing amendments should prove abortive, it will not arise from the want of a disposition in the friends of the constitution to do what is right with respect to securing the rights and privileges of the people of America, but from the difficulties arising from discussing and proposing abstract propositions of which the judgment may not be convinced. I venture to say, that if we confine ourselves to an enumeration of simple, acknowledged principles, the ratification will meet with but little difficulty. Amendments of a doubtful nature will have a tendency to prejudice the whole system; the proposition now suggested partakes highly of this nature. It is doubted by many gentlemen here; it has been objected to in intelligent publications throughout the Union; it is doubted by many members of the State Legislatures. In one sense this declaration is true, in many others it is certainly not true; in the sense in which it is true, we have asserted the right sufficiently in what we have done; if we mean nothing more than this, that the people have a right to express and communicate their sentiments and wishes, we have provided for it already. The right of freedom of speech is secured; the liberty of the press is expressly declared to be beyond the reach of this Government; the people may therefore publicly address their representatives, may privately

advise them, or declare their sentiments by petition to the whole body; in all these ways they may communicate their will. If gentlemen mean to go further, and to say that the people have a right to instruct their representatives in such a sense as that the delegates are obliged to conform to those instructions, the declaration is not true. Suppose they instruct a representative, by his vote, to violate the constitution; is he at liberty to obey such instructions? Suppose he is instructed to patronize certain measures, and from circumstances known to him, but not to his constituents, he is convinced that they will endanger the public good; is he obliged to sacrifice his own judgment to them? Is he absolutely bound to perform what he is instructed to do? Suppose he refuses, will his vote be the less valid, or the community be disengaged from that obedience which is due to the laws of the Union? If his vote must inevitably have the same effect, what sort of a right is this in the constitution, to instruct a representative who has a right to disregard the order, if he pleases? In this sense the right does not exist, in the other sense it does exist, and is provided largely for.

The honorable gentleman from Massachusetts asks if the sovereignty is not with the people at large. Does he infer that the people can, in detached bodies, contravene an act established by the whole people? My idea of the sovereignty of the people is, that the people can change the constitution if they please; but while the constitution exists, they must conform themselves to its dictates. But I do not believe that the inhabitants of any district can speak the voice of the people; so far from it, their ideas may contradict the sense of the whole people; hence the consequence that instructions are binding on the representative is of a doubtful, if not of a dangerous nature. I do not conceive, therefore, that it is necessary to agree to the proposition now made; so far as any real good is to arise from it, so far that real good is provided for; so far as it is of a doubtful nature, so far it obliges us to run the risk of losing the whole system.

Mr. SMITH, (of South Carolina.)—I am opposed to this motion, because I conceive it will operate as a partial inconvenience to the more distant States. If every member is to be bound by instructions how to vote, what are gentlemen from the extremities of the continent to do? Members from the neighboring States can obtain their instructions earlier than those from the Southern ones, and I presume that particular instructions will be necessary for particular measures; of consequence, we vote perhaps against instructions on their way to us, or we must decline voting at all. But what is the necessity of having a numerous representation? One member from a State can receive the instructions, and by his vote answer all the purposes of many, provided his vote is allowed to count for the proportion the State ought to send; in this way the business might be done at a less expense than having one or two hundred members in the House, which had been strongly contended for yesterday.

Mr. STONE.—I think the clause would change the Government entirely; instead of being a Government founded upon representation, it would be a democracy of singular properties.

I differ from the gentleman from Virginia (Mr. MADISON), if he thinks this clause would not bind the representative; in my opinion, it would bind him effectually, and I venture to assert, without diffidence, that any law passed by the Legislature would be of no force, if a majority of the members of this House were instructed to the contrary, provided the amendment became part of the constitution. What would follow from this? Instead of looking in the code of laws passed by Congress, your Judiciary would have to collect and examine the instructions from the various parts of the Union. It follows very clearly from hence, that the Government would be altered from a representative one to a democracy, wherein all laws are made immediately by the voice of the people.

This is a power not to be found in any part of the earth except among the Swiss cantons; there the body of the people vote upon the laws, and give instructions to their delegates. But here we have a different form of Government; the people at large are not authorized under it to vote upon the law, nor did I ever hear that any man required it. Why, then, are we called upon to propose amendments subversive of the principles of the constitution, which were never desired?

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Several members now called for the question, and the Chairman being about to put the same:

Mr. GERRY.—Gentlemen seem in a great hurry to get this business through. I think, Mr. Chairman, it requires a further discussion; for my part, I had rather do less business and do it well, than precipitate measures before they are fully understood.

The honorable gentleman from Virginia (Mr. MADISON) stated, that if the proposed amendments are defeated, it will be by the delay attending the discussion of doubtful propositions; and he declares this to partake of that quality. It is natural, sir, for us to be fond of our own work. We do not like to see it disfigured by other hands. That honorable gentleman brought forward a string of propositions; among them was the clause now proposed to be amended: he is no doubt ready for the question, and determined not to admit what we think an improvement. The gentlemen who were on the committee, and brought in the report, have considered the subject, and are also ripe for a decision. But other gentlemen may crave a like indulgence. Is not the report before us for deliberation and discussion, and to obtain the sense of the House upon it; and will not gentlemen allow us a day or two for these purposes, after they have forced us to proceed upon them at this time? I appeal to their candor and good sense on the occasion, and am sure not to be refused; and I must inform them now, that they may not be surprised hereafter, that I wish all the amendments proposed by the respective States to be considered. Gentlemen say it is necessary to finish the subject, in order to reconcile a number of our fellow-citizens to the Government. If this is their principle, they ought to consider the wishes and intentions which the convention has expressed for them; if they do this, they will find that they expect and wish for the declaration proposed by the honorable gentleman over the way (Mr. TUCKER), and, of consequence, they ought

to agree to it; and why it, with others recommended in the same way, were not reported, I cannot pretend to say; the committee know this best themselves.

The honorable gentleman near me (Mr. STONE) says, that the laws passed contrary to instruction will be nugatory. And other gentlemen ask, if their constituents instruct them to violate the constitution, whether they must do it. Sir, does not the constitution declare that all laws passed by Congress are paramount to the laws and constitutions of the several States; if our decrees are of such force as to set aside the State laws and constitutions, certainly they may be repugnant to any instructions whatever, without being injured thereby. But can we conceive that our constituents would be so absurd as to instruct us to violate our oath, and act directly contrary to the principles of a Government ordained by themselves? We must look upon them to be absolutely abandoned and false to their own interests, to suppose them capable of giving such instructions.

If this amendment is introduced into the constitution, I do not think we shall be much troubled with instructions; a knowledge of the right will operate to check a spirit that would render instruction necessary.

The honorable gentleman from Virginia asked, will not the affirmative of a member who votes repugnant to his instructions bind the community as much as the votes of those who conform? There is no doubt, sir, but it will; but does this tend to show that the constituent has no right to instruct? Surely not. I admit, sir, that instructions contrary to the constitution ought not to bind, though the sovereignty resides in the people. The honorable gentleman acknowledges that the sovereignty vests there; if so, it may exercise its will in any case not inconsistent with a previous contract. The same gentleman asks if we are to give the power to the people in detached bodies to contravene the Government while it exists. Certainly not; nor does the proposed proposition extend to that point; it is only intended to open for them a convenient mode in which they may convey their sense to their agents. The gentleman therefore takes for granted what is inadmissible, that Congress will always be doing illegal things, and make it necessary for the sovereign to declare its pleasure.

He says the people have a right to alter the constitution, but they have no right to oppose the Government. If, while the Government exists, they have no right to control it, it appears they have divested themselves of the sovereignty over the constitution. Therefore, our language, with our principles, must change, and we ought to say that the sovereignty existed in the people previous to the establishment of this Government. This will be ground for alarm indeed, if it is true; but I trust, sir, too much to the good sense of my fellow-citizens ever to believe that the doctrine will generally obtain in this country of freedom.

Mr. VINING.—If, Mr. Chairman, there appears on one side too great an urgency to despatch this business, there appears on the other an unnecessary delay and procrastination equally improper and unpardonable. I think this business has been already well considered by the House, and every gentleman in it; however, I am not for an unseemly expedition.

Mr. LIVERMORE was not very anxious whether the words were inserted or not, but he had a great deal of doubt on the meaning of this whole amendment; it provides that the people may meet and consult for the common good. Does this mean a part of the people in a township or district, or does it mean the representatives in the State Legislatures? If it means the latter, there is no occasion for a provision that the Legislature may instruct the members of this body.

In some States the representatives are chosen by districts. In such case, perhaps, the instructions may be considered as coming from the district; but in other States, each representative is chosen by the whole people. In New Hampshire it is the case; the instructions of any particular place would have but little weight, but a legislative instruction would have considerable influence upon each representative. If, therefore, the words mean that the Legislature may instruct, he presumed it would have considerable effect, though he did not believe it binding. Indeed, he was inclined to pay a deference to any information he might receive from any number of gentlemen, even by a private letter; but as for full binding force, no instructions contained that quality. They could not, nor ought they to have it, because different parties pursue different measures; and it might be expedient, nay, absolutely necessary, to sacrifice them in mutual concessions.

The doctrine of instructions would hold better in England than here, because the boroughs and corporations might have an interest to pursue totally immaterial to the rest of the kingdom; in that case, it would be prudent to instruct their members in Parliament.

Mr. GERRY wished the constitution amended without his having any hand in it; but if he must interfere, he would do his duty. The honorable gentleman from Delaware had given him an example of moderation and laconic and consistent debate that he meant to follow; and would just observe to the worthy gentleman last up, that several States had proposed the amendment, and among the rest, New Hampshire.

There was one remark which escaped him, when he was up before. The gentleman from Maryland (Mr. STONE) had said that the amendment would change the nature of the Government, and make it a democracy. Now he had always heard that it was a democracy; but perhaps he was misled, and the honorable gentleman was right in distinguishing it by some other appellation; perhaps an aristocracy was a term better adapted to it.

Mr. SEDGWICK opposed the idea of the gentleman from New Hampshire, that the State Legislature had the power of instructing the members of this House; he looked upon it as a subornation of the rights of the people to admit such an authority. We stand not here, said he, the representatives of the State Legislatures, as under the former Congress, but as the

representatives of the great body of the people. The sovereignty, the independence, and the rights of the States are intended to be guarded by the Senate; if we are to be viewed in any other light, the greatest security the people have for their rights and privileges is destroyed.

But with respect to instructions, it is well worthy of consideration how they are to be procured. It is not the opinion of an individual that is to control my conduct: I consider myself as the representative of the whole Union. An individual may give me information, but his sentiments may be in opposition to the sense of the majority of the people. If instructions are to be of any efficacy, they must speak the sense of the majority of the people, at least of a State. In a State so large as Massachusetts it will behoove gentlemen to consider how the sense of the majority of the freemen is to be obtained and communicated. Let us take care to avoid the insertion of crude and indigested propositions, more likely to produce acrimony than that spirit of harmony which we ought to cultivate.

Mr. LIVERMORE said that he did not understand the honorable gentleman, or was not understood by him; he did not presume peremptorily to say what degree of influence the legislative instructions would have on a representative. He knew it was not the thing in contemplation here; and what he had said respected only the influence it would have on his private judgment.

Mr. AMES said there would be a very great inconvenience attending the establishment of the doctrine contended for by his colleague. Those States which had selected their members by districts would have no right to give them instructions, consequently the members ought to withdraw; in which case the House might be reduced below a majority, and not be able, according to the constitution, to do any business at all.

According to the doctrine of the gentleman from New Hampshire, one part of the Government would be annihilated; for of what avail is it that the people have the appointment of a representative, if he is to pay obedience to the dictates of another body?

Several members now rose, and called for the question.

Mr. PAGE was sorry to see gentlemen so impatient; the more so, as he saw there was very little attention paid to any thing that was said; but he would express his sentiments if he was only heard by the Chair. He discovered clearly, notwithstanding what had been observed by the most ingenious supporters of the opposition, that there was an absolute necessity for adopting the amendment. It was strictly compatible with the spirit and the nature of the Government; all power vests in the people of the United States; it is therefore a Government of the people, a democracy. If it were consistent with the peace and tranquillity of the inhabitants, every freeman would have a right to come and give his vote upon the law; but, inasmuch as this cannot be done, by reason of the extent of territory, and some other causes, the people have agreed that their representatives shall exercise a part of their authority. To pretend to refuse them the power of instructing their agents, appears to me to deny them a right. One gentleman asks how the instructions are to be collected. Many parts of this country have been in the practice of instructing their representatives; they found no difficulty in communicating their sense. Another gentleman asks if they were to instruct us to make paper money, what we would do. I would tell them, said he, it was unconstitutional; alter that, and we will consider on the point. Unless laws are made satisfactory to the people, they will lose their support, they will be abused or done away; this tends to destroy the efficiency of the Government.

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It is the sense of several of the conventions that this amendment should take place; I think it my duty to support it, and fear it will spread an alarm among our constituents if we decline to do it.

Mr. WADSWORTH.—Instructions have frequently been given to the representatives of the United States; but the people did not claim as a right that they should have any obligation upon the representatives; it is not right that they should. In troublous times, designing men have drawn the people to instruct the representatives to their harm; the representatives have, on such occasions, refused to comply with their instructions. I have known, myself, that they have been disobeyed, and yet the representative was not brought to account for it; on the contrary he was caressed and re-elected, while those who have obeyed them, contrary to their private sentiments, have ever after been despised for it. Now, if people considered it an inherent right in them to instruct their representatives, they would have undoubtedly punished the violation of them. I have no idea of instructions, unless they are obeyed; a discretionary power is incompatible with them.

Mr. BURKE.—I am not positive with respect to the particular expression in the declaration of rights of the people of Maryland, but the constitutions of Massachusetts, Pennsylvania, and North Carolina, all of them recognize, in express terms, the right of the people to give instruction to their representatives. I do not mean to insist particularly upon this amendment; but I am very well satisfied that those that are reported and likely to be adopted by this House are very far from giving satisfaction to our constituents; they are not those solid and substantial amendments which the people expect; they are little better than whip-syllabub, frothy and full of wind, formed only to please the palate; or they are like a tub thrown out to a whale, to secure the freight of the ship and its peaceable voyage. In my judgment, the people will not be gratified by the mode we have pursued in bringing them forward. There was a committee of eleven appointed; and out of the number I think there were five who were members of the convention that formed the constitution. Such gentlemen, having already given their opinion with respect to the perfection of the work, may be thought improper agents to bring forward amendments. Upon the whole, I think it will be found that we have done nothing but lose our time, and that it will be better to drop the subject now, and proceed to the organization of the Government.

The question was now called for from several parts of the House; but a desultory conversation took place before the question was put. At length the call becoming general, it was stated from the Chair, and determined in the negative, 10 rising in favor of it, and 41 against it.

TUESDAY, August 18.

Amendments to the Constitution.

Mr. GERRY moved, "That such of the amendments to the constitution proposed by the several States, as are not in substance comprised in the report of the select committee appointed to consider amendments, be referred to a Committee of the whole House; and that all amendments which shall be agreed to by the committee last mentioned be included in one report."

Mr. TUCKER remarked, that many citizens expected that the amendments proposed by the conventions would be attended to by the House, and that several members conceived it to be their duty to bring them forward. If the House should decline taking them into consideration, it might tend to destroy that harmony which had hitherto existed, and which did great honor to their proceedings; it might affect all their future measures, and promote such feuds as might embarrass the Government exceedingly. The States who had proposed these amendments would feel some degree of chagrin at having misplaced their confidence in the General Government. Five important States have pretty plainly expressed their apprehensions of the danger to which the rights of their citizens are exposed. Finding these cannot be secured in the mode they had wished, they will naturally recur to the alternative, and endeavor to obtain a federal convention; the consequence of this may be disagreeable to the Union; party spirit may be revived, and animosities rekindled destructive of tranquillity. States that exert themselves to obtain a federal convention, and those that oppose the measure, may feel so strongly the spirit of discord, as to sever the Union asunder.

If in this conflict the advocates for a federal convention should prove successful, the consequences may be alarming; we may lose many of the valuable principles now established in the present constitution. If, on the other hand, a convention should not be obtained, the consequences resulting are equally to be dreaded; it would render the administration of this system of government weak, if not impracticable; for no government can be administered with energy, however energetic its system, unless it obtains the confidence and support of the people. Which of the two evils is the greatest would be difficult to ascertain.

It is essential to our deliberations that the harmony of the House be preserved; by it alone we shall be enabled to perfect the organization of the Government—a Government but in embryo, or at best but in its infancy.

My idea relative to this constitution, whilst it was dependent upon the assent of the several States, was, that it required amendment, and that the proper time for amendment was previous to the ratification. My reasons were, that I conceived it difficult, if not impossible, to obtain essential amendments by the way pointed out in the constitution; nor have I been mistaken in this suspicion. It will be found, I fear, still more difficult than I apprehended; for perhaps these amendments, should they be agreed to by two-thirds of both Houses of Congress, will be submitted for ratification to the Legislatures of the several States, instead of State conventions, in which case the chance is still worse. The Legislatures of almost all the States consist of two independent, distinct bodies; the amendments must be adopted by three-fourths of such Legislatures; that is to say, they must meet the approbation of the majority of each of eighteen deliberative assemblies. But, notwithstanding all these objections to obtaining amendments after the ratification of the constitution, it will tend to give a great degree of satisfaction to those who are desirous of them, if this House shall take them up, and consider them with that degree of candor and attention they have hitherto displayed on the subjects that have come before them; consider the amendments separately, and, after fair deliberation, either approve or disapprove of them. By such conduct, we answer in some degree the expectations of those citizens in the several States who have shown so great a tenacity to the preservation of those rights and liberties they secured to themselves by an arduous, persevering, and successful conflict.

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I have hopes that the States will be reconciled to this disappointment, in consequence of such procedure.

A great variety of arguments might be urged in favor of the motion; but I shall rest it here, and not trespass any further upon the patience of the House.

Mr. *Madison* was just going to move to refer these amendments, in order that they might be considered in the fullest manner; but it would be very inconvenient to have them made up into one report, or all of them discussed at the present time.

Mr. *Vining* had no objection to the bringing them forward in the fullest point of view; but his objection arose from the informality attending the introduction of the business.

The order of the House was to refer the report of the committee of eleven to a Committee of the Whole, and therefore it was improper to propose any thing additional.

A desultory conversation arose on this motion, when Mr. *Vining* moved the previous question, in which, being supported by five members, it was put, and the question was,—Shall the main question, to agree to the motion, be now put? The yeas and nays being demanded by one-fifth of the members present, on this last motion, they were taken as follows:

YEAS.—Messrs. Burke, Coles, Floyd, Gerry, Griffin, Grout, Hathorn, Livermore, Page, Parker, Van Rensselaer, Sherman, Stone, Sturgis, Sumter, and Tucker.—16.

NAYS.—Messrs. Ames, Baldwin, Benson, Boudinot, Brown, Cadwalader, Carroll, Clymer, Fitzsimons, Foster, Gilman, Goodhue, Hartley, Heister, Huntington, Lawrence, Lee, Madison, Moore, Muhlenberg, Partridge, Schureman, Scott, Sedgwick, Seney, Sylvester, Sinnickson, Smith, (of Maryland,) Smith, (of South Carolina,) Thatcher, Trumbull, Vining, Wadsworth, and Wynkoop.—34.

So the motion was lost.

A message from the Senate informed the House that the Senate had passed the bill providing for expenses which may attend negotiations or treaties with the Indian tribes, and the appointment of commissioners for managing the same, with an amendment, to which they desire the concurrence of the House.

THURSDAY, September 3.

Permanent Seat of Government.

Mr. *Scott*, agreeably to notice given, moved the following: "That a permanent residence ought to be fixed for the General Government of the United States at some convenient place, as near the centre of wealth, population, and extent of territory, as may be consistent with convenience to the navigation of the Atlantic Ocean, and having due regard to the particular situation of the Western country."

The House resolved itself into a Committee of the Whole, to take into consideration the motion presented by Mr. *Scott*, on Thursday last, for establishing the permanent residence of Congress, Mr. BOUDINOT in the chair.

Mr. *Goodhue*.—The motion before the committee I consider too indefinite for the House to decide upon satisfactorily; I wish, therefore, to add something which may bring the question to a point. It is well known that the gentlemen from the Eastward are averse to taking up this business at this time. Not that the subject was improper for our discussion, but that the present session is drawing to a period, and there remains yet much important business to be transacted before the adjournment; but their opinion being overruled by a late vote of the House, they have since taken it into consideration, and are now ready and willing to come to a decision. The Eastern members, with the members from New York, have agreed to fix a place upon national principles, without a regard to their own convenience, and have turned their minds to the banks of the Susquehanna. This is a situation as nearly central as could be devised, upon some of the principles contained in the resolution. It is, however, supposed to be considerably to the southward of the centre of the population. Motives of convenience would have led us to fix upon the banks of the Delaware, but it was supposed it would give more lasting content to go further south. They were, therefore, unitedly of opinion, that the banks of the river Susquehanna should be the place of the permanent residence of the General Government; and that until suitable buildings could be there erected for accommodation, they should remain in the city of New York. Agreeably to these ideas, I move the following resolution:

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Resolved, That the permanent seat of the General Government ought to be in some convenient place on the east bank of the river Susquehanna, in the State of Pennsylvania; and that until the necessary buildings be erected for the purpose, the seat of Government ought to continue at the city of New York.

Mr. STONE said, it ought to be "Government of the United States," instead of General Government.

Mr. LEE.—The House are now called upon to deliberate on a great national question; and I hope they will discuss and decide it with that dispassionate deliberation which the magnitude of the subject requires. I hope they will be guided in this discussion and decision, by the great principles on which the Government is founded. I have, with a view, therefore, of bringing them before a committee, drawn up a preamble, which recognizes them, in the words following:

Whereas the people of the United States have assented to and ratified a constitution for their Government, to provide for their defence against foreign danger, to secure their perpetual union and domestic tranquillity, and to promote their common interests; and all these great objects will be the best effected by establishing the seat of Government in a station as nearly central as a convenient water communication with the Atlantic Ocean, and an easy access to the Western Territory will permit; and as it will be satisfactory to the people of the United States, and give them a firm confidence in the justice and wisdom of their Government, to be assured that such a station is already in the contemplation of Congress; and that proper measures will be taken to ascertain it, and to provide the necessary accommodations, as soon as the indispensable arrangements for carrying into effect the constitution can be made, and the circumstances of the United States will permit;

Resolved, That a place, as nearly central as a convenient communication with the Atlantic Ocean, and an easy access to the Western Territory, will permit, ought to be selected and established as the permanent seat of the Government of the United States.

I wish the principles to be recognized, that the people of the United States may be able to judge whether, in the measures about to be adopted, they are carried into execution by this House. If these great principles are not observed, it will be an unhappy fulfilment of those predictions which have been made by the opponents of the constitution; that the general interest of America would not be consulted; that partial measures would be pursued; and that, instead of being influenced by a general policy, directed to the good of the whole, one part of the Union would be depressed and trampled on, to benefit and exalt the other. Instead of accomplishing and realizing those bright prospects which shone upon us in the dawn of our Government, and for which our patriots fought and bled, we shall find the whole to be a visionary fancy. I flatter myself, that before the House decides on the question before them, those principles will be recognized, if it is meant they shall be regarded.

Mr. CARROL seconded Mr. LEE's motion.

Mr. SHERMAN said, if they were both adopted, or blended together, they would only amount to a preamble, and determine nothing. He thought the first preamble the best, inasmuch as it stated the principles simply and concisely.

Mr. HARTLEY.—Several places have been mentioned, and some have been offered to Congress as proper situations for the Federal Government. Many persons wish it seated on the banks of the Delaware, many on the banks of the Potomac. I consider this as the middle ground between the two extremes. It will suit the inhabitants to the north better than the Potomac could, and the inhabitants to the south better than the Delaware would. From this consideration, I am induced to believe, it will be a situation more accommodating and agreeable than any other. Respecting its communication with the Western Territory, no doubt but the Susquehanna will facilitate that object with considerable ease and great advantage; and as to its convenience to the navigation of the Atlantic Ocean, the distance is nothing more than to afford safety from any hostile attempt, while it affords a short and easy communication with navigable rivers and large commercial towns. Nay, its intercourse may be without land carriage, if proper measures are pursued to open the navigation to the Delaware and Chesapeake. Perhaps, as the present question is only intended to be on general principles, it may be improper to be more minute than the honorable mover has been; but I think it would be better to come to the point at once, and fix the precise spot, if we could. With this view, I mention Wright's Ferry, on the Susquehanna. Not, however, that the House should decide upon it, until they have ascertained its advantages, which will, perhaps, come more properly forward when the question on the preamble is determined.

Mr. THATCHER was against a preamble being prefixed to the resolution of the committee, because the House had, on every occasion when preambles were brought forward, rejected them. He thought this a prudent conduct, because it avoided embarrassments. He observed, that it was not unfrequently the case that the preambles occasioned more difficulty in understanding the laws than the most intricate part of the laws themselves; and, therefore, the committee would act wisely to reject such trammels. He conceived, moreover, that the motion was out of order, as it was a substitute for one before the committee.

Mr. SMITH (of South Carolina) looked upon the motion as a preamble to a preamble, both of which he conceived unnecessary; nay, he doubted the truth of some of the assertions. So far from cementing the Union, by a measure of the kind in contemplation, he rather feared it would have a tendency to rend the Union in two; for which reason he was against adopting it.

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Mr. TUCKER wished the proposition might lie on the table, to give gentlemen time to consider it.

Mr. LEE conceived it proper to adopt the preamble as a guide to their decision. No gentlemen pretended to say it contained improper principles. As to the whole being a preamble to a preamble, he did not conceive that to be the case, because the resolution, subsequent to the preamble, decided, that Congress should select a place for their permanent residence. He did not conceive how gentlemen could refuse their assent to a self-evident proposition. He thought such conduct would give an alarm to the inhabitants of the United States; it amounted to a declaration, that, on this important question, they would not be governed by principles founded on rectitude and good policy.

Mr. MADISON.—I cannot, Mr. Chairman, discover why the opposition to my colleague's preamble is so strenuous. Is it contended to be out of order? I submit that to the decision of the Chair. Does it contain any thing which is not true? I appeal, on that point, to the candid judgment of the committee. Are the truths in it applicable to the great object we are about to decide? I appeal to the justice and policy of the people of the United States.

I flatter myself the Chair will decide with me, that the proposition is strictly in order; that the committee will agree, that its contents are substantial truths; and the whole world, that they are applicable to the important point now under consideration.

It declares the principles which ought to govern our decision on this question, and will, therefore, stand properly prefixed to the motion offered by the gentleman from Massachusetts (Mr. GOODHUE.) By it we declare our sentiments, and engage to conform to them, in fixing upon a seat for the residence of Congress. Is there any thing improper or unwise in this determination? An honorable gentleman near me (Mr. TUCKER) says, that he feels himself embarrassed on this occasion; that the propositions are a bandage over his eyes, to lead him blindfolded to an object he cannot tell what. I must beg leave to differ from him. They appear to me to contain those luminous truths which ought to guide him through his embarrassment to the object which I am sure his justice and patriotism are in pursuit of. I hope, therefore, he will agree with us in adopting the motion, unless something more essential is offered against it.

Mr. SHERMAN.—The resolution connected with the preamble contains a proposition which, I think, ought not to be adopted. It selects a place, having a convenient water-communication with the Atlantic. Now, it may be just and expedient to fix upon a place at some distance from a navigable river, therefore it may not agree with the intention of the committee. As to the principles which are to guide our decisions, they are as well expressed in the propositions of the gentleman from Pennsylvania as in the substitute, and as free from ambiguity.

The question on Mr. LEE's motion was taken, and determined in the negative; yeas 17, nays 34.

Mr. TUCKER declared, that the majority for fixing upon any set of principles whatever, could not govern his mind with regard to the fact. If, on the whole, he did not think that place best, which the principles adopted seemed to lead to, he certainly could not vote for it. Of what use, then, was it to establish principles which could not govern the conduct of the House? But the principles offered are vague, and lead to no certain conclusion. What is the centre of wealth, population, and territory? Is there a common centre? Territory has one centre, population another, and wealth a third. Now, is it intended to determine a centre from these three centres? This was not a practicable mode of settling the place; and it was to be doubted whether the centre of wealth ought at all to be considered. The centre of population is variable, and a decision on that principle now, might establish the seat of Government at a very inconvenient place to the next generation. The centre of territory may be ascertained, but that will lead to a situation entirely ineligible; consequently, whether these centres were considered separately or together, they furnish no satisfactory direction, no possible guide to the committee. The only way, then, to come at a result yielding satisfaction, would be to consider the several places to be proposed, according to their merits; and this would be done by gentlemen in the course of the business. He was, therefore, against settling any principles by vote.

Mr. MADISON.—I move to strike out the word wealth, because I do not conceive this to be a consideration that ought to have much weight in determining the place where the seat of Government ought to be. The two other principles, I admit, are such as ought to have their influence; but why wealth should be not so clear. Government is intended for the accommodation of the citizens at large; an equal facility to communicate with Government is due to all ranks; whether to transmit their grievances or requests, or to receive those blessings which the Government is intended to dispense. The rich are certainly not less able than those who are indigent to resort to the seat of Government, or to establish the means necessary for receiving those advantages to which, as citizens, they are entitled.

I should rather suppose, if any distinctions are to be made, or superior advantages to be enjoyed from the presence of the Government, that the Government ought rather to move toward those who are the least able to move toward it, and who stand most in need of its protection.

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The question on this motion was taken, and passed in the negative; yeas 22, nays 28.

The question on Mr. SCOTT's motion was then taken, and adopted; yeas 32, nays 18.

Mr. GOODHUE's motion was now taken into consideration.

Mr. LEE hoped that gentlemen would show how the banks of the Susquehanna conformed with the principles laid down in the resolution adopted by the House; how it communicated with the navigation of the Atlantic, and how it was connected with the Western Territory. He hoped they would also point out its other advantages, respecting salubrity of air and fertility of soil. He expected all these advantages ought to be combined in the place of the residence of the Federal Government, and every other requisite to cement the common interest of America.

Mr. Hartley wished some gentleman had risen to satisfy the inquiries of the honorable member, who could have given a description of the advantages of that situation in better language than himself. But as no gentleman had offered to undertake the subject, he thought himself bound to make him an answer; and he trusted, in doing this, he should clearly show that all the advantages contemplated would result from adopting the motion. But he wished it had extended further, and selected the place most convenient on the banks of the Susquehanna, as then the answer would be more pointed and decisive. He had already mentioned Wright's Ferry, and would consider that as the proper spot. Now, Wright's Ferry lies on the east bank of the Susquehanna, about thirty-five miles from navigable water; and, from a few miles above, is navigable to the source of the river, at Lake Otsego, in the upper part of the State of New York. The Tioga branch is navigable a very considerable distance up, and is but a few miles from the Genesee, which empties into Lake Ontario. The Juniata is navigable, and nearly connects with the Kiskemanetas, and that with the Ohio; besides the West Branch connects with the Alleghany River; forming a communication with the distant parts even of Kentucky, with very little land carriage. The great body of water in that river renders it navigable at all seasons of the year. With respect to the settlements in the neighborhood of Wright's Ferry, he would venture to assert it was as thickly inhabited as any part of the country in North America. As to the quality of the soil, it was inferior to none in the world, and though that was saying a good deal, it was not more than he believed a fact. In short, from all the information he had acquired, and that was not inconsiderable, he ventured to pronounce, that in point of soil, water, and the advantages of nature, there was no part of the country superior. And if honorable gentlemen were disposed to pay much attention to a dish of fish, he could assure them their table might be furnished with fine and good from the waters of the Susquehanna; perhaps not in such variety as in this city, but the deficiency was well made up in the abundance which liberal nature presented them of her various products. It was in the neighborhood of two large and populous towns, one of them the largest inland town in America. Added to all these advantages, it possessed that of centrality, perhaps, in a superior degree to any which could be proposed.

Mr. LEE asked the gentleman what was the distance of Wright's Ferry from Yorktown, and whether that town, as it had once accommodated Congress, could do it again? If a permanent seat is established, why not go to it immediately? And why, let me ask, shall we go and fix upon the banks of a rapid river, when we can have a more healthful situation? And here he would inquire if the Codorus Creek, which runs through Yorktown into the Susquehanna, was, or could be made navigable?

Mr. HARTLEY answered, that Yorktown was ten miles from the Ferry, that it contained about five hundred houses, besides a number of large and ornamental public buildings; that there was no doubt, but if Congress deemed it expedient to remove immediately there, they could be conveniently accommodated; but as gentlemen appeared to be inclined to fix the permanent residence on the east banks of the Susquehanna, he was very well satisfied it should be there.

Mr. MADISON.—The gentleman who brought forward this motion was candid enough to tell us, that measures have been preconcerted out of doors, and that the point was determined; that more than half the territory of the United States, and nearly half its inhabitants have been disposed of, not only without their consent, but without their knowledge. After this, I hope the gentleman will extend his candor so much further, as to show that the general principles now to be established are applicable to their determination, in order that we may reconcile this fate to our own minds, and submit to it with some degree of complacency.

I hope, if the seat of Government is to be at or near the centre of wealth, population, and extent of territory, that gentlemen will show that the permanent seat there proposed is near the permanent centre of wealth, population and extent of territory, and the temporary seat, near the temporary centre. I think we may, with good reason, call upon gentlemen for an explanation on these points, in order that we may know the ground on which the great question is decided, and be able to assign to our constituents satisfactory reasons for what some of them may consider a sacrifice of their interest, and be instrumental in reconciling them, as far as possible, to their destiny.

Mr. GOODHUE thought the question, stated by the gentleman from Virginia, was proper to be asked, and proper to be answered. The gentlemen from the eastward, as he said before, were in favor of the Susquehanna; that in contemplating the geographical centre of territory, they found the banks of that river to be near the place. In point of population, they considered the Susquehanna was south of that centre; but, from a spirit of conciliation, they were inclined to go there, although the principle and their own convenience would not lead them beyond the banks of the Delaware. He believed the centre of population would not vary considerably for ages yet to come, because he supposed it would constantly incline more toward the Eastern, and manufacturing States, than toward the Southern, and agricultural ones.

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Mr. JACKSON.—I was originally opposed to the question coming forward, and am so still. I thought the subject ought not to be touched till the States, who have not yet acceded to the Union, might have an opportunity of giving their voice. I agree with the gentleman from Virginia. I am sorry that the people should learn that this matter has been precipitated; that they should learn, that the members from New England and New York had fixed on a seat of Government for the United States. This is not proper language to go out to freemen. Jealousies have already gone abroad. This language will blow the coals of sedition, and endanger the Union. I would ask, if the other members of the Union are not also to be consulted? Are the eastern members to dictate in this business, and fix the seat of Government of the United States? Why not also fix the principles of Government? Why not come forward, and demand of us the power of Legislation, and say, give us up your privileges, and we will govern you? If one part has the power to fix the seat of Government, they may as well take the Government from the other. This looks like aristocracy: not the united, but the partial voice of America is to decide. How can gentlemen answer for this, who call themselves representatives, on the broad basis of national interest?

I deny the fact of the territorial centrality of the place proposed. From New York, to the nearest part of the province of Maine, it is two hundred and fifty miles; and from New York, to the nearest part of the upper district of Georgia, from which my colleague, General Matthews, comes, is eleven hundred miles; and from the proposed place on the Susquehanna, it is four hundred miles to the nearest part of Maine, and nine hundred to the nearest part of that district; the proportion is more than two to one. But the gentlemen should have an eye to the population of Georgia; one of the finest countries in the world cannot but rapidly extend her population; nothing but her being harassed by the inroads of savages has checked her amazing increase, which must, under the auspices of peace and safety, people her western regions. Georgia will soon be as populous as any State in the Union. Calculations ought not to be made on its present situation.

North Carolina is not yet in the Union, and perhaps the place may give umbrage to her, which ought, at this moment, to be cautiously avoided. I should, therefore, think it most advisable to postpone the decision for this session at least. But, if we are to decide, I own, I think the Potomac a better situation than the Susquehanna, and I hope it will be selected for that purpose.

Mr. GOODHUE.—If gentlemen examine this subject with candor, they will find that the banks of the Susquehanna are as near the geographical centre as can be fixed upon. It is from the extreme of the Province of Maine about seven hundred and sixty miles; to Savannah, in Georgia, about seven hundred and sixty; and about seven hundred and thirty, or seven hundred and forty, from Kentucky; so that it is rather south of the centre of territory.

Mr. LAWRENCE.—When this subject was under discussion some time since, it appeared to be the wish of gentlemen from the eastward, and of the members from this State, that the question

should not now be decided. They urged several reasons why it would be improper. I thought those reasons weighty, and was for postponing the consideration till our next meeting. But it was answered, that the business was important; that the citizens of the United States were uneasy and anxious; that as factions did not now exist, it was the proper time to decide the question. What was the representation to do? Was it not necessary for them to consult, and fix upon a proper place?

They are, in a degree, disinterested, because they have no expectation that the seat of Government will be fixed in any of the Eastern States. On the other hand, there is a well-grounded expectation, that it will be fixed either in Virginia, Maryland, Pennsylvania, or Jersey. We are called on to determine a question in which we conceive ourselves unbiased, and shall decide it on those principles that will reflect honor on the House. I trust it will be found that we have fixed on those principles, and that this resolution will be confirmed by Congress. We do not decide for the Union, nor for the Southern States, we decide for ourselves; and if our reasons are substantial, I trust that gentlemen will meet us in the determination.

There are several principles which have been agreed to in the general resolution; and I believe it will be shown, with exactness, that the place proposed will come within these principles. The first respects population. Is the House to consider the present, or the expected population? The resolution has a determinate meaning; it speaks of the population at the present period; and to calculate on this principle no gentleman can say is unjust. The representation in this House is itself a demonstration of it. The population of this country may be pretty safely determined by the proportion of representatives in this House; for it is established on this ground. I therefore believe, that the principle of population inclines to this place, in preference to a more southern situation.

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But, in taking the principle of territory, are the House to calculate on the uninhabited wilderness? Shall they take the Lake of the Woods on one side, and the Missouri on the other, and find a geographical centre? If so, to what an extent must they go? The inhabited and populated part of the country ought chiefly to be considered. If St. Croix is taken as the eastern limit, and St. Mary as the southern, the centre of the line will be found to fall pretty near the Susquehanna.

Mr. SEDGWICK.—I beg leave to ask, if there really is any impropriety in gentlemen's consulting together, who have a uniformity of interest, upon a question which has been said to be of such infinite importance? My colleague has barely stated that such a consultation has taken place, and that, in consequence of it, men's minds have been induced to run in a current. Is there any thing wrong in this? Let those, then, who are determined not to consult, nor have any communication on such a subject, decide for themselves. I should think myself lost to that regard I owe to my country, and to my immediate constituents in particular, should I abstract myself from the contemplation of the benefits that would flow from knowing the feelings and sentiments of those with whom I am to act. Instead of being an evidence to that aristocratic spirit which has been mentioned, it is only a proof that men, attentive to their business, had preferred that way, which every honest man had in view. I have contemplated the subject with great anxiety, and though I cannot declare that my local situation has had no influence on my mind, yet I will say I endeavored to prevent its having any. I believe that the true interests of the country will be best answered by taking a position eastward and northward of the Susquehanna.

The Delaware is one extreme, the Potomac another; but when I reflect how anxious some gentlemen are for the one, and some for the other, I am willing to accommodate both parties, by advancing to a middle ground, to which I hope the public mind will be reconciled. I was also influenced in fixing this opinion, by the sentiment of the celebrated Montesquieu. He had laid it down, that in a country partaking of northern and southern interests, of a poor and productive soil, the centre and the influence of Government ought to incline to that part where the former circumstances prevailed; because necessity stimulates to industry, produces good habits and a surplus of labor; because such parts are the nurseries of soldiers and sailors, and the sources of that energy which is the best security of the Government.

The Susquehanna is, in my opinion, south-west of the centre of wealth, population, and resources of every kind. I would beg leave, gentlemen, to suggest another idea. In my view, on the principles of population, the Susquehanna is far beyond the centre; for I do not think it just, on this subject, to take the constitutional computation. Will any gentlemen pretend, that men, who are merely the subject of property or wealth, should be taken into the estimate; that the slaves of the country, men who have no rights to protect, (being deprived of them all,) should be taken into view, in determining the centre of Government? If they were considered, gentlemen might as well estimate the black cattle of New England.

I would ask, if it is of no importance to take a position in which the credit of the Government may procure those supplies that its necessities might require? Will the strength and riches of the country be to the north or to the south of the Susquehanna? Certainly to the north.

It is the opinion of all the Eastern States, that the climate of the Potomac is not only unhealthy, but destructive to northern constitutions. It is of importance to attend to this, for whether it be true or false, such are the public prepossessions. Vast numbers of Eastern adventures have gone to the Southern States, and all have found their graves there; they have met destruction as soon as they arrived. These accounts have been spread, and filled the Northern people with apprehension.

Mr. VINING.—Although I must acknowledge myself a party to the bargain, yet I had no share in making it. It is to me an unexpected bargain. Though the interest of the State which I have the honor to represent is involved in it, I am yet to learn of the committee, whether Congress are to

tickle the trout on the stream of the Codorus, to build their sumptuous palaces on the banks of the Potomac, or to admire commerce with her expanded wings, on the waters of the Delaware. I have, on this occasion, educated my mind to impartiality, and have endeavored to chastise its prejudices.

I confess to the House, and to the world, that, viewing this subject, with all its circumstances, I am in favor of the Potomac. I wish the seat of Government to be fixed there; because I think the interest, the honor, and the greatness of this country require it. I look on it as the centre from which those streams are to flow that are to animate and invigorate the body politic. From thence, it appears to me, the rays of Government will most naturally diverge to the extremities of the Union. I declare, that I look on the Western Territory in an awful and striking point of view. To that region the unpolished sons of earth are flowing from all quarters; men, to whom the protection of the laws, and the controlling force of the Government, are equally necessary. From this great consideration, I conclude that the banks of the Potomac are the proper station.

Mr. SENEY mentioned Peach Bottom, on the Susquehanna, about fifteen miles above tide-water, as the proper place.

Mr. GOODHUE did not wish the particular spot pointed out, because some inconvenience would result from such a measure; however, he was free to declare, that his own idea was in favor of a situation near Wright's Ferry.

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Mr. HEISTER moved to insert Harrisburg in the resolution. He conceived the spot to be more eligible than any yet mentioned; from hence there was an uninterrupted navigation to the sources of the river, and through this place runs the great Western road leading to Fort Pitt, and the Western Territory. A water communication can be effected at small expense with Philadelphia. The waters of the Swetara, a branch of the Susquehanna, about eight miles below Harrisburg, run to the north-east, and are navigable fifteen miles from thence to the Tulpehoken, a branch of the Schuylkill; a canal may be cut across, of about a mile and a half, the ground has been actually surveyed, and found practicable; this will unite the Susquehanna and Delaware, and open a passage for the produce of an immense tract of country. It is but little further from Philadelphia than is Wright's Ferry; and, on many accounts, he thought it a preferable situation for the permanent seat of Government.

Mr. MADISON meant to pay due attention to every argument that could be urged on this important question. Facts had been asserted, the impressions of which he wished to be erased, if they were not well founded. It has been said, that the communication with the Western Territory, by the Susquehanna, is more convenient than by the Potomac. I apprehend this is not the case; and the propriety of our decision will depend, in a great measure, on the superior advantages of one of these two streams. It is agreed, on all hands, that we ought to have some regard to the convenience of the Atlantic navigation. Now, to embrace this object, a position must be taken on some navigable river; to favor the communication with the Western Territory, its arms ought likewise to extend themselves towards that region. I did not suppose it would have been necessary to bring forward charts and maps, as has been done by others, to show the committee the comparative situation of those rivers. I flattered myself it was sufficiently understood, to enable us to decide the question of superiority; but I am now inclined to believe, that gentlemen have embraced an error, and I hope they are not determined to vote under improper impressions. I venture to pledge myself for the demonstration, that the communication with the Western Territory, by the Potomac, is more certain and convenient than the other. And if the question is as important as it is admitted to be, gentlemen will not shut their ears to information; they will not precipitate the decision; or if they regard the satisfaction of our constituents, they will allow them to be informed of all the facts and arguments that lead to the decision of a question in which the general and particular interests of all parts of the Union are involved.

Mr. STONE found gentlemen had determined on a step that was not generally liked; he wished, therefore, the committee to rise, and give all of them an opportunity of trying to mend the bargain that had been made; perhaps they might find, upon reflection, that they ought to decide the question on more national principles than they seemed yet to be governed by.

Mr. SENEY could not say how far the motion was agreeable to every part of America; but he believed it would be acceptable to a very considerable part of the State he had the honor to represent.

Mr. SUMTER was in favor of the committee's rising, in order to give gentlemen time to ascertain the facts necessary to guide them to a decision. There was one impropriety which struck him forcibly; the resolution adopted as a principle that the seat of Government ought to be in a convenient place for the navigation of the Atlantic Ocean. But the situation mentioned in the resolution under consideration had no communication whatever with the Atlantic navigation. It had been said, that the Susquehanna afforded the most convenient communication with the Western Territory. He believed the Hudson possessed superior advantages; it connected with the country about the Lakes and the Ohio. From New York to Albany was navigable; from thence to Schenectady, there was a short portage; after ascending Schenectady, there was a short portage of half a mile to the Mohawk; from thence, another short portage to Wood Creek, and thence into Lake Ontario, which connects with Lake Erie; and from thence are portages to the Wabash, Miami, Muskingum or Alleghany, all falling into the Ohio. But the Potomac possessed advantages superior to these; and was, both on account of communicating with the Atlantic and Western Territory, much to be preferred to the Susquehanna. He assured gentlemen that he was unbiased in giving a preference to the Potomac; because, if he studied his own convenience, he should consider New York as more eligible than either. It accommodated the Atlantic navigation in a

superior manner, and had its pretensions to a connection with the Western waters, as he had already shown. He hoped, however, that the subject would be debated with candor and good temper, and decided in the way most likely to promote the general interests and harmony of the Union.

Mr. SHERMAN was against taking up the subject so soon; but since it had been determined against him,—gentlemen, he presumed, had endeavored to make up their minds,—he had turned his attention to it, and was now prepared to decide.

Mr. CLYMER knew the advantages possessed by the Susquehanna in communicating with the Western country; they were mentioned by his colleague; but, with the additional circumstance that the Juniata branch afforded a convenient navigation to a road lately laid out by the State of Pennsylvania, which connected with the Kisskaminetas, from whence was a short voyage down the Alleghany, and shorter still down that to the Ohio, at Pittsburg. He questioned much if the navigation by the Potomac was so convenient.

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Mr. STONE did not mean to govern his vote on this occasion by what was said to be the sense of the citizens of Maryland; because they were, he apprehended, divided in opinion. One part or the other would be particularly benefited, as the seat of Government should be fixed either on the Susquehanna or Potomac, because those rivers watered its territory. Perhaps the majority of the present inhabitants would prefer the Susquehanna; but as their settlements extended westward, and the population increased, the majority would be favored by the Potomac.

Mr. SENEY did not mean to determine this question on the principle of benefiting, exclusively, the citizens of Maryland; he considered himself as a Representative of the Union, and should decide on the principle of general convenience.

Mr. TUCKER hoped the committee would rise, in order to give gentlemen time to consider the subject maturely, and to prepare themselves to come forward and discuss, fairly and fully, the advantages and disadvantages of the rival places. He could not believe they meant to decide a question of this importance on the superficial discussion which had taken place.

The question, on the committee's rising, was now put, and it passed in the negative; for it 23, against it 27.

Mr. STONE.—We are called upon, sir, to determine a question that has not been introduced to our notice more than two hours and a half; a question too, as admitted on both sides, of the highest importance to the interests and harmony of the Union. I cannot help thinking it a hardship to be compelled so abruptly to a decision; but since it must be the case, I shall take the liberty of suggesting a few of my thoughts, in order to justify the vote I mean to give.

There are a variety of considerations and doubts in my mind, respecting the two rivers that have been mentioned. These doubts are increased when a particular place is named upon one of them; but had gentlemen told us, that they had settled this point also, it might have precluded any sort of debate whatever; because when an agreement had taken place, not only as to the banks of the Susquehanna, but as to the favored spot on those banks, we should not have entertained a single hope that we could have changed the position. But, as gentlemen differ among themselves on this point, perhaps they will permit us to participate with them in selecting the place most likely to give general satisfaction. But how can they suppose we are prepared on this head, without a general consideration of all the places which may offer themselves along the east bank of the river.

I am not apprised, sir, of the extent of this continent certainly, because I never calculated it by figures, or measured it on the map; but if there is the smallest degree of accuracy in the draft that has been handed about, no man, who takes a view of it, in my opinion, will doubt a single moment, whether the Susquehanna is the river, which nearly equally divides the territory of the United States, in its extent north and south, that separates, in equal parts, the country east and west. The eastern part, I take it, is little, if any thing, more than half as large as what lies west. We observe that the course of the main branch tends more toward the Atlantic Ocean, than it does toward the Western Territory; but even its western inclination goes only toward the lakes Erie and Ontario, through the middle of which runs the boundary line of the United States. How can this, then, be supposed a direct or convenient communication with that part of the country which is usually termed, and is in fact, the Western Territory?

In fixing the permanent residence, we ought not only to have in view the immediate importance of the States, but also what is likely to be their weight at a future day; not that we should consider a visionary importance, or chimerical expectation, but such a one as can be demonstrated with as much certainty as effects follow their causes. I apprehend the increase of population to the eastward is merely conditional; there is nothing to invite people to settle in the northern parts of this continent, in preference to the southern; even if they were settled there, every principle which encourages population would operate to induce them to emigrate to the southern and western parts. We know the northern climate is severe, the winters long, and summers short, and that the soil is less fertile. Were we not assuredly acquainted that this was the case on the continent of America, we should be led to the same conclusion, by reasoning from our knowledge of the other parts of the globe. Men multiply in proportion to the means of support, and this is more abundant in a mild than a severe climate. Hence, I infer, that the climate, and means of subsistence, will ever operate as a stimulus to promote the population of the Southern, in preference to the Northern States. This doctrine is daily exemplified. If we advert to the situation of that part of the Western country, called Kentucky, and compare its increase of population since the war, with any part of the Eastern States, we shall find men

multiplied there beyond any thing known in America; and if we consider its natural advantages, we shall conclude it will be an important part of the Union. The river which has been mentioned by the southern gentlemen is, as far as I am acquainted, extremely well calculated to furnish Government with the key of that country; and a river, I believe, richer in its exports than any I have contemplated on the face of the earth.

A call was now made to order, and Mr. STONE sat down. A desultory conversation took place on the point of order. It was contended, that the question was on the insertion of Harrisburg, in the proposition offered by Mr. GOODHUE; whereas Mr. STONE was speaking to the main question.

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MESSES. CARROLL, LEE and MADISON insisted that Mr. STONE was in order, inasmuch as Mr. HEISTER's motion necessarily involved the main question, and was inseparable from it.

But it was decided by the Chair to be out of order; whereupon the question was taken, without further debate, on inserting Harrisburg, and it was determined in the negative.

The main question being now before the committee,

Mr. STONE proceeded. I feel myself unhappy to be obliged to address gentlemen, who are not disposed to attend to any thing I may say; but as gentlemen have chosen this time for discussing the subject, they will not think it improper in me to persist in detailing my ideas. When I was interrupted by the call to order, I was about to show the importance of the Potomac to the United States. Its waters afford a practical, safe, and short communication with the Ohio and Mississippi, beyond comparison preferable to the Susquehanna. If it is intended that the people settled upon those great rivers should communicate with the General Government, after ascending the former they must proceed a vast distance northward, up the Alleghany, against a rapid stream, before they can reach the Susquehanna. I am inclined to believe a land-carriage would be better than such a laborious round-about water communication. Now the Potomac, as I am informed, connects with the Youghiogheny, a river less rapid than the Alleghany, and is itself communicable with the Atlantic. In this case, the Potomac will be the highway for such vast quantities of wealth as to give every superiority; and, however we may determine at this day, it will not be long before the seat of Government must be carried thither. The vast population that is extending itself through the Western country requires that the Government should take a position favorable to its convenience; because new settlements at a vast distance from the old are more exposed to temptation than others; but in the present case, it is proper for us to guard against the operation of a foreign country, which seems to be forming settlements near our frontiers to rival ours. It may be the more necessary, inasmuch as we ought to keep the boundary line distinct between the Spaniards and savages, as I fear, do what we will, we run the greatest risk of entering into a quarrel with them; for, it is well known, that emigrants, in forming new settlements, are not much concerned about an ascertainment of jurisdiction; they are generally bold, enterprising spirits, who feel some aversion to strict government; it is therefore necessary that the Government should approach toward them, and be placed in such situation as would give it the greatest possible influence over them. Beside their contiguity to a rival nation, they are independent in their condition; they want hardly any thing this country can give; their soil is rich and fertile; their exports will furnish them with every foreign article from the southward which they can require. Their interests are more strongly connected with the Southern States than the Southern States are with the Eastern. The advantages of this Government are felt, in a peculiar manner, by the mercantile and commercial States; the agricultural States have not the same strong reasons for maintaining the Union. Hence we may apprehend that the Western country may be inclined, as it advances its importance, to drop off. The Susquehanna is no bond by which to hold them; its direction is more northern than westerly. Upon the whole, I am inclined to believe that it would not give general satisfaction at the present day; and the inequality would daily grow more striking, until we should be compelled to remove again to where there was a probability of finding a centre of territory as well as population. I have thrown out these ideas in a crude manner, but gentlemen have forced me to it by their urgency to take the question; I could wish to be allowed time for further discussion, and I believe it would be no ill sacrifice of a day, if we were to put off the determination till to-morrow.

Mr. LEE observed, that since gentlemen would not admit of a moment's delay; since they seemed to declare, that they had settled the matter without giving an opportunity for full discussion; since the House were hurried to a decision on a point that involved the welfare of the community, duty to his country, duty to the better half of the territory of the United States, called on him to come forward with another proposition.

He then moved to strike out the words "east bank of the Susquehanna," and to insert a clause to this effect; that, whereas the banks of the Potomac united all the aforesaid advantages, with fertility of soil, salubrity of climate, &c. Resolved, That the permanent seat of Government ought to be fixed somewhere on the banks of the said river.

He flattered himself that these two rival places would be considered with an attention that would do honor to the House; that their several advantages would be fully compared, and that such a decision would result as would be for the lasting benefit of the United States.

He then stated at large the comparative advantages of the Potomac; its great and increasing improvements; the extent of its navigation; its direct communication with the Western country, and its easy communication with the Eastern and Southern States.

The House, he said, were now to determine whether regard was to be had to the people of the Western Territory, to the greater portion of the territory of the Union; in point of climate, it was extremely salubrious; in fertility of soil, it was exceeded by no country on earth. Thither would

emigrants flock from all quarters.

He asked whether this Government was intended for a temporary or a lasting one? Whether it was to be a fleeting vision, or to continue for ages? He hoped the result would proclaim that the Government was calculated for perpetuity; and that the common interests of the country had been consulted. If that was done, the Government would be removed to the Potomac; if not, we should stop short of it; and what would be the consequence? He said he was averse to sound alarms, or introduce terrors into the House; but if they were well founded, he thought it his duty. It was well known with what difficulty the constitution was adopted by the State of Virginia. It was then said, that there would be confederacies of the States east of Pennsylvania, which would destroy the Southern States; that they would unite their councils in discussing questions relative to their particular interests, and the Southern States would be disregarded. To these suspicions, it was answered, no! It was contended that the magnanimous policy, arising from mutual interests and common dangers would unite all the States, and make them pursue objects of general good. But if it should be found that there were such confederacies as were predicted, that the Northern States did consult their partial interests, and form combinations to support them, without regarding their Southern brethren, they would be alarmed, and the faith of all south of the Potomac would be shaken. It would be shown to them, that what had been predicted by the enemies to the constitution had come to pass; that the Northern States had not waited till the Government was organized before they sacrificed the Southern people to their own interests.

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Let the seat of Government be fixed where it may, Virginia had not solicited Congress to place the seat of Government in her State. She only contended, that the interests of the Southern and Western country should be consulted; and he declared that these interests would be sacrificed, if Congress fixed upon any place but the Potomac. The greater part of Virginia was distant from that river. Many parts were not nearer than New Jersey. She wished not to have the seat on the Potomac but for the general good; it was not for the benefit of that State, but for the benefit of the Union.

Mr. LAWRENCE said, it was improper and unnecessary to hold out terrors to the fancy of members. The true way to convince them, was to address their understandings. He was certain there was no dangerous confederacy which the gentleman had talked of; and believed the conduct of the Northern States would bear the strictest scrutiny; that, if probed to the bottom, it would be found fair and candid. He remembered in the debate upon the Tonnage bill, a gentleman from Virginia observed, that could the moderate and equal policy of that day's proceedings have been foreseen in the convention of Virginia, many objections that were there produced against the constitution would have been thereby obviated.

He trusted, that, in conducting the business before them, gentlemen could find no cause, eventually, to entertain different sentiments from what he then delivered.

Mr. MADISON.—I acknowledge, that, on a former day, I made the observation alluded to with singular complacency. I said, I had found a moderation and liberality prevailing here, which I sincerely believed, if foreseen in the convention of Virginia, would have obviated a very powerful objection to the adoption of the Federal constitution. But, give me leave now to say, that if a Prophet had risen in that body, and brought the declarations and proceedings of this day into view, that I as firmly believe Virginia might not have been a part of the Union at this moment.

A motion was now made for the committee to rise, and several gentlemen said, they wished it to prevail, in order that an opportunity might be afforded for a fuller discussion.

Mr. SEDGWICK hoped the committee would not rise. Will it be contended, that the majority shall not govern; and shall the minority, because they cannot carry their points, accuse the House of want of candor? Are we to be told, that an important State would not have joined the Union, had they known what would have been the proceedings of this House. Gentlemen have brought forward this business themselves; they have precipitated the House into it. We prayed, we supplicated for time; and now gentlemen, from some causes not explained, wish to postpone the matter, in order to have time to deliberate. He believed that a deliberation of six weeks would not alter a single opinion, and therefore it was not proper to consume the public time uselessly.

Mr. MADISON.—When I alluded to the proceedings of this day, I contemplated the manner in which the business was conducted; and though I acknowledge that a majority ought to govern, yet they have no authority to deprive the minority of a constitutional right; they have no authority to debar us the right of free debate. An important and interesting question being under consideration, we ought to have time allowed for its discussion. Facts have been stated on one side, and members ought to be indulged on the other with an opportunity of collecting and ascertaining other facts. We have a right to bring forward all the arguments which we think can, and ought to have an influence on the decision. It is unusual, on a partial discussion, even of questions of inferior magnitude, to decide in the course of a single day. How, then, can gentlemen reconcile their conduct of this day to the liberality they have hitherto shown? This manner of proceeding would mark a genius in this body which will contradict the expectations of its warmest friends. I hope nothing will be fixed by a hasty determination. I said before, and repeat it again, that I wish to make some observations on what has been advanced, for which at present there is not time. But, if there was, I do not wish to address a determined and silent majority. No, sir, if this be the temper of to-day, let me appeal to a more favorable temper to-morrow. If gentlemen refuse this appeal, I must submit; but I will, to the last moment, assert my right, and remonstrate against a precipitate decision.

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Mr. BURKE observed, that the Northern States had had a fortnight to manage this matter, and would not now allow the Southern States a day. What was the conduct of gentlemen? A league

has been formed between the Northern States and Pennsylvania.

Mr. FITZSIMONS interrupted Mr. BURKE, and denied the assertion, as it respected Pennsylvania.

Mr. BURKE then proceeded, and said that the Eastern members had combined with some other States, he could not positively say which, but the first information that was furnished was given this morning, every gentleman had heard it as well as himself, but that had nothing to do with his object; he wanted time to get information; and called on gentlemen, for the honor of the House, to comply with this request.

Mr. WADSWORTH said, he rejoiced to hear the gentlemen calling for time, and crying out fair play. He remembered when he entreated the gentleman who spoke last, and others, not to precipitate themselves into this situation; his entreaties had been of no avail. Knowing that the pride of a majority was one of those things to which he had to submit, he, with all the New England members, solicited for time. With respect to bargaining, he believed that it would reflect no honor on either side of the House. He said he must either give his vote now, or submit to more bargaining. He was willing that the whole business of bargaining should be exposed; he would not excuse himself; he did not dare to go to the Potomac. He feared that the whole of New England would consider the Union as destroyed. Since the matter had been so prematurely brought on, since members had been forced, and, as it were, dragged by the throat to this business, he hoped it was now finished.

The question was now put, on the rising of the committee, and carried: Whereupon the committee rose and reported progress, and then the House adjourned.

THURSDAY, September 4.

Seat of Government.

The House again resolved itself into a Committee of the Whole, on the Resolution for establishing a permanent Seat of Government, Mr. BOUDINOT in the chair.

Mr. STONE wished to hear the sentiments of the gentleman who first brought forward this business: he expected to derive some advantage from that gentleman's knowledge of the country, which, he presumed, was pretty accurate, as it was derived from actual observation.

After waiting some time,

Mr. STONE repeated his request, under an apprehension that he had not the honor of being heard by the worthy gentleman.

Mr. GOODHUE rose and said, he had given his sentiments yesterday, but, if the gentleman desired it, he was ready to repeat them.

Mr. STONE said, he addressed his request to the gentleman from Pennsylvania.

Mr. SCOTT.—I understood the gentleman so, and I have no objection to giving my sentiments on the occasion. The resolution I laid on the table has been honored with the vote of a majority of the committee. It contains such principles as, I believe, ought to govern in the settlement of the grand question: they have declared, that they mean to be governed by these principles, and this is a declaration to the world that their hearts are good. What may follow in consequence of that resolution, cannot impeach the motive, it can only prove, that our heads are uninformed; an error of the head is pardonable, but an error of the heart is not easily forgiven.

Whether the spot which has been moved is the right spot or not, seems to be the matter under inquiry. I had prepared myself with documents, which I should have produced had they been needed, to prove, that the State I have the honor to represent involves, within its limits the centre of wealth and population of the United States, taking the sea-coast for a guide; for all that has been said of the importance of the Western country, has not prevailed on me to imagine, that all the vacant territory should be taken into view, the same as the settled and cultivated parts; my resolution had no other idea but that the Atlantic States should consent to go as near that territory as their convenience would allow. I am convinced that going further than would suit the Atlantic States would injure the Western country itself.

Mr. MADISON said, if this delay should not have produced any alteration in the sentiments of the gentlemen, it will at least soften that hard decision which seems to threaten the friends of the Potomac. He hoped that all would concur in the great principle on which they ought to conduct and decide this business; an equal attention to the rights of the community. No government, he said, not even the most despotic, could, beyond a certain point, violate that idea of justice and equal right which prevailed in the mind of the community. In Republican Governments, justice and equality form the basis of the system; and perhaps the structure can rest on no other than the wisdom of man can devise. In a Federal Republic, give me leave to say, it is even more necessary and proper, that a sacred regard should be paid to these considerations. For beyond the sense of the community at large, which has its full agency in such a system, no such Government can act with safety. The Federal ingredient involves local distinctions, which not only produce local jealousies, but give, at the same time, a greater local capacity to support, and insist upon equitable demands. In a Confederacy of States, in which the people operate, in one respect as citizens, and in another as forming political communities, the local Governments will ever possess a keener sense and capacity, to take advantage of those powers, on which the protection of local rights depends. If these great rights be the basis of republics, and if there be a double necessity of attending to them in a Federal Republic, it is further to be considered, that there is no one

right, of which the people can judge with more ease and certainty, and of which they will judge with more jealousy, than of the establishment of the permanent seat of Government; and I am persuaded, that however often this subject may be discussed in the representative body, or however the attention of the committee may be drawn to it, the observations I have made will be more and more verified. We see the operation of this sentiment fully exemplified in what has taken place in the several States. In every instance where the seat of Government has been placed in an uncentral position, we have seen the people struggling to place it where it ought to be. In some instances they have not yet succeeded, but I believe they will succeed in all. In many they have actually gained their point.

With respect, however, to the Federal Government, there is one consideration that shows, in a peculiar manner, the necessity and policy of paying a strict attention to this principle. One of the greatest objections which has been made by the opponents of the system, which has been allowed most weight by its friends, is the extent of the United States. It has been asserted by some, and almost feared by others, that within so great a space, no free Government can exist. I hope and trust, that the opinion is erroneous; but, at the same time, I acknowledge it to have a certain degree of force, and it is incumbent on those who wish well to the Union, to diminish this inconvenience as much as possible. The way to diminish it, is to place the Government in that spot which will be least removed from every part of the empire. Carry it to a remote position, and it will be equivalent to an extension of our limits; and if our limits are already extended so far as warrants, in any degree, the apprehension before mentioned, we ought to take care not to extend them further.

The seat of Government is of great importance, if you consider the diffusion of wealth that proceeds from this source. I presume that the expenditures which will take place, where the Government will be established by those who are immediately concerned in its administration, and by others who may resort to it, will not be less than half a million dollars a year. It is to be regretted that those who may be most convenient to the centre should enjoy this advantage to a higher degree than others; but the inequality is an evil imposed by necessity; we diminish it as we place the source from which those emanations of wealth are to proceed as near the centre as possible.

If we consider, sir, the effects of Legislative power on the aggregate community, we must feel equal inducements to look for the centre, in order to find the proper seat of Government. Those who are most adjacent to the seat of Legislation will always possess advantages over others. An earlier knowledge of the laws, a greater influence in enacting them, better opportunities for anticipating them, and a thousand other circumstances, will give a superiority to those who are thus situated. If it were possible to promulgate our laws, by some instantaneous operation, it would be of less consequence in that point of view where the Government might be placed; but if, on the contrary, time is necessary for this purpose, we ought, as far as possible, to put every part of the community on a level.

If we consider the influence of the Government in its Executive Department, there is no less reason to conclude that it ought to be placed in the centre of the Union. It ought to be in a situation to command information relative to every part of the Union, to watch every conjuncture, to seize every circumstance that can be improved. The Executive eye ought to be placed where it can best see the dangers which may threaten, and the Executive arm, whence it may be extended most effectually to the protection of every part. Perhaps it is peculiarly necessary, that, in looking for the position, we should keep our eye as much as possible towards our Western borders; for a long time dangers will be most apt to assail that quarter of the Union.

He was sure, that if justice required us to take any one position in preference to another, we had every inducement, both of interest and of prudence to fix on the Potomac, as most satisfactory to our Western brethren. It is impossible to reflect a moment on the possible severance of that branch of the Union without seeing the mischiefs which such an event must create. The area of the United States divided into two equal parts, will leave, perhaps, one half on the west side of the Alleghany Mountains. From the fertility of the soil, the fineness of the climate, and every thing that can favor a growing population, we may suppose the settlement will go on with every degree of rapidity which our imagination can conceive.

If the calculation be just, that we double in twenty-five years, we shall speedily behold an astonishing mass of people on the Western waters. Whether this great mass will form a permanent part of the confederacy, or whether it will be separated into an alien, a jealous and a hostile people, may depend on the system of measures that is shortly to be taken. The difference, he observed, between considering them in the light of fellow-citizens, bound to us by a common affection, obeying common laws, pursuing a common good, and considering them in the other light, presents one of the most interesting questions that can occupy an American mind. Instead of peace and friendship, we shall have rivalry and enmity; instead of being a great people, invulnerable on all sides, and without the necessity of those military establishments which other nations require, we shall be driven into the same expensive and dangerous means of defence. We shall be obliged to lay burthens on the people, to support establishments which, sooner or later, may prove fatal to their liberties. It is incumbent on us, if we wish to act the part of magnanimous legislators, or patriotic citizens, to consider well, when we are about to take a step of such vast importance, that it be directed by the views he had described; we must consider what is just, what is equal, and what is satisfactory.

On a candid view of the two rivers, he flattered himself that the seat which would most correspond with the public interest would be found on the banks of the Potomac. It was proper that we should have some regard to the centre of territory; if that was to have weight, he begged

leave to say, that there was no comparison between the two rivers. He defied any gentleman to cast his eye in the most cursory manner over a map and say that the Potomac is not much nearer this centre than any part of the Susquehanna. If we measure from the banks of the Potomac to the most eastern parts of the United States, it is less distant than to the most southern. If we measure this great area diagonally, the Potomac will have the advantage. If you draw a line perpendicularly to the direction of the Atlantic coast, we shall find that it will run more equally through the Potomac than through any part of the Union; or, if there be any difference between one side and the other, there will be a greater space on the south-west than on the north-east. All the maps of the United States show the truth of this. From the Atlantic coast to that line which separates the British possessions from the United States, the average distance is not more than one hundred and fifty miles. If you take the average breadth of the other great division of the United States, it will be found to be six, seven, and eight hundred miles.

From this view of the subject, which is not easy to describe by words, but which will strike every eye that looks on a map, I am sure that if the Potomac is not the geographical centre, it is because the Susquehanna is less so.

Mr. CLYMER begged to set the gentleman right; his colleague, if he understood him, had only related the communication by the north-western branches, but there was a communication by the Juniata, a branch of the Susquehanna, about fifteen miles above Harrisburg, tending westerly, and navigable eighty miles, from whence to the Connemagh was a portage, with a road actually laid out of about forty miles, hence you descend the Kisskaminetas to the Alleghany, and from thence to Pittsburg is thirty miles.

Mr. SCOTT knew this communication pretty well, but we who live in that country never take it into consideration, as the waters are too small to afford a certainty of communication, but even here the portage was greater than between the Potomac and Youghiogheny.

Mr. CLYMER said, with respect to the navigation of the Juniata, that it was in evidence before the House of Assembly of Pennsylvania, when they were considering the means of uniting that navigation with the western waters, that produce to the amount of fourteen hundred bushels had been brought down it to Middletown.

Mr. MADISON proceeded and said, he wished every fact to be ascertained that could throw any light upon the subject. Taking the Susquehanna, as it was practicable for navigation, it would be found, that through that route of communication, Fort Pitt would be four or five hundred miles from the proposed seat on its banks, and that the distance by land was not less than two hundred and fifty miles; whereas, through the Potomac the distance from the proposed spot on its banks to Fort Pitt was not calculated at more than two hundred and fifty miles, and he believed the distance by land would be found not to exceed one hundred and sixty or one hundred and seventy miles.

Whether we measure the distance by land or water, then, the result is in favor of the Potomac. If we consider the progress already made in opening this great channel, its title becomes still stronger. Let me add, that it has been found, on accurate research, that the waters communicating with the Ohio are not more than two or three miles distant from the sources of the Potomac. This is a fact of peculiar importance.

The gentleman from Massachusetts yesterday raised great objections against the Potomac, because it was, as he supposed, subject to periodical maladies, from which the other river was free. I am not authorized, from personal experience, or very particular information, to draw a comparison between them; but there are some general facts that may serve to show, that if there is any difference, it is more likely to be in favor of the Potomac than of the Susquehanna. The position contemplated on the banks of the former is considerably further from tide water than the place proposed on the latter. On this account, therefore, we have little reason to suppose that the Potomac is more unhealthy. If we regard their comparative situations, westwardly, the spot on the Potomac is almost as much further to the west, as it is distant from the proposed spot on the Susquehanna; and he well knew that, generally speaking, as were tire towards the Western and upper country, we are generally removed from the causes of those diseases to which southern situations are exposed. As the two places are moreover in the same latitude, the objection advanced, with respect to that point, cannot apply to one more than the other. It is only their western or eastern position, their remoteness from, or their proximity to the lower country, and to fresh or stagnant waters, that can possibly affect the question. It is not because we advance so much to the south that we advance to the centre, it is because we go more to the west. I do not know that there is a difference of more than a degree and five or six minutes between the latitude of New York and the place proposed on the Potomac.

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Mr. AMES never intended that this question should be carried through the committee by the strength of a silent majority; he had confidence in the weight of the arguments to be urged in favor of the Susquehanna, and he was willing to put the decision of the question on that ground. He would now come forward, and give the reasons of his opinion, especially as gentlemen had entered fully into the reasons which guided their own to a different conclusion. He did not conceive it would be necessary for him, coming from the part of the United States from which he did, to disclaim the local views and narrow prejudices with which the subject teemed. He had feared, when the question was first brought forward, that the minds of gentlemen would be highly fermented, indeed so much, that he almost despaired of coming to a proper decision, nor did he think these apprehensions were illusive, if he judged from what had already taken place. He had observed that some gentlemen, whose discernments were clear and who were generally guided by the straight line of rectitude, had been most surprisingly warped on the present

occasion; he was fearful that their wishes had misled them from a due regard of the real object of their pursuit, viz: the public interest and convenience. He was sensible, that he himself was liable to some improper impressions; but he trusted he did not feel them in that degree which he thought he saw in others.

He was willing to be led by the great principles which other gentlemen had laid down as the rule of their decision; but he thought they would lead to a different conclusion from what had been drawn from them; he admitted that a central situation is to be taken, and in considering this centre, the centre of a sea-coast line ought to be regarded, because it is more conveniently accessible, has more wealth, and more people than an equal area of inland country. Being more liable to invasion, government should be near to protect it. It is the interest of the back country to have the Government near the sea, to inspect and encourage trade, by which their abundant produce will find an export. And lastly, he said, the contingency of the separation of the Western country was a reason for preferring the sea-coast.

He proceeded next to say, there will not be any contest where this centre of the sea-coast line is to be found: it falls between the rivers Potomac and Susquehanna. It will be found that there are good reasons why we should rather move east than south.

If the sea-coast line is to be preferred, it will follow that the back lands, west of the Ohio, which the gentleman from Virginia has so often taken into his calculations, will be excluded; they are not peopled; they do not affect the sea-coast line; and that line has already been voted to be the proper one by the committee. As it is true that the sea-coast has more wealth and more people than the inland country in proportion to the extent, it is equally true that the eastern half of the sea-coast has more of both than the southern. If we reckon Maryland, which will be as well accommodated by the Susquehanna as by the Potomac, we shall find the population of the eastern part nearly two millions, and that of the southern only one million, and the population of free inhabitants still less in favor of the latter.

But, sir, instead of seeking a centre geographically, we should consider the centre of common convenience. The place is the proper one where the greatest number of persons will be best accommodated. I will endeavor to show that that will be on the Susquehanna. Is the zeal of gentlemen, who oppose this design, influenced by their despair of removing the seat of Government afterwards? I believe the people of America will not complain of it. If fixed there, I think it will be found convenient and will remain there.

The Susquehanna is the centre of the common convenience. At this moment there are more wealth and more inhabitants east than south of it. But the future population of America is calculated, and it is pretended that the balance of population is receding from the East. Surely the present inhabitants may be allowed principally to consult their own convenience. West of the Ohio is an almost immeasurable wilderness; when it will be settled, or how it will be possible to govern it, is past calculation. Gentlemen will pardon me if I think it perfectly romantic to make this decision depend upon that circumstance. Probably it will be near a century before those people will be considerable; if we fix the national seat in the proper place now, it would give me no inquietude to know that a hundred years hence it may be liable to be removed; but, in fact, the principle which is assumed by the committee, and which I have attempted to justify, of taking the centre of the sea-coast line, will, even in the event of that vast tract being settled, furnish abundant reasons for its remaining on the Susquehanna. I will not recapitulate those reasons. We must take some principle to guide us; and though some inequalities will appear, yet let gentlemen remember, that in so vast a country great inconveniences will attend the communications of the people with Government, be the seat of it where it may; and by taking the centre of the sea-coast line there will be less than any other principle. It will be found best to accommodate the greatest number; or, in other words, to be the centre of common convenience: indeed, this is not denied to be true at this moment; but the case is said to be changing. On the one hand, I think it is Utopian to calculate upon the population of the United States a century hence; and, on the other hand, I admit that it is impolitic at least, perhaps unjust, to confine our attention to the present population; a quarter of a century may be a medium. Will gentlemen deny that trade and manufactures will accumulate people in the Eastern States, in proportion of five to three, compared with the Southern? The disproportion will, doubtless, continue to be much greater than I have calculated. It is actually greater at present; for the climate and negro slavery are acknowledged to be unfavorable to population: so that husbandry, as well as commerce and manufactures, will give more people in the Eastern than in the Southern States. The very circumstance that gentlemen found their reasonings upon is pretty strongly against their calculations. They tell us of the vast quantities of good land still unsettled in their States; that will produce a thin population; for the old lands will not be crowded, so long as new ones are to be had.

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Mr. CARROLL begged leave to give the Committee some information respecting the distance from tide-water to Fort Cumberland; from the tide-water to the Little Falls was three miles, to the Great Falls six more, from thence to the Seneca Falls was also six more, and from thence to Old Town one hundred and seventeen; which last place was fifteen miles from Fort Cumberland, making in all one hundred and forty-five miles, instead of two hundred, as stated by the gentleman.

Mr. AMES imagined his statement to be nearly right, and he found Mr. JEFFERSON stated in his Notes, that the Falls of the Potomac were fifteen miles in extent, and a navigation extremely difficult to be made.

Mr. CARROLL said, it was not near that distance; in the fifteen miles there were three falls: the

Seneca, the Great and Little Falls, but they occupy but a small part of the fifteen miles; he could certainly form some judgment of a place which he might say was almost at his door, and did not expect that Mr. JEFFERSON'S Notes would have been adduced as an authority to contradict information he had given in his place. As to the difficulty of the navigation, he had to observe that many of the obstacles were already so far removed as to render the transportation down to the Great Falls practicable; that there the canal was nearly finished, and ready to sink the lock-seats and insert the frames, so that in a little time there was a probability that no impediment whatever would obstruct the descent of produce to the tide-water.

The question, on Mr. Lee's motion for striking out Susquehanna, and inserting Potomac, was put and lost; for it 21, against it 29.

Mr. MADISON then moved, to add, after "Susquehanna" the words "or Potomac;" this would furnish an opportunity to examine and compare the two situations. It was so favorable to a discovery of the truth, that he did not doubt but gentlemen who were desirous of grounding their decision upon a full understanding of the subject would agree to the motion.

Mr. BOUDINOT seconded this motion, and supported it, by observing the necessity there appeared to be, of obtaining a more accurate knowledge of the two rivers, as gentlemen seemed to differ materially with respect to the matter of fact.

Mr. SHERMAN contended, upon the principles adopted yesterday by the committee, that they could not think of going to the Potomac; he said, that taking the population, even allowing the slaves in the Southern States, there was the greatest weight of population north-east of the Susquehanna; but upon the ratio of representation, at a member for forty thousand inhabitants, there were but one million two hundred thousand south of Pennsylvania, one million four hundred thousand north, including Pennsylvania; but if the calculation was made from the Potomac, the South would contain nine hundred and sixty thousand inhabitants, and the North one million six hundred and eighty thousand. Now, he would ask, if gentlemen could expect that the northern people would incline to go so far south? He apprehended they would not.

The question being taken on inserting "or Potomac," it passed in the negative.

On motion of Mr. PAGE, the committee rose and reported progress, and then the House adjourned.

SATURDAY, September 5.

Permanent Seat of Government.

The House then resolved itself into a Committee of the Whole, on establishing the permanent residence of Congress; when

Mr. FITZSIMONS presented the following resolution:

Resolved, As the opinion of this committee, that the President of the United States be authorized to appoint — commissioners, to examine, and report to him, the most eligible situation on the east bank of the Susquehanna, for the permanent seat of Government of the United States. That the said commissioners be authorized, by and with the advice of the President, to purchase such quantity of lands as may be thought necessary, and to erect thereon, within — years, suitable buildings for the accommodation of the Congress, and of the officers of the United States. That the Secretary of the Treasury, together with the commissioners so to be appointed, be authorized to borrow a sum not exceeding — dollars, to be paid in — years, with interest, at the rate of — per cent. per annum, payable out of the duties on impost and tonnage, to be applied to the purchase of the land, and the erection of the buildings aforesaid. And that a bill ought to pass, in the present session, in conformity with the foregoing resolutions.

Mr. SMITH (of South Carolina) doubted the propriety of the resolution, because he conceived the declaration in the constitution required a cession of territory as well as jurisdiction. If he was joined in this sentiment by the committee, he would move that the President be empowered to appoint commissioners to examine and report a proper place on the banks of the Susquehanna for a federal town, and that, whenever the State of Pennsylvania shall cede to the United States a certain district or territory, not exceeding ten miles square, Congress would accept thereof for the above purpose.

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Mr. LAWRENCE would inquire for what purpose the cession, mentioned in the constitution, was required? It was, in the words of that instrument, to exercise exclusive legislation in all cases whatsoever; now, did this consequence involve in it a territorial possession? It certainly did not. It involved nothing more than the power of making laws independent of the State jurisdiction. The gentleman might have carried his idea further, for as the cession is to be made by particular States, it seems to infer that two States, at least, should be concerned in the cession; but would objections, from such forced constructions, have any weight in the judgment of the committee? He trusted they would not. He supposed it more rational to attend to the plain literal meaning of the constitution than to engage in the discussion of the refined speculations of ingenious men.

Mr. VINING observed, that Delaware, Maryland, and Virginia, had offered to cede territory, as well as jurisdiction, and there would be a great impropriety in expending the federal treasure, in purchasing the soil, when they might have it without expense.

Mr. AMES endeavored to show that such a cession, as was contemplated in the constitution, might be made by one State to another, without giving a property to a foot of land, by comparing it with the cession of Silesia to Prussia, where not a single acre of soil was conveyed, but of jurisdiction to the whole province; so, when territory changes its government, by being the sacrifice of a treaty of peace. He supposed that Congress were to purchase the soil necessary to erect buildings for the accommodation of the Government, and was satisfied the cession might be made subsequent to their election of a particular spot.

Mr. SENEY.—The gentleman from Delaware has said, that Maryland proposed a cession of soil; but I believe, sir, there is not such a word as soil mentioned in the law.

Mr. CARROLL agreed with his colleague, and supposed that a cession of soil could not have been contemplated, because the State of Maryland had offered any part of the State, not excepting the town of Baltimore. He believed if Congress were disposed to fix in that town, it would be agreeable to the State; but he did not imagine they would agree to give the General Government a property to the whole town, and the surrounding country. The other parts of the State had never contemplated making the inhabitants of Baltimore a compensation for such an immense property.

Mr. GOODHUE believed, if the House had agreed to go to the Potomac, there would have been none of these constitutional difficulties stated. It was well known, he said, that the gentlemen from the eastward had no desire to take up the subject; but those from the southward were sanguine in their expectations that they should get the Government to the Potomac; and were, therefore, for pressing the business, and not allowing it to be postponed as was contended for on the other hand.

Mr. MADISON said, the business was not brought on by their original motion, though they gave it their support. It was true, that a proposition for postponement was made, but what was the extent of that postponement? Till December or January next. Was there any reason to suppose that those gentlemen, who were, at this day, opposed to the Potomac, would give in to such a change of opinion by that time, as to induce us to agree to their proposition. We saw no reason to expect such a change. And, as in fact, we find a predetermined majority ready to dispose of us, the sooner we know our destiny the better; for it can be of little consequence, if we are to be disposed of, whether we are disposed of in September or December.

Mr. WADSWORTH.—The reiteration of being disposed of by bargaining, induces me to rise and make one remark. It is a notorious fact to the members within these walls, that the New England members, to a man, were opposed to a decision at present; and that they were disposed to accommodate the Southern States. They refused all bargaining, till they were assured there was a bargaining set on foot to carry them to the Potomac; why, then, are we reproached with this? Whatever bargaining there has been, we were the last to come into it; we never thought of it, till we were told that we were a property, and should be disposed of, unless we took care of ourselves. I hope, as we have gone so far, we shall settle the subject in dispute, by granting the money and erecting the necessary buildings.

Mr. JACKSON denied being concerned in any bargaining whatever, and defied any gentleman to say he knew any thing of one, till he heard it mentioned on this floor; he was determined to keep himself disengaged, and to vote according as his judgment should lead him, after hearing the subject coolly and thoroughly discussed.

Mr. MADISON hoped, if he travelled a little out of order, he should be justified, after what had taken place; but he could not withhold this public declaration of his wish, that every thing that had passed on the subject alluded to by the gentleman from Connecticut, (Mr. WADSWORTH,) were to be fully understood, and were reduced to writing. Every thing he knew of it he was willing, on his part, to put into that form; and he was well persuaded that it would be found, on examination, that the opposition of the Southern gentlemen was of a defensive nature, and that they had not listened to a proposition, until they had reason to think it necessary to prevent a sudden and improper decision of this very important question.

Mr. SMITH, of South Carolina, begged gentlemen to remember, that all the Southern members had not been in favor of bringing forward the business at the present session; he had opposed it as well as some others.

Mr. LEE conceived it to be his duty to present once more the preamble, which had been rejected in committee. He flattered himself, after the discussion which had taken place, that gentlemen were prepared to decide on liberal and national principles, and therefore they would adopt those he presented.

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Mr. SENEY approved of the Susquehanna in preference to the Potomac, on every principle which had been brought into view, as proper to guide the House in deciding the present question. He treated the alarm which gentlemen apprehended would be given by fixing on the Susquehanna as merely ideal, and existing nowhere but in the imagination of gentlemen; so far from exciting jealousy, or disturbing the public mind, he contemplated it as tending to allay uneasiness, and to give general satisfaction.

On motion, the House now adjourned.

MONDAY, September 7.

Permanent seat of Government.

The House resumed the consideration of the resolutions reported by the Committee of the Whole for establishing the permanent residence of Congress.

Whereupon, the first resolution was agreed to, and the second, to wit:

Resolved, That the permanent seat of the Government of the United States ought to be at some convenient place on the east bank of the river Susquehanna, in the State of Pennsylvania; and that, until the necessary buildings be erected for the purpose, the seat of Government ought to continue at the city of New York,

Being under consideration,

Mr. LEE withdrew his proposition offered yesterday, and moved to amend the said resolution, by striking out the words "East Bank of the river Susquehanna, in the State of Pennsylvania," and inserting, in lieu thereof; the "North Bank of the river Potomac, in the State of Maryland."

And, on the question that the House do agree to the said amendment, the yeas and nays were demanded, and are

AYES.—Messrs. Baldwin, Bland, Brown, Burke, Carroll, Coles, Contee, Gale, Griffin, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Smith, (of South Carolina,) Stone, Sumter, Tucker and Vining—21.

NAYS.—Messrs. Benson, Boudinot, Cadwalader, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorn, Lawrence, Livermore, P. Muhlenberg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Sinnickson, Smith, (of Maryland,) Thatcher, Trumbull, Wadsworth and Wynkoop—29.

So it was determined in the negative.

Mr. VINING said, it now became his duty, after having sacrificed a prejudice, if he had one, by giving his vote for the Potomac, to bring before the House the humble claim of Delaware. He apprehended that her claim to centrality, as it respected wealth and population, was superior to that of the Susquehanna; and that, if a sea-coast line was to be a criterion, she was near the centre of territory. He supposed that this was the line upon which the Committee was to decide for the present. It was not supposed necessary, at this time, to take into consideration the vacant and extensive Western Territory, or why refuse the Potomac, which offered itself under the greatest advantages of an easy intercourse with that quarter? Add to the reasons he had mentioned, that the United States would consult their interest by fixing on the Delaware, as they would not incur the heavy expense of purchasing territory, and erecting magnificent palaces and hotels for the Government, and he thought gentlemen would not hesitate to agree with him.

The place he meant to offer was possessed of eminent superiority, as to salubrity of air and fertility of soil; it also united the advantages of the Atlantic and inland navigation; inasmuch as, by cutting a canal from the waters of the Chesapeake to the Delaware, a communication would be opened from Carolina, Virginia, and Maryland, to New Jersey, Pennsylvania and the midland counties of New York. The spot that he proposed for their acceptance was Wilmington in the State of Delaware; round which they might have a district for exclusive legislation, if it was thought proper to accept it. Under these impressions, he would frame his motions in such a way, as to enable Congress, when they did adjourn, to adjourn to meet at that borough. It was made in this form: To strike out the word "permanent," and all the remainder of the clause, after the words "ought to be at," and to insert in lieu of the last "the borough of Wilmington, in the State of Delaware."

On the question that the House do agree to the said amendment, the yeas and nays were demanded, and are

AYES.—Messrs. Baldwin, Bland, Boudinot, Burke, Cadwalader, Coles, Contee, Griffin, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Sinnickson, Smith, (of South Carolina,) Sumter, and Vining—19.

NAYS.—Messrs. Ames, Benson, Brown, Carroll, Clymer, Fitzsimons, Floyd, Foster, Gale, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorn, Heister, Lawrence, Livermore, P. Muhlenberg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Smith, (of Maryland,) Stone, Thatcher, Trumbull, Tucker, Wadsworth and Wynkoop—32.

Mr. BOUDINOT remarked that the peculiar situation in which he had been placed, by having the chair of the Committee, prevented him from giving his sentiments on the subject then; he therefore hoped to be indulged with stating the claim of the Delaware to the honor of the Federal City. When a question of such great magnitude, and which involved the interests of the Union, was to be decided, he thought he could be neither doing justice to the United States at large, nor his immediate constituents, were he to neglect to call their attention to what the former Congress had done in favor of the Delaware. He was surprised that gentlemen, who contended for the accommodation of their constituents, should be led so far astray from pursuing that object, as to pass far beyond the centre of wealth and population, as well as territory; or, if they did not pass the centre of territory, they went to a place, maugre all that had been said, devoid of those advantages which ought to attend the Federal residence. The want of communication with the Atlantic, the difficulty of navigating its waters, from the innumerable rocks, falls and shoals with which it abounds, which, from actual observation, he was induced to believe were insuperable obstructions to a connection with the Western waters, or, if they could be surmounted, it would be at such cost of money and labor, as the United States were not in a condition to expend, at a

time when the widows and orphans were starving for want of the pittance due to them by the Government. The sterility of the soil, and the unhealthiness of a situation on the banks of a river which was subject to rise twenty feet and more, and overflow its banks, leaving behind vast quantities of stagnant water, whence proceeded noxious exhalations, the cause of a long catalogue of diseases, were altogether, in his mind, such objections to the place, that he could never imagine a majority of the House could consent to it. He further observed, that the Government would be secluded from the world, and the channels of information; there were few inhabitants, unless it was in the neighborhood of York or Lancaster.

But, beside all these considerations, there was this further, that there was an existing resolution of Congress for erecting the necessary buildings for their accommodation on the banks of the Delaware and Potomac, and an absolute grant of money for the purpose of defraying the expense. Now, as these had each of them strong pretensions, he was willing to have them considered and examined by commissioners sent on the ground. For the sake of accommodation, he would, therefore, move to amend the resolution, by striking out the words "east bank of the river Susquehanna, in the State of Pennsylvania," and inserting in lieu thereof the words "Potomac, Susquehanna, or Delaware."

On the question that the House do agree to the said amendment, it passed in the negative; the yeas and nays being required, are as follows:

YEAS.—MESSRS. Baldwin, Bland, Boudinot, Brown, Burke, Cadwalader, Carroll, Coles, Contee, Griffin, Jackson, Lee, Madison, Matthews, Moore, Parker, Page, Sinnickson, Smith, (of South Carolina,) Stone, Sumter, Tucker and Vining—23.

NAYS.—MESSRS. Ames, Benson, Clymer, Fitzsimons, Floyd, Foster, Gale, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorn, Heister, Lawrence, Livermore, P. Muhlenberg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Smith, (of Maryland,) Thatcher, Trumbull, Wadsworth and Wynkoop—28.

Mr. BOUDINOT then moved to amend the resolution by striking out the words "east bank of the river Susquehanna, in the State of Pennsylvania," and inserting in lieu thereof, the words, "banks of either side of the river Delaware, not more than eight miles above or below the lower falls of Delaware."

On this question, the yeas and nays were demanded, and are:

YEAS.—MESSRS. Boudinot, Cadwalader, Gerry and Sinnickson—4.

NAYS.—MESSRS. Ames, Baldwin, Benson, Bland, Brown, Burke, Carroll, Clymer, Coles, Contee, Fitzsimons, Floyd, Foster, Gale, Gilman, Griffin, Grout, Goodhue, Hartley, Hathorn, Heister, Jackson, Lawrence, Lee, Livermore, Madison, Matthews, Moore, Muhlenberg, Page, Parker, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Sumter, Thatcher, Trumbull, Tucker, Wadsworth and Wynkoop—46.

Mr. STONE then moved to amend the resolution, by striking out the words "east bank," and inserting in lieu thereof the word "banks;" and on the question, that the House do agree to the said amendment, the yeas and nays being demanded, were as follow:

YEAS.—MESSRS. Baldwin, Bland, Boudinot, Brown, Burke, Cadwalader, Carroll, Coles, Contee, Gale, Griffin, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Seney, Sinnickson, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Sumter, Tucker, and Vining—26.

NAYS.—MESSRS. Ames, Benson, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorn, Heister, Lawrence, Livermore, Muhlenberg, Partridge, Van Rensselaer, Scott, Sherman, Sylvester, Thatcher, Trumbull, Wadsworth and Wynkoop—25.

So it passed in the affirmative.

A motion was then made and seconded, further to amend the said resolution, by inserting, after the word "Pennsylvania," the words "or Maryland," and, on the question the House do agree to the said amendment, it passed in the negative; and the yeas and nays being demanded, were as follow:

AYES.—MESSRS. Baldwin, Bland, Boudinot, Brown, Burke, Cadwalader, Carroll, Coles, Contee, Gale, Griffin, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Sinnickson, Smith, (of M.) Smith, (of S. C.) Stone, Sumter, Tucker and Vining—25.

NAYS.—MESSRS. Ames, Benson, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorn, Heister, Lawrence, Livermore, P. Muhlenberg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Thatcher, Trumbull, Wadsworth and Wynkoop—26.

Mr. LEE expected the question would be divided on the resolution, as it contained two distinct objects, the permanent and temporary residence.

Mr. PAGE suggested the propriety of striking out the latter part of the clause, relating to New York, and to confine the resolution merely to the avowed object, namely, the permanent residence.

The question was taken on striking out, and it passed in the negative, 24 for, 27 against it.

Mr. VINING then moved to strike out the words "City of New York," and insert, in lieu thereof, "Borough of Wilmington, in the State of Delaware;" and on the question to agree to the said amendment, the yeas and nays being demanded, were as follow:

AYES.—MESSRS. Baldwin, Bland, Boudinot, Brown, Burke, Cadwalader, Carroll, Coles, Contee, Gale, Griffin, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Sinnickson, Sumter and Vining—21.

NAYS.—MESSRS. Ames, Benson, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorn, Heister, Lawrence, Livermore, Muhlenberg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Thatcher, Trumbull, Tucker, Wadsworth and Wynkoop—30.

So it passed in the negative.

Mr. PARKER moved to strike out "New York" and insert "Philadelphia."

Mr. LEE said the city of New York possessed every convenience and accommodation; he was strongly impressed in favor of the inhabitants, their urbanity and industry did honor to America, and nothing could induce him to vote for striking out the words, but a sense of duty. He flattered himself that a regard would now be paid to the great principles of centrality, which Philadelphia possessed in a great degree; the conveniences and accommodations to be found in that city were equal, if not superior, to what New York presented; her public buildings and institutions were, he believed, at their command; the inhabitants were industrious, temperate, and frugal; in short, every principle which operated in favor of the Susquehanna, as a permanent residence, applied with equal or more force in favor of Philadelphia as the temporary seat of Government.

Mr. SHERMAN hoped the House were disposed to make as few removes as possible, and that as the buildings for their accommodation might be in readiness in two or three years at the permanent residence, they would be disposed to continue in New York till that time.

On the question, that the House do agree to the said amendment, the yeas and nays being demanded, are as follows:

AYES.—MESSRS. Baldwin, Boudinot, Brown, Burke, Cadwalader, Carroll, Coles, Contee, Gale, Griffin, Heister, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Sinnickson, Stone, Sumter and Vining—22.

NAYS.—MESSRS. Ames, Benson, Bland, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorn, Lawrence, Livermore, P. Muhlenberg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Smith, (of Maryland,) Smith, (of South Carolina,) Thatcher, Trumbull, Tucker, Wadsworth and Wynkoop—29.

The main question being put, the second resolution, as amended, was agreed to by the House, in the words following, to wit:

"*Resolved*, That the permanent seat of the Government of the United States ought to be at some convenient place on the banks of the river Susquehanna, in the State of Pennsylvania; and that, until the necessary buildings be erected for the purpose, the seat of Government ought to continue in the city of New York."

The third resolution, in the words following, to wit:

"*Resolved*, That the President of the United States be authorized to appoint three commissioners, to examine and report to him the most eligible situation on the banks of the Susquehanna, in the State of Pennsylvania, for the permanent seat of the Government of the United States; that the said Commissioners be authorized under the direction of the President, to purchase such quantity of land as may be thought necessary, and to erect thereon, within four years, suitable buildings for the accommodation of the Congress, and of the other officers of the United States; that the Secretary of the Treasury, together with the Commissioners so to be appointed, be authorized to borrow a sum, not exceeding one hundred thousand dollars, to be repaid within twenty years, with interest, not exceeding the rate of five per cent. per annum, out of the duties on impost and tonnage, to be applied to the purchase of the land, and the erection of buildings aforesaid; and that a bill ought to pass, in the present session, in conformity with the foregoing resolutions."

A motion was made by Mr. GALE, to amend the same, by inserting after the word "aforesaid" the following proviso, viz:

"Provided, nevertheless, that, previous to any such purchase, or erection of buildings as aforesaid, the Legislatures of the States of Pennsylvania and Maryland make such provision for removing all obstructions to the navigation of the said river, between the seat of the Federal Government and the mouth thereof, as may be satisfactory to the President of the United States."

The yeas and nays being demanded, it passed in the negative.

AYES.—MESSRS. Baldwin, Boudinot, Brown, Burke, Cadwalader, Carroll, Coles, Contee, Gale, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Seney, Sinnickson, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Sumter, Tucker and Vining—24.

NAYS.—Messrs. Ames, Benson, Clymer, Fitzsimons, Floyd, Foster, Gale, Gilman, Goodhue, Grout, Hartley, Hathorn, Heister, Lawrence, Livermore, Muhlenberg, Partridge, Van Rensselaer, Scott, Sherman, Sylvester, Thatcher, Trumbull, Wadsworth and Wynkoop—25.

And then the main question being put, Do the House agree to the said third resolution, as reported by the Committee of the whole House?

The ayes and nays being demanded, it passed in the affirmative.

AYES.—Messrs. Ames, Benson, Clymer, Fitzsimons, Floyd, Foster, Gale, Gilman, Goodhue, Grout, Hartley, Hathorn, Heister, Lawrence, Livermore, Muhlenberg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Smith, (of Maryland,) Stone, Thatcher, Trumbull, Wadsworth and Wynkoop—28.

NAYS.—Messrs. Baldwin, Boudinot, Brown, Burke, Cadwalader, Carroll, Coles, Contee, Gerry, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Sinnickson, Smith, (of South Carolina,) Sumter, Tucker and Vining—21.

Ordered, That a bill or bills be brought in, pursuant to the foregoing resolutions, and that Messrs. AMES, LAWRENCE, and CLYMER, do prepare and bring in the same. [Pg 164]

MONDAY, September 21.

Seat of Government.

The House proceeded to consider the bill to establish the seat of Government of the United States, which lay on the table, with the amendments, as reported by the Committee of the whole House.

Mr. SMITH proposed to confine the choice of a situation on the banks of the Susquehanna, between Checkiselungo creek and the mouth of the river. He was seconded by Mr. SENEY.

Mr. HARTLEY hoped the committee would limit it as near the spot contemplated as possible.

Mr. HEISTER said, he moved, the other day, for a particular spot on the river, which he conceived entitled to a preference; if the proposed motion obtained, that place would be excluded, and he should hesitate respecting his vote upon the bill.

Mr. SENEY by no means wished to embarrass the committee; if the motion proposed would, any how, have that effect, he should withdraw his second.

Mr. MADISON felt himself compelled to move for striking out that part of the bill which provided that the temporary residence of Congress should continue at New York; as he conceived it irreconcilable with the spirit of the constitution. If it was not from viewing it in this light, he should have given the bill no further opposition; and now he did not mean to enter on the merits of the main question.

From the constitution, it appeared that the concurrence of the two Houses of Congress was sufficient to enable them to adjourn from one place to another; nay, the legal consent of the President was, in some degree, prescribed in the 7th section of article 1st, where it is declared, that every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary, (except on a question of adjournment,) shall be presented to the President of the United States, and approved by him, before the same shall take effect. Any attempt, therefore, to adjourn by law, is a violation of that part of the constitution which gives the power, exclusively, to the two branches of the Legislature. If gentlemen saw it in the same light, he flattered himself they would reject that part of the bill; and, however little they valued the reflection that this city was not central, which had been so often urged, they would be guided by arguments springing from a superior source.

He would proceed to state the reasons which induced him to be of this opinion; it is declared in the constitution, that neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting; from hence he inferred, that the two Houses, by a concurrence, could adjourn for more than three days, and to any other place which they thought proper; by the other clause he had mentioned, the Executive power is restrained from any interference with the Legislative on this subject; hence, he concluded, it would be dangerous to attempt to give to the President a power which the constitution expressly denied him.

TUESDAY, September 22.

Seat of Government.

The engrossed bill to establish the seat of Government of the United States was read a third time; and the question was, Shall this bill pass?

Mr. CARROLL said, he felt himself under peculiar circumstances on the decision of this important question. The House had determined that the permanent seat of the Government of the United States should be on the Susquehanna, in Pennsylvania, and not in Maryland on the Potomac. It was his opinion that the last would have been most conducive to the interest of the Union; the voice of the majority of this House is against it. The Susquehanna, said he, being the next object

most likely to attain what I have laid down as the rule of my conduct on this occasion, and, at the same time, must be agreeable to the wishes of a great part of my constituents, I felt myself under an obligation to vote for the Susquehanna, upon obtaining the clause which made it obligatory upon the States of Maryland and Pennsylvania to concur in opening the navigation of that river; and nothing would restrain me from giving my assent to the bill, but that clause which requires the concurrence of the President respecting the seat of Government, until Congress meet at their permanent seat. To this clause I have strong constitutional objections; they were yesterday fully stated to this House by other gentlemen.

I have endeavored to remove this conviction from my mind, in order to give my assent to the bill; but as I am under the sacred obligation of an oath to support the constitution, as I cannot efface the conviction from my mind that it is contrary to the constitution, and as we could not succeed in striking out the clause, I feel myself under the disagreeable necessity of giving my dissent to the bill.

The yeas and nays, on passing the bill, being required by one-fifth of the members present, were as follow:

YEAS.—MESSRS. Ames, Baldwin, Benson, Clymer, Contee, Fitzsimons, Floyd, Foster, Gale, Gilman, Goodhue, Grout, Hartley, Hathorn, Jackson, Lawrence, Leonard, Livermore, Muhlenberg, Partridge, Van Rensselaer, Scott, Seney, Sherman, Sylvester, Smith, (of Maryland,) Stone, Thatcher, Trumbull, Wadsworth and Wynkoop—31.

NAYS.—Messrs. Bland, Boudinot, Burke, Cadwalader, Carroll, Coles, Lee, Madison, Matthews, Moore, Parker, Schureman, Smith, (of South Carolina,) Sumter, Tucker, Vining, and White—17.

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The bill having passed, was sent to the Senate for their concurrence.

SATURDAY, September 26.

Seat of Government.

A message from the Senate was received, informing the House that they had passed the bill for establishing the seat of Government of the United States, with an amendment, which the House immediately took into consideration. The amendment went to strike out all that related to the river Susquehanna, both as to fixing the seat of Government there, and removing the obstructions to the navigation; and to insert, in lieu thereof, "a district of ten miles square, bounded on the south by a line running parallel at one mile's distance from the city of Philadelphia, on the east side of the river of Delaware, and extending northerly and westerly, so as to include Germantown."

Mr. BLAND thought the bill was so materially changed as to warrant the House to postpone its consideration. The principles upon which the Senate had proceeded, he believed, had not yet been discussed in the House, and the short time which now remained of the session forbade the attempt.

Mr. PAGE seconded this motion.

Mr. SMITH (of South Carolina) hoped that gentlemen would agree to let the bill lie on the table, and not to be driven into a measure which they considered injurious to the public interest. He trusted they would not be influenced to adopt this bill, by the Senate's keeping the appropriation bill as a hostage for it, which he understood to be the case.

Mr. FITZSIMONS was sorry to hear a thing of that kind insinuated against so respectable a body. He trusted the gentleman had been misinformed; but should be glad to know his authority.

Mr. PARTRIDGE declared that a knowledge of this fact would have considerable influence on his conduct; therefore, he was desirous of knowing to what an extent it was a certainty.

Mr. BLAND would not charge the Senate with retaining the appropriation bill as a hostage; but he thought it of more importance than the bill they had now sent down, and wished it had been first acted upon.

Mr. SPEAKER informed the House that the appropriation bill was sent only yesterday to the Senate.

Mr. STONE did not suspect the Senate of the conduct which had been intimated; but, nevertheless, he was in favor of the postponement.

Mr. LEE remarked that the great principles which this House had adopted, on full debate, were now thrown out of view; they had nothing to do with the amendment which the Senate had made. He could not, after this circumstance, bring himself to believe that the House would agree to the alteration, without discussing the other principles upon which it must be founded. And here the approaching termination of the session, and the quantity of unfinished business, presented to the mind a strong objection; either it could not be done at all, or done to great disadvantage. Beside, if it is laid over to the next session, the voice of the people may be better understood on this important question; when that was fully and fairly expressed, he flattered himself with a harmonious determination, to which all parties would submit without a single murmur.

Mr. SHERMAN thought the amendment of the Senate founded in wisdom, and upon true principles; the House had now nothing else before them. Indeed, they had just been spending an hour or two upon a very uninteresting subject respecting printers; he therefore trusted they would proceed to

consider the amendment fully, and come in a proper time to a decision upon it.

Mr. WHITE considered the amendment of the Senate as totally changing the tenor of the bill, and therefore it was like introducing a new subject. Indeed, in all the long arguments which the question had drawn out, he believed this place had never been mentioned. The gentleman last up, said there was no business before the House at present: but he would ask, if a business had never yet been before them, whether a member would be permitted to bring it forward at this late hour. He might be told, that the act of the Senate carried greater weight in it than the motion of a member. But he would place against that weight, the weight of the vote of this House, which on a former day agreed to fix the seat of Government on the banks of the Susquehanna; so that the question may be supposed to stand on independent ground.

But there was a collateral observation he would make. If Germantown was the proper place for the permanent residence of Congress, it was so near Philadelphia as to prove that that city would be the proper place for the temporary residence, and of course they ought to move there immediately, and order the next session to be held there; but both these questions were of too much moment to be fixed by a hasty vote of the House.

Mr. JACKSON had given his assent to the bill as it passed the House, after a fair opposition: he was satisfied his fellow-citizens would submit to what appeared to be the voice of their country; though they would have preferred the Potomac on account of its centrality and contiguity to the Western Territory, yet he acceded to the Susquehanna; but this was no reason he should vote for Germantown. Who are those that say to us, Germantown is the most proper spot that can be selected? They are the representatives of the State sovereignties; where the large and small States are equally represented, the voice of the majority of the people is lost in the inequality of the political branch of the Legislature. He could not but think an alteration in the sentiment of the House, on this ground, would excite serious alarm in the minds of the people; to avoid which consequence, he should agree to the postponement.

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Mr. GERRY urged, as a reason for postponement, that North Carolina and Rhode Island were out of the Union at present; and that, as there was a flattering expectation that at least one of those States would adopt the constitution by the next session, it would be extremely desirable to have their voice in determining this great question.

Mr. MADISON.—However different our sentiments, with respect to the place most proper for the seat of the Federal Government, I presume we shall all agree that a right decision is of great importance; and that a satisfactory decision is of equal moment to the happiness and tranquillity of the Union: that even the manner and circumstances under which such decision may take place, are worthy of serious consideration.

Now, sir, the amendment proposed by the Senate, not only deserves the name of a new bill, but it proceeds on principles different from those which served for the basis of the bill sent up to them from this House: hence I presume, sir, it is not only necessary to examine the merits of the proposition, but to enter into a full and minute investigation of those principles upon which it is founded: the proposition is new and in some degree opposed to what has heretofore prevailed: the public mind has not yet been called to the consideration of it; nay, I believe it never yet has been contemplated by the inhabitants of any one State: the eye of America should be indulged with an opportunity of viewing it before it be made their fixed abode. All the other places which have been mentioned as candidates for the seat of Government, on this occasion, have at different times, and in different forms, been held up to the public attention; two of them had not only employed the deliberation, but had obtained the favorable decision of the old Congress; now after all this, to take up and adopt in a moment, a rival place, never before contemplated, is risking an improper and a dissatisfactory decision.

Mr. STONE reminded the House of the majority there was in selecting the Susquehanna, which he conceived to be the second best spot in the United States; and how much greater that majority would have been than 31 to 17, if no other question had been involved in the bill: he could hardly suppose such a change of sentiment would take place without argument, as was necessary in order to get the Senate's amendment adopted, which, he understood, was carried by a small majority indeed.

Mr. WHITE would just add one observation, which was respecting the enormous price of land in the vicinity of Philadelphia; and how imprudent it would be for Congress to subject themselves to an exorbitant demand of this nature, by fixing upon the precise spot where this Federal town should be.

The question was now taken on postponing the consideration of the amendment proposed by the Senate, until the next session; and the yeas and nays being called, are:

YEAS.—MESSRS. Baldwin, Bland, Brown, Burke, Carroll, Coles, Contee, Gale, Gerry, Griffin, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Schureman, Seney, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Sumter, Tucker and White—25.

NAYS.—Messrs. Ames, Benson, Boudinot, Cadwalader, Clymer, Fitzsimons, Floyd, Foster, Gilman, Goodhue, Grout, Hartley, Hathorn, Heister, Lawrence, Leonard, Livermore, Muhlenberg, Partridge, Van Rensselaer, Scott, Sherman, Sylvester, Sinnickson, Thatcher, Trumbull, Vining, Wadsworth, and Wynkoop—29.

So it was determined in the negative.

MONDAY, September 28.

Seat of Government.

Mr. SHERMAN—In our deliberations on this occasion, we should have an eye to the general accommodation of the Union, and the best way of defraying the expense. The place fixed upon by the Senate, he presumed, was known to the members generally; hence they were able to judge of its eligibility at the first view; it certainly possessed some advantages over the other situation; and he believed it was as central, if not more so than the Susquehanna, as it respected the present inhabitants; the air, the soil, in that neighborhood, were quite as agreeable as the other. But there was an access by water, from every part of the United States, which furnished a very great convenience; but beside this, those who came from the Southern States, had generally an inland navigation, with a short distance to come by land from the head of the Elk; so the citizens of the Eastern States, in like manner, would be accommodated by coming through the Sound and crossing to Amboy, on which route they would have but about 70 miles land carriage; a distance nearly equal with the other. He admitted that Germantown was not quite so near to the Western Territory as the Susquehanna was; but he contemplated a very distant day before it would be settled, and much longer before the inhabitants would have frequent occasion of travelling to the seat of Government. Added to the advantages he had mentioned, there were good buildings, and convenience for arsenals and ship-yards, with abundance of artificers on the spot; these considerations, taken together, induced him to think it best to concur with the Senate.

Mr. SMITH thought the honorable gentleman rather inconsistent in his argument to-day. If he recollected right, the gentleman had formerly urged in favor of the Susquehanna, that it was not accessible by vessels from sea; and now he recommends this quality as an advantage in favor of the Delaware. The gentleman admits that this position is not quite so near the Western Territory as the one chosen by the House; but then he thinks no inconvenience will arise, inasmuch as it will be some years before it is peopled: but how does this comport with the principle laid down by an almost unanimous vote of the House? At the beginning of this business, we declare that a due regard should be had to the Western Territory; he now tells us, as an argument in favor of the Senate's amendment, that we should have no regard to it at all. He thinks the change made in the manner of obtaining the money favorable; but what advantage will accrue to the United States from Pennsylvania's granting 100,000 dollars, when Congress will have to purchase the land on which they are to sit down? Land in the neighborhood of Philadelphia, he had been told, was worth 40 or 50 pounds an acre. The 100,000 dollars, given by Pennsylvania, would not go far in a purchase at this rate. He thought the Government would have a better bargain in buying cheap lands on the Susquehanna; or perhaps they might have been got there for nothing. He thought this alteration unfavorable to the Public Treasury, which could illy supply such a demand upon it.

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Mr. MADISON contended that the amendment proposed by the Senate was a departure from every principle adopted by the House; but he would not trouble them with a recapitulation of arguments, which he feared would be unavailing; he wished, however, that the House would provide against one inconvenience, which was, to prevent the district in Pennsylvania, chosen by Congress, from being deprived for a time of the benefit of the laws. This, he apprehended, would be the case, unless Congress made provision for the operation of the laws of Pennsylvania, in the act by which they accepted of the cession of that State; for the State relinquished the right of legislation from the moment that Congress accepted of the district. The propriety of this proposition was so apparent, that he had not a doubt but the House would consent to it. He then moved the following proviso: "And provided, that nothing herein contained shall be construed to affect the operation of the laws of Pennsylvania, within the district ceded and accepted, until Congress shall otherwise provide by law."

Mr. LIVERMORE objected to this motion; because he supposed there was no necessity for it.

The question was then taken, do the House agree to the amendment? and decided in the affirmative. The yeas and nays being demanded, are as follows:

YEAS.—MESSRS. Ames, Cadwalader, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Grout, Hartley, Hathorn, Heister, Huntington, Lawrence, Leonard, Livermore, Muhlenberg, Partridge, Van Rensselaer, Schureman, Scott, Sherman, Sylvester, Sinnickson, Thatcher, Trumbull, Vining, Wadsworth and Wynkoop—31.

NAYS.—Messrs. Baldwin, Bland, Boudinot, Brown, Burke, Carroll, Coles, Contee, Gale, Griffin, Jackson, Lee, Madison, Matthews, Moore, Page, Parker, Seney, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Sumter, Tucker, and White—24.

And here the bill was dropped for the session.

TUESDAY, September 29.

The two following messages were received from the President:

UNITED STATES, Sept. 29, 1789.

Gentlemen of the House of Representatives:

His Most Christian Majesty, by a letter dated the 7th of June last, addressed to the President and members of the General Congress, of the United States of North

America, announces the much lamented death of his son the Dauphin. The generous conduct of the French monarch and nation towards this country renders every event that may affect his or their prosperity interesting to us; and I shall take care to assure him of the sensibility with which the United States participate in the affliction which a loss so much to be regretted must have occasioned both to him and them.

GEO. WASHINGTON.

UNITED STATES, Sept. 29, 1789.

Gentlemen of the House of Representatives:

Having yesterday been informed, by a joint committee of both Houses of Congress, that they had agreed to a recess, to commence this day, and to continue until the first Monday in January next, I take the earliest opportunity of acquainting you that, considering how long and laborious this session has been, and the reasons which, I presume, have produced this resolution, it does not appear to me expedient to recommend any measures to their consideration at present.

GEO. WASHINGTON.

On motion of Mr. GERRY, it was ordered, that it shall be the duty of the Secretary of the Senate and Clerk of the House, at the end of each session, to send a printed copy of the Journals thereof, respectively, to the Supreme Executive, and each branch of the Legislature, of every State.

And then it was ordered that a message be sent to the Senate, to inform them that this House having completed the business before them, are now about to proceed to close the present session, by an adjournment on their part, agreeably to the order of the 26th instant; and that the Clerk of this House do go with the said message.

The Clerk accordingly went with the said message, and being returned,

The Speaker adjourned the House until the first Monday in January next.

FIRST CONGRESS.—SECOND SESSION.

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BEGUN AT THE CITY OF NEW YORK, JANUARY 4, 1790.

PROCEEDINGS IN THE SENATE.

MONDAY, January 4, 1790.

The following members of the Senate assembled:

From New Hampshire, JOHN LANGDON and PAINE WINGATE.

From Massachusetts, CALEB STRONG and TRISTRAM DALTON.

From Connecticut, WILLIAM S. JOHNSON.

From New York, RUFUS KING and PHILIP SCHUYLER.

From South Carolina, RALPH IZARD and PIERCE BUTLER.

From Georgia, WILLIAM FEW.

A quorum of members not being present, they adjourned till to-morrow.

TUESDAY, January 5.

JOHN HENRY, from Maryland, in addition to the members assembled yesterday, attended; but not being a quorum, they adjourned.

WEDNESDAY, January 6.

WILLIAM MACLAY, from Pennsylvania, attended; a quorum of the members of the Senate were present, and the Secretary was directed to inform the House of Representatives that a quorum of the Senate have assembled, and are ready to proceed to business.

Ordered, That MESSRS. STRONG and IZARD be a committee on the part of the Senate, with such committee as the House of Representatives may appoint on their part, to inform the President of the United States that a quorum of the two Houses is assembled, and will be ready in the Senate Chamber, at such time as the President may appoint, to receive any communications he may be pleased to make.

THURSDAY, January 7.

OLIVER ELLSWORTH, of Connecticut, and WILLIAM PATERSON, from New Jersey, attended.

A message from the House of Representatives informed the Senate that they have resolved that

two Chaplains, of different denominations, be appointed to Congress for the present session, one by each House, who shall interchange weekly.

Mr. STRONG, on behalf of the joint committee, reported to the Senate, that they had waited on the President of the United States, agreeably to the order of both Houses, and that he informed the committee that he would meet the two Houses in the Senate Chamber to-morrow at 11 o'clock.

FRIDAY, January 8.

Ordered, That the House of Representatives be informed that the Senate are ready to meet them in the Senate Chamber, to receive any communication the President of the United States may be pleased to make to the two Houses of Congress; and that the usual seats will be assigned them.

The House of Representatives having accordingly taken their seats, the President of the United States came into the Senate Chamber, and addressed both Houses of Congress as followeth:

Fellow-Citizens of the Senate, and House of Representatives:

I embrace with great satisfaction the opportunity which now presents itself of congratulating you on the present favorable prospects of our public affairs. The recent accession of the important State of North Carolina to the constitution of the United States, (of which official information has been received;) the rising credit and respectability of our country; the general and increasing good-will towards the Government of the Union; and the concord, peace, and plenty with which we are blessed, are circumstances auspicious in an eminent degree to our national prosperity.

In resuming your consultations for the general good, you cannot but derive encouragement from the reflection that the measures of the last session have been as satisfactory to your constituents, as the novelty and difficulty of the work allowed you to hope. Still further to realize their expectations, and to secure the blessings which a gracious Providence has placed within our reach, will, in the course of the present important session, call for the cool and deliberate exertion of your patriotism, firmness, and wisdom.

Among the many interesting objects which will engage your attention, that of providing for the common defence will merit particular regard. To be prepared for war, is one of the most effectual means of preserving peace.

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A free people ought not only to be armed, but disciplined; to which end, a uniform and well-digested plan is requisite: and their safety and interest require that they should promote such manufactures as tend to render them independent of others for essential, particularly military supplies.

The proper establishment of the troops which may be deemed indispensable will be entitled to mature consideration. In the arrangements which may be made respecting it, it will be of importance to conciliate the comfortable support of the officers and soldiers with a due regard to economy.

There was reason to hope that the pacific measures adopted with regard to certain hostile tribes of Indians, would have relieved the inhabitants of our Southern and Western frontiers from their depredations; but you will perceive, from the information contained in the papers which I shall direct to be laid before you, (comprehending a communication from the commonwealth of Virginia,) that we ought to be prepared to afford protection to those parts of the Union, and, if necessary, to punish aggressors.

The interests of the United States require that our intercourse with other nations should be facilitated by such provisions as will enable me to fulfil my duty, in that respect, in the manner which circumstances may render most conducive to the public good; and to this end, that the compensations to be made to the persons who may be employed, should, according to the nature of their appointments, be defined by the law; and a competent fund designated for defraying the expenses incident to the conduct of our foreign affairs.

Various considerations also render it expedient that the terms on which foreigners may be admitted to the rights of citizens, should be speedily ascertained by a uniform rule of naturalization.

Uniformity in the currency, weights and measures, of the United States, is an object of great importance, and will, I am persuaded, be duly attended to.

The advancement of agriculture, commerce, and manufactures, by all proper means, will not, I trust, need recommendation; but I cannot forbear intimating to you the expediency of giving effectual encouragement, as well to the introduction of new and useful inventions from abroad, as to the exertions of skill and genius in producing them at home; and of facilitating the intercourse between the distant parts of our country by a due attention to the Post-Office and post-roads.

Nor am I less persuaded that you will agree with me in opinion, that there is nothing which can better deserve your patronage than the promotion of science and literature. Knowledge is in every country the surest basis of public happiness.

In one in which the measures of Government receive their impression so immediately from the sense of the community as in ours, it is proportionably essential. To the security of a free constitution it contributes in various ways. By convincing those who are intrusted with the public administration, that every valuable end of Government is best answered by the enlightened confidence of the people, and by teaching the people themselves to know and to value their own rights to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority; between burthens proceeding from a disregard to their convenience, and those resulting from the inevitable exigencies of society; to discriminate the spirit of liberty from that of licentiousness, cherishing the first, avoiding the last, and uniting a speedy but temperate vigilance against encroachments, with an inviolable respect to the laws.

Whether this desirable object will be best promoted by affording aids to seminaries of learning already established, by the institution of a national university, or by any other expedients, will be well worthy of a place in the deliberations of the Legislature.

Gentlemen of the House of Representatives:

I saw with peculiar pleasure, at the close of the last session, the resolution entered into by you, expressive of your opinion that an adequate provision for the support of the public credit is a matter of high importance to the national honor and prosperity. In this sentiment I entirely concur. And, to a perfect confidence in your best endeavors to devise such a provision as will be truly consistent with the end, I add an equal reliance on the cheerful co-operation of the other branch of the Legislature. It would be superfluous to specify inducements to a measure in which the character and permanent interests of the United States are so obviously and so deeply concerned, and which has received so explicit a sanction from your declaration.

Gentlemen of the Senate and House of Representatives:

I have directed the proper officers to lay before you, respectively, such papers and estimates as regard the affairs particularly recommended to your consideration, and necessary to convey to you that information of the state of the Union, which it is my duty to afford.

The welfare of our country is the great object to which our cares and efforts ought to be directed. And I shall derive great satisfaction from a co-operation with you, in the pleasing though arduous task of insuring to our fellow-citizens the blessings which they have a right to expect from a free, efficient and equal Government.

GEO. WASHINGTON.

UNITED STATES, January 8, 1790.

The President of the United States having retired, and the two Houses being separated:

Ordered, That MESSRS. KING, IZARD, and PATERSON, be a committee to prepare and report the draft of an address to the President of the United States, in answer to his speech delivered this day to both Houses of Congress, in the Senate Chamber.

Ordered, That the speech of the President of the United States, delivered this day, be printed for the use of the Senate.

The Senate adjourned to Monday next.

MONDAY, January 11.

Mr. KING, on behalf of the committee, reported an address to the President of the United States, in answer to his speech to both Houses of Congress, which being amended, was adopted as followeth:

To the President of the United States.

SIR:—We, the Senate of the United States, return you our thanks for your speech delivered to both Houses of Congress. The accession of the State of North Carolina to the Constitution of the United States gives us much pleasure: and we offer you our congratulations on that event, which at the same time adds strength to our Union, and affords a proof that the more the constitution has been considered, the more the goodness of it has appeared. The information which we have received, that the measures of the last session have been as satisfactory to our constituents as we had reason to expect, from the difficulty of the work in which we were engaged, will afford us much consolation and encouragement in resuming our deliberations, in the present session, for the public good; and every exertion on our part shall be made to realize and secure to our country those blessings which a gracious Providence has placed within our reach. We are persuaded that one of

the most effectual means of preserving peace is to be prepared for war; and our attention shall be directed to the objects of common defence, and to the adoption of such plans as shall appear the most likely to prevent our dependence on other countries for essential supplies. In the arrangements to be made respecting the establishment of such troops as may be deemed indispensable, we shall, with pleasure, provide for the comfortable support of the officers and soldiers, with a due regard to economy. We regret that the pacific measures adopted by Government, with regard to certain hostile tribes of Indians, have not been attended with the beneficial effects towards the inhabitants of our Southern and Western frontiers which we had reason to hope, and we shall cheerfully co-operate in providing the most effectual means for their protection, and, if necessary, for the punishment of aggressors. The uniformity of the currency, and of weights and measures; the introduction of new and useful inventions from abroad, and the exertions of skill and genius in producing them at home; the facilitating the communication between the distant parts of our country, by means of the Post-Office and post-roads; a provision for the support of the Department of Foreign Affairs, and a uniform rule of naturalization, by which foreigners may be admitted to the rights of citizens, are objects which shall receive such early attention as their respective importance requires. Literature and Science are essential to the preservation of a free constitution: the measures of Government should, therefore, be calculated to strengthen the confidence that is due to that important truth. Agriculture, Commerce, and Manufactures, forming the basis of the wealth and strength of our confederated Republic, must be the frequent subject of our deliberation, and shall be advanced by all proper means in our power. Public Credit being an object of great importance, we shall cheerfully co-operate in all proper measures for its support. Proper attention shall be given to such papers and estimates as you may be pleased to lay before us. Our cares and efforts shall be directed to the welfare of our country; and we have the most perfect dependence upon your co-operating with us, on all occasions, in such measures as will insure to our fellow-citizens the blessings which they have a right to expect from a free, efficient, and equal Government.

TUESDAY, January 12.

Ordered, That the Address to the President of the United States, in answer to his speech, be presented by the Vice President, attended by the Senate, and that the committee which reported the address wait on the President, and desire to be informed at what time and place he will receive the same.

Mr. KING, in behalf of the committee, reported that it would be agreeable to the President to receive the address of the Senate, in answer to his speech, on Thursday next, at 11 o'clock, at his own house.

WEDNESDAY, January 13.

JONATHAN ELMER, from New Jersey, attended.

BENJAMIN HAWKINS, from North Carolina, appeared, produced his credentials, and took his seat.

The Vice President administered the oath to Mr. HAWKINS.

THURSDAY, January 14.

Agreeably to the order of the 12th instant, the Senate waited on the President of the United States, at his own house, where the Vice President, in their name, delivered to the President of the United States the address agreed to on the 11th instant:

To which the President of the United States was pleased to make the following reply:

Gentlemen: I thank you for your address, and for the assurances which it contains of attention to the several matters suggested by me to your consideration.

Relying on the continuance of your exertions for the public good, I anticipate for our country the salutary effects of upright and prudent counsels.

G. WASHINGTON.

The Senate having returned to the Senate Chamber, adjourned.

FRIDAY, January 15.

Ordered, That MESSRS. ELLSWORTH, HAWKINS, and PATERSON, be a committee to bring in a bill, in addition to "An act to establish the Judicial Courts of the United States."

WEDNESDAY, January 20.

On motion,

Resolved, That Messrs. ELLSWORTH, MACLAY, and HENRY, be a committee to confer

with such committee as may be appointed on the part of the House of Representatives, to consider and report whether or not the business began previous to the late adjournment of Congress, shall now be proceeded in as if no adjournment had taken place.

Ordered, That a message be sent to the House of Representatives, acquainting them herewith, and requesting the appointment of a similar committee on their part.

THURSDAY, January 21.

ROBERT MORRIS from Pennsylvania, attended.

A message from the House of Representatives informed the Senate that they had agreed to the appointment of a committee on their part, consisting of Messrs. SHERMAN, THATCHER, HARTLEY, WHITE, and JACKSON, to confer with the committee appointed on the part of the Senate, to consider and report whether or not the business begun previous to the late adjournment of Congress, shall now be proceeded in as if no adjournment had taken place.

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FRIDAY, January 22.

Mr. ELLSWORTH, on behalf of the "joint committee of the two Houses, appointed to consider and report whether or not the business begun previous to the late adjournment of Congress, shall now be proceeded in as if no adjournment had taken place," reported.

Ordered, That the consideration of the report be deferred until Monday next.

MONDAY, January 25.

The Senate proceeded to consider the report of the joint committee of the Senate and House of Representatives, appointed the 20th instant, to wit: "that the business unfinished between the two Houses at the late adjournment ought to be regarded as if it had not been passed upon by either;"

And, on motion that the report of the committee be postponed, it passed in the negative.

And, upon the question to agree to the report of the committee, the yeas and nays being required by one-fifth of the Senators present:

Yeas.—Messrs. Butler, Dalton, Ellsworth, Few, Hawkins, Henry, Johnson, King, Schuyler, and Strong—10.

Nays.—Messrs. Bassett, Elmer, Izard, Langdon, Maclay, Morris, Paterson, and Wingate—8.

And so it passed in the affirmative.

And it was

Resolved, That the business unfinished between the two Houses at the late adjournment ought to be regarded as if it had not been passed upon by either.

TUESDAY, January 26.

A message from the House of Representatives announced their agreement with the Senate in their resolution, that the business unfinished between the two Houses, at the late adjournment, ought to be regarded as if it had not been passed upon by either.

THURSDAY, January 28.

On motion it was

Ordered, That the letter from the Governor of Rhode Island of the 18th of January instant, to the President of the United States, requesting a further suspension of the acts of Congress subjecting the citizens of the State of Rhode Island to the payment of foreign tonnage and foreign duties, during the pleasure of Congress, and communicated with the President's message this day, be referred to the same committee.

FRIDAY, January 29.

SAMUEL JOHNSTON, from North Carolina, appeared, produced his credentials, and took his seat in the Senate.

The Vice President administered the oath to Mr. JOHNSTON.

TUESDAY, May 11.

The Senate proceeded to consider the report of the committee appointed the 28th of April, to consider what provisions will be proper for Congress to make, in the present session, respecting the State of Rhode Island; whereupon,

Resolved, That all commercial intercourse between the United States and the State of Rhode Island, from and after the first day of July next, be prohibited, under suitable penalties; and that the President of the United States be authorized to demand of the State of Rhode Island — dollars, to be paid into the Treasury of the United States by the — day of — next; which shall

be credited to the said State, in account with the United States; and that a bill or bills be brought in for those purposes.

Ordered, That the committee who brought in the above report prepare and report a bill accordingly.

THURSDAY, May 13.

Mr. ELLSWORTH, reported, from the committee appointed May 3d, to consider and report their opinion on the question, when according to the constitution, the terms for which the President, Vice President, Senators, and Representatives, have been respectively chosen, shall be deemed to have commenced; and, also, to consider of, and report their opinion on such other matters as they shall conceive have relation to this question.

Ordered, That this report lie for consideration.

FRIDAY, May 14.

The Senate proceeded to consider the report of the joint committee, appointed the 28th of April, which is as follows:

The committee of the Senate, to join with a committee appointed by the House of Representatives, to consider and report their opinion on the question, when, according to the Constitution, the terms for which the President, Vice President, Senators, and Representatives, have been respectively chosen, shall be deemed to have commenced; and, also, to consider of, and report their opinion on, such other matters as they should conceive to have relation to this question, report, as the opinion of the said joint committee:

That the terms for which the President, Vice President, Senators, and Representatives, of the United States, were respectively chosen, did, according to the constitution, commence on the 4th day of March, 1789; and so the Senators of the first class, and the Representatives, will not, according to the constitution, be entitled, by virtue of the same election by which they hold seats in the present Congress, to seats in the next Congress, which will be assembled after the 3d day of March, 1791; and further, that, whenever a vacancy shall happen in the Senate or House of Representatives, and an election to fill such vacancy, the person elected will not, according to the constitution, be entitled, by virtue of such election, to hold a seat beyond the time for which the Senator or Representative in whose stead such person shall have been so elected, would, if the vacancy had not happened, have been entitled to hold a seat.

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That it will be advisable for the Congress to pass a law or laws for determining, agreeable to the provision in the first section of the second article of the constitution, the time when the electors shall, in the year which will terminate on the 3d day of March, 1793, and so in every fourth year thereafter, be chosen, and the day on which they shall give their votes; for declaring what officer shall, in case of vacancy, both in the office of President and Vice President, act as President; for assigning a public office where the lists, mentioned in the second paragraph of the first section in the second article of the constitution, shall in case of vacancy in the office of President of the Senate, or his absence from the seat of Government, be, in the mean time, deposited; and for directing the mode in which such lists shall be transmitted: whereupon,

Resolved, That the Senate do agree to this report.

MONDAY, May 17.

The Senate proceeded to the third reading of the bill to prevent bringing goods, wares, and merchandises from the State of Rhode Island and Providence Plantations into the United States, and to authorize a demand of money from the said State, and,

On motion,

Ordered, That this bill be recommitted.

TUESDAY, May 18.

Mr. CARROLL, from the committee appointed April the 28th, to consider what provisions will be proper for Congress to make, in the present session, respecting the State of Rhode Island, and to whom it was referred, to bring in a bill on that subject, reported several additional clauses to the bill to prevent bringing goods, wares, and merchandises, from the State of Rhode Island and Providence Plantations into the United States, and to authorize a demand of money from the said State; which report was agreed to as amendments to the bill.

The Senate proceeded to the third reading of the bill to prevent bringing goods, wares, and merchandises, from the State of Rhode Island and Providence Plantations into the United States, and to authorize a demand of money from the said State;

And, on the question, "Shall this bill pass?" the yeas and nays being required by one-fifth of the

Senators present, were:

YEAS.—Messrs. Bassett, Carroll, Dalton, Ellsworth, Johnson, Johnston, Izard, King, Langdon, Morris, Reed, Schuyler, and Strong—13.

NAYS.—Messrs. Butler, Elmer, Hawkins, Henry, Lee, Maclay, Walker, and Wingate—8.

So it was *Resolved*, That this bill do pass, and that it be carried to the House of Representatives for concurrence therein.

TUESDAY, June 1.

The following message was received from the President of the United States, and was read:

Gentlemen of the Senate, and House of Representatives:

Having received official information of the accession of the State of Rhode Island and Providence Plantations to the constitution of the United States, I take the earliest opportunity of communicating the same to you, with my congratulations on this happy event, which unites, under the General Government, all the States which were originally confederated; and have directed my Secretary to lay before you a copy of the letter from the President of the Convention of the State of Rhode Island to the President of the United States.

G. WASHINGTON.

UNITED STATES, June 1, 1790.

The Senate then entered on Executive business.

The following message from the President of the United States, by his Secretary, was read:

UNITED STATES, May 31, 1790.

Gentlemen of the Senate:

Mr. De Poiery served in the American army for several of the last years of the late war, as Secretary to Major General the Marquis de Lafayette, and might probably at the same time have obtained the commission of Captain from Congress, upon application to that body. At present, he is an officer in the French National Guards, and solicits a Brevet Commission from the United States of America. I am authorized to add, that while the compliance will involve no expense on our part, it will be particularly grateful to that friend of America, the Marquis de Lafayette.

I therefore nominate M. De Poiery to be a Captain by Brevet.

GEORGE WASHINGTON.

Ordered, That the message lie for consideration.

WEDNESDAY, June 2.

Resolved, That the Senate will attend the funeral of Colonel Bland, late a member of the House of Representatives of the United States, at five o'clock this afternoon. [30]

The Senate then entered on Executive business, and consented to the nomination of M. De Poiery to be a Captain by Brevet, in the service of the United States.

WEDNESDAY, August 4.

The Senate then entered on Executive business, and the following message from the President of the United States was read: [31]

UNITED STATES, August 4th, 1790.

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Gentlemen of the Senate:

In consequence of the general principles agreed to by the Senate in August, 1789, the adjustment of the terms of a treaty is far advanced between the United States and the Chiefs of the Creek Indians now in this city, in behalf of themselves and the whole Creek Nation.

In preparing the articles of this treaty, the present arrangements of the trade with the Creeks have caused much embarrassment. It seems to be well ascertained, that the trade is almost exclusively in the hands of a company of British merchants, who by agreement, make their importations of goods from England into the Spanish ports.

As the trade of the Indians is a main means of their political management, it is therefore obvious, that the United States cannot possess any security for the performance of treaties with the Creeks, while their trade is liable to be interrupted, or withheld, at the caprice of two foreign powers.

Hence it becomes an object of real importance to form new channels for the

commerce of the Creeks through the United States. But this operation will require time, as the present arrangements cannot be suddenly broken without the greatest violation of faith and morals.

It therefore appears to be important to form a secret article of a treaty, similar to the one which accompanies this message.

If the Senate should require any further explanation, the Secretary of War will attend them for that purpose.

GEO. WASHINGTON.

The President of the United States puts the following question for the consideration and advice of the Senate: If it should be found essential to a treaty for the firm establishment of peace with the Creek nation of Indians, that an article to the following effect should be inserted therein, will such an article be proper? viz:

SECRET ARTICLE.

The commerce necessary for the Creek nation shall be carried on through the ports, and by the citizens of the United States, if substantial and effectual arrangements shall be made for that purpose by the United States, on or before the 1st day of August, one thousand seven hundred and ninety-two. In the mean time, the said commerce may be carried on through its present channels, and according to its present regulations.

And whereas, the trade of the said Creek nation is now carried wholly, or principally, through the territories of Spain, and obstructions thereto, may happen by war or prohibitions of the Spanish Government: it is therefore agreed between the said parties, that in the event of such obstructions happening, it shall be lawful for such persons as — — shall designate, to introduce into, and transport through the territories of the United States to the country of the said Creek nation, any quantity of goods, wares, and merchandise, not exceeding in value, in any one year, sixty thousand dollars, and that free from any duties or impositions whatsoever, but subject to such regulations for guarding against abuse, as the United States shall judge necessary; which privilege shall continue as long as such obstruction shall continue.

GEO. WASHINGTON.

UNITED STATES, August 4th, 1790.

The Senate proceeded to consider the message from the President of the United States of this day; whereupon,

Resolved, That the Senate do advise and consent to the execution of the secret article referred to in the message, and that the blank in said article be filled with the words "President of the United States."

WEDNESDAY, August 11.

The Senate then entered on Executive business; and the following message was received and read, from the President of the United States:

UNITED STATES, August 11, 1790.

Gentlemen of the Senate:

Although the treaty with the Creeks may be regarded as the main foundation of the future peace and prosperity of the south-western frontier of the United States, yet, in order fully to effect so desirable an object, the treaties which have been entered into with the other tribes in that quarter must be faithfully performed on our part.

During the last year, I laid before the Senate a particular statement of the case of the Cherokees. By a reference to that paper it will appear, that the United States formed a treaty with the Cherokees in November, 1785; that the said Cherokees thereby placed themselves under the protection of the United States, and had a boundary assigned them; that the white people settled on the frontiers had openly violated the said boundary, by intruding on the Indian lands; that the United States, in Congress assembled, did on the first day of September, 1788, issue their proclamation, forbidding all such unwarrantable intrusions, and enjoined all those who had settled upon the hunting grounds of the Cherokees to depart with their families and effects, without loss of time, as they would answer their disobedience to the injunctions and prohibitions expressed, at their peril.

But information has been received that, notwithstanding the said treaty and proclamation, upwards of five hundred families have settled on the Cherokee lands, exclusively of those settled between the fork of French Broad and Holstein Rivers, mentioned in the said treaty.

As the obstructions to a proper conduct on this matter have been removed since it was mentioned to the Senate, on the 22d of August, 1789, by the accession of

North Carolina to the present Union, and the cessions of the land in question, I shall conceive myself bound to exert the powers intrusted to me by the constitution, in order to carry into faithful execution the treaty of Hopewell, unless it shall be thought proper to attempt to arrange a new boundary with the Cherokees, embracing the settlements, and compensating the Cherokees for the cessions they shall make on the occasion. On this point, therefore, I state the following questions, and request the advice of the Senate thereon:

1st. Is it the judgment of the Senate that overtures shall be made to the Cherokees to arrange a new boundary, so as to embrace the settlements made by the white people since the treaty of Hopewell, in November, 1785?

2d. If so, shall compensation, to the amount of — dollars annually, or of — dollars in gross, be made to the Cherokees for the land they shall relinquish, holding the occupiers of the land accountable to the United States for its value?

3d. Shall the United States stipulate solemnly to guarantee the new boundary which may be arranged?

GEO. WASHINGTON.

Agreed, by unanimous consent, to proceed to the consideration of this message. Whereupon,

Resolved, That the Senate do advise and consent that the President of the United States do, at his discretion, cause the treaty concluded at Hopewell with the Cherokee Indians, to be carried into execution, according to the terms thereof, or to enter into arrangements for such further cessions of territory, from the said Cherokee Indians, as the tranquillity and interest of the United States may require; provided the sum which may be stipulated to be paid to the Cherokee Indians do not exceed one thousand dollars annually; and provided, further, that no person who shall have taken possession of any lands within territory assigned to the said Cherokee Indians, by the said treaty of Hopewell, shall be confirmed in any such possessions, but by a compliance with such terms as Congress may hereafter prescribe.

Resolved, In case a new, or other boundary than that stipulated by the treaty of Hopewell, shall be concluded with the Cherokee Indians, that the Senate do advise and consent solemnly to guarantee the same.

THURSDAY, August 12.

A message from the House of Representatives informed the Senate, that the House of Representatives having finished the business before them are about to adjourn, agreeably to the vote of the two Houses of Congress on Tuesday night.

On motion,

Resolved, unanimously, That the thanks of the Senate be given to the corporation of the city of New York for the elegant and convenient accommodations provided for Congress, and that a copy of this resolve be enclosed in the following letter from the Vice President:

NEW YORK, August 12, 1790.

SIR: It is with great pleasure, that, in obedience to an order of the Senate of the United States, I have the honor to enclose their resolution of this date, which was unanimously agreed to; and, in behalf of the Senate, I request that you will be pleased to communicate the same to the corporation of the city, and, at the same time, signify to them, that it is the wish of the Senate that the corporation will permit such articles of furniture, &c. now in the City Hall, as have been provided by Congress, to remain for the use of that building.

I am, sir, your most obedient humble servant,

JOHN ADAMS,
*Vice President of the United States,
and President of the Senate.*

To the Mayor of the city of New York.

The Senate then entered on Executive business, and proceeded to consider the message from the President of the United States, of the 7th of August, 1790, communicating a treaty entered into with the Chiefs of the Creek nation of Indians.

And, on the question to advise and consent to the ratification of the said treaty, made with the Creek nation, and referred to in the message of the President of the United States, of the 7th of August, 1790; the yeas and nays were required by one-fifth of the Senators present, and were:

YEAS.—Messrs. Carroll, Dalton, Ellsworth, Foster, Hawkins, Henry, Johnson, Johnston, Izard, King, Lee, Paterson, Read, Schuyler, and Stanton—15.

NAYS.—Messrs. Butler, Few, Gunn, and Walker—4.

The Senate resuming their Legislative character,

Ordered, That the Secretary acquaint the House of Representatives that the Senate having finished the Legislative business before them, are about to adjourn, agreeably to the vote of both Houses of Congress of the 10th instant.

And the Vice President adjourned the Senate accordingly, to meet on the first Monday in December next.

FIRST CONGRESS.—SECOND SESSION.

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PROCEEDINGS AND DEBATES

IN

THE HOUSE OF REPRESENTATIVES.

MONDAY, January 4.

The following is a list of the Members composing the House of Representatives:

New Hampshire—NICHOLAS GILMAN, SAMUEL LIVERMORE, and ABIEL FOSTER.

Massachusetts—FISHER AMES, ELBRIDGE GERRY, BENJAMIN GOODHUE, JONATHAN GROUT, GEORGE LEONARD, GEORGE PARTRIDGE, GEORGE THATCHER, and THEODORE SEDGWICK.

Connecticut—BENJAMIN HUNTINGTON, ROGER SHERMAN, JONATHAN STURGES, JONATHAN TRUMBULL, and JEREMIAH WADSWORTH.

New York—EGBERT BENSON, WILLIAM FLOYD, JOHN HATHORN, JEREMIAH VAN RENSSELAER, JOHN LAWRENCE, and PETER SYLVESTER.

New Jersey—ELIAS BOUDINOT, LAMBERT CADWALADER, JAMES SCHUREMAN, and THOMAS SINNICKSON.

Pennsylvania—GEORGE CLYMER, THOMAS FITZSIMONS, THOMAS HARTLEY, DANIEL HEISTER, F. A. MUHLENBERG, *Speaker*, PETER MUHLENBERG, THOMAS SCOTT, and HENRY WYNKOOP.

Delaware—JOHN VINING.

Maryland—DANIEL CARROLL, BENJAMIN CONTEE, GEORGE GALE, JOSHUA SENEY, WILLIAM SMITH, and MICHAEL JENIFER STONE.

Virginia—THEODORICK BLAND, JOHN BROWN, ISAAC COLES, SAMUEL GRIFFIN, RICHARD BLAND LEE, JAMES MADISON, JUN., ANDREW MOORE, JOHN PAGE, ALEXANDER WHITE, and JOSIAH PARKER.

South Carolina—EDANUS BURKE, DANIEL HUGER, WILLIAM SMITH, THOMAS SUMTER, and THOMAS TUDOR TUCKER.

Georgia—ABRAHAM BALDWIN, JAMES JACKSON, and GEORGE MATHEWS.

The *SPEAKER* and twenty-five other members, viz: Messrs. FOSTER, GILMAN, LIVERMORE, AMES, GERRY, GOODHUE, GROUT, PARTRIDGE, THATCHER, SHERMAN, BENSON, FLOYD, LAWRENCE, P. MUHLENBERG, SCOTT, SENEY, BROWN, COLES, GRIFFIN, WHITE, BURKE, HUGER, SMITH, (of S. C.,) TUCKER, and BALDWIN, appeared and took their seats; but not being a quorum, they adjourned.

TUESDAY, January 5.

Mr. BOUDINOT took his seat.—No quorum.

WEDNESDAY, January 6.

Mr. SCHUREMAN, Mr. PAGE, and Mr. LEE took their seats.—No quorum.

THURSDAY, January 7.

JONATHAN STURGIS and JEREMIAH WADSWORTH, from Connecticut; JEREMIAH VAN RENSSELAER, from New York; DANIEL CARROLL, from Maryland; and GEORGE MATHEWS, from Georgia, appearing and taking their seats, a quorum of the whole House was present; of which the Senate were informed.

The *SPEAKER* laid before the House a letter from the President of the United States, of the 4th instant, requesting that when there shall be a sufficient number of the two Houses of Congress assembled to proceed to business, he may be informed of it; and, also, at what time and place it will be convenient for Congress that he should meet them, in order to make some oral communications at the commencement of their session; which was read, and ordered to lie on the table.

A message from the Senate informed the House, that they had appointed a committee on their part, jointly with such committee as shall be appointed on the part of the House, to wait on the President of the United States, and notify him that a quorum of the two Houses had assembled, and will be ready, in the Senate Chamber, at such time as he shall appoint, to receive any communications which he shall think proper to make.

Messrs. GILMAN, AMES, and SENEY, were then appointed a committee on the part of the House for the purpose expressed in the message from the Senate.

It was then ordered, That a committee be appointed to examine the Journal of the last session, and to report therefrom all such matters of business as were then depending and undetermined, and a committee was appointed, consisting of Messrs. BOUDINOT, SHERMAN, and WHITE.

Resolved, That two Chaplains of different denominations be appointed to Congress for the present session, one by each House, who shall interchange weekly.

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Ordered, That the Clerk of the House do carry the said resolution to the Senate, and desire their concurrence.

Mr. GILMAN, from the committee appointed to wait on the President of the United States, pursuant to the order of this day, reported that they had, according to order, performed that service, and that the President was pleased to say he would attend to make his communications to both Houses of Congress to-morrow morning at 11 o'clock.

FRIDAY, January 8.

HENRY WYNKOOP, from Pennsylvania, appeared, and took his seat.

The Speaker and members present attended in the Senate Chamber, to receive the President of the United States, who addressed both Houses. His address will be found in the Proceedings of the Senate.

The Speaker and the members of the House having returned from the Senate, a copy of the President's speech was read, and committed to a Committee of the whole House on to-morrow.

The Journal was then read by the Clerk.

Mr. BOUDINOT moved to correct the title by striking out all the words, after declaring it merely the Journal of the House of Representatives.

After some further desultory conversation, the title of the Journal was established by a vote of the House, as follows:

Journal of the House of Representatives of the United States.

At a session of the Congress of United States, begun and held at the city of New York, on Monday the 4th day of January, 1790, being the second session of the First Congress, held under the present Constitution of Government, for the United States, being the day appointed by law for the meeting of the present session.

On the further reading of the Minutes, Mr. THATCHER observed, that a call of the House which had taken place at the meeting was not entered on the Journal.

Mr. PAGE was sorry to find any gentleman insist upon the entry of a measure which was not completed. He was concerned, likewise, that he had not been here to answer to his name, but he was delayed seven days by head winds, and two days by extreme badness of the roads. Under such circumstances, he thought the gentlemen who were so fortunate as to get here in time, deserved little more credit than those who were plunging at the risk of their lives through almost insuperable difficulties. He hoped it was not intended to stigmatize gentlemen who did not deserve it.

Mr. WHITE.—If the absentees were from the remote States, there would be some indelicacy in ordering a call of the House at so early a period of the session, because there might be natural unavoidable impediments to prevent their punctual attendance, but he had observed, that the absentees were mostly from the neighboring States, Connecticut, New York, New Jersey, and Pennsylvania; and some of the members had declared, they would not come until they were informed that there was a House. Now, in order to make the Journal a true transcript of what had really passed in the House, it was necessary to have this call inserted; for the motion was regularly made, seconded, and carried; the absentees were noted, and, after some time, they were called again, and those who were known to be sick, or on their way, were apologized for, and excused; here, indeed, the business terminated, and they were not ordered into the custody of the Sergeant-at-arms. After these remarks, he concluded by saying, that he did not move to have it inserted on the Journal, and was unconcerned about it.

Mr. LAWRENCE hoped the call would not be entered on the Journal, if it was intended to reproach the conduct of the absent members, for he was very well satisfied in his own mind, that few, if any, of them were guilty of neglecting their duty.

Mr. WADSWORTH likewise hoped the entry would not be made. He had left home a week ago, but had been detained by head winds. He dared to say that this would be found to be the case with respect to a number of other gentlemen; and as far as his knowledge went with relation to such as were absent, it was on necessary occasions.

Mr. PARTRIDGE did not wish to stigmatize any gentleman by an entry of this kind on the Journals. He meant simply that the fact should appear as it really happened in the House; however, as the business had not been completed, he would withdraw his second to the motion for having the entry made.

Mr. PAGE said, no new stigma could be received by him or his colleague, (Mr. LEE.) By the entry on

the Journals, it appeared they were not here on Monday or Tuesday, but on Wednesday it is said that John Page and R. B. Lee appeared, and took their seats; consequently, what he had said could not be construed to favor himself or his colleague, but it was generally for those who had not been able to get here so soon.

The motion for entering on the Journals the call of the House, was withdrawn.

SATURDAY, January 9.

GEORGE CLYMER, from Pennsylvania, appeared, and took his seat.

Secretary of the Treasury's Report.

A letter from Alexander Hamilton, Secretary of the Treasury, was read, informing the House that, agreeably to their resolution of the 21st of September, he had prepared a Plan for the support of the Public Credit, and that he was ready to report the same to this House, when they should be pleased to receive it.

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It was proposed that Thursday next be assigned for this purpose.

Mr. GERRY wished to add to the motion, that it should be made in writing.

Mr. BOUDINOT hoped that the Secretary of the Treasury might be permitted to make his report in person, in order to answer such inquiries as the members might be disposed to make, for it was a justifiable surmise that gentlemen would not be able clearly to comprehend so intricate a subject without oral illustration.

Mr. CLYMER expressed some doubts with respect to the propriety of receiving oral communications from the head of such an important department. He was rather inclined to think that such communications ought to be in writing.

Mr. AMES conceived it to be the duty of the House to obtain the best information on any subject; but on this very important one they ought to be particularly careful to get it from the highest source. The Secretary of the Treasury is a most important and responsible officer; the delicacy of his situation required every indulgence to be extended to him, that had a tendency to enable him to complete the arduous undertaking in which he was engaged. It would be a real misfortune that a salutary measure should be defeated for want of being understood; yet the most advantageous plans may miscarry in their passage through this House, by reason of their not being clearly comprehended. He hoped, therefore, that the financier would be authorized to make such communications and illustrations as he judged necessary; but he wished these communications to be in writing; in this shape they would obtain a degree of permanency favorable to the responsibility of the officer, while, at the same time, they would be less liable to be misunderstood.

Mr. BENSON observed, that the Secretary of the Treasury was directed, by a resolution of the last session, to prepare a plan for the support of public credit, and to report the same at this meeting. The point to be settled is whether it shall be done by an oral communication, or transmitted in writing? In the former order of the House, this point was untouched, and the Secretary was left at his discretion to prepare himself for reporting in either way; consequently when we have fixed the time for receiving his report, he may make it in the manner for which he is prepared; but no doubt, this officer, actuated by motives of deference and respect, will conform to any rule the House may think proper to enjoin.

Mr. GERRY conceived it would be necessary the Secretary should be authorized, by a vote of the House, to give explanations to his plans. This, he was not expressly authorized to do by the vote of the last session, which confined him merely to prepare a plan for support of the public credit. Would any gentleman on this floor suppose himself capable of comprehending and combining the parts of a general system, calculated to produce such a grand effect? In a plan for supporting public credit may be comprehended every species of finance. The Secretary, under such an order, may propose an extension of your impost to entire new articles, an increase of some, and a diminution upon others. He may propose an introduction of a system of excise; with all these he may combine duties, stamps, and direct taxes. Can the human mind retain, with any great degree of decision, objects so extensive and multifarious upon a mere oral communication? This consideration alone ought to be sufficient to induce gentlemen to agree to his proposition of making the report in writing; but his proposition extended still further, it went to give him a right to lay before them his explanations, if he thinks explanations necessary.

On the question, the resolution for receiving the report of the Secretary of the Treasury in writing, was carried in the affirmative.

President's Speech.

On motion, the House now resolved itself into a Committee of the Whole on the President's Speech. Mr. BALDWIN in the chair.

Mr. SMITH (of S. C.) proposed a resolution that an address be presented to the President, in answer to his Speech to both Houses, assuring him that this House will, without delay, proceed to take into their serious consideration the various and important matters recommended to their attention.

Mr. WHITE thought this motion hardly sufficient; it was too general to warrant a select committee to draft that particular reply which he hoped the House was disposed to make to every part of the President's speech; he therefore begged the gentleman to withdraw it, and permit him to substitute one in its stead, which he read in his place.

Mr. BOUDINOT thought the proposition just read by the honorable gentleman from Virginia much superior to that proposed by his worthy friend from South Carolina. It must have struck every gentleman that there were other matters contained in the Speech deserving of notice, besides those recommended to their serious consideration. There was information of the recent accession of the important State of North Carolina to the Constitution of the United States. This event ought to be recognized in a particular manner, according to its importance; and he presumed to think that its importance was of the very first magnitude.

A desultory conversation now took place on amending the original proposition in such a manner as to embrace generally the subjects of the speech; when, at length, it was amended to read as follows:

Resolved, As the sense of this committee, that an address be presented by the House to the President of the United States, in answer to his speech to both Houses, with assurances that this House will, without delay, proceed to take into consideration the various and important matters recommended to their attention.

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Whereupon Messrs. SMITH, (of S. C.,) CLYMER, and LAWRENCE, were appointed a committee to prepare the said address.

MONDAY, January 11.

JONATHAN TRUMBULL, from Connecticut; JOHN HATHORN, from New York; and ANDREW MOORE, from Virginia, appeared, and took their seats.

Answer to the President's Speech.

Mr. SMITH, (of South Carolina,) from the committee appointed for the purpose of preparing an address in answer to the President's speech, presented a report; which being read,

Mr. PAGE moved to go into a Committee of the Whole on the same to-morrow, which was agreed to.

TUESDAY, January 12.

Agreeably to the order of the day the House resolved itself into a Committee of the Whole on the address in answer to the President's speech to both Houses.

Mr. BALDWIN being placed in the chair, the address was read as follows:

The Address of the House of Representatives to the President of the United States.

The Representatives of the people of the United States have taken into consideration your speech to both Houses of Congress at the opening of the present session.

We reciprocate your congratulations on the accession of North Carolina; an event which, while it is a testimony of the increasing good-will towards the Government of the Union, cannot fail to give additional dignity and strength to the American Republic, already rising in the estimation of the world in national character and respectability.

The information that our measures of the last session have not proved dissatisfactory to our constituents, affords us much encouragement at this juncture, when we are resuming the arduous task of legislating for so extensive an empire.

Nothing can be more gratifying to the representatives of a free people than the reflection, that their labors are rewarded by the approbation of their fellow-citizens. Under this impression, we shall make every exertion to realize their expectations, and to secure to them those blessings which Providence has placed within their reach. Still prompted by the same desire to promote their interests which then actuated us, we shall, in the present session, diligently and anxiously pursue those measures which shall appear to us conducive to that end.

We concur with you in the sentiment that agriculture, commerce, and manufactures, are entitled to legislative protection, and that the promotion of science and literature will contribute to the security of a free Government; in the progress of our deliberations, we shall not lose sight of objects so worthy of our regard.

The various and weighty matters which you have judged necessary to recommend to our attention, appear to us essential to the tranquillity and welfare of the Union, and claim our early and most serious consideration. We shall proceed, without

delay, to bestow on them that calm discussion which their importance requires.

We regret that the pacific arrangements pursued with regard to certain hostile tribes of Indians, have not been attended with that success which we had reason to expect from them; we shall not hesitate to concur in such further measures as may best obviate any ill effects which might be apprehended from the failure of those negotiations.

Your approbation of the vote of this House at the last session, respecting the provision for the public creditors, is very acceptable to us: the proper mode of carrying that resolution into effect, being a subject in which the future character and happiness of these States are deeply involved, will be among the first to claim our attention.

The prosperity of the United States is the primary object of all our deliberations, and we cherish the reflection, that every measure which we may adopt for its advancement, will not only receive your cheerful concurrence, but will at the same time derive from your co-operation additional efficacy in insuring to our fellow-citizens the blessings of a free, efficient, and equal Government.

FRED'K A. MUHLENBERG,

Speaker of the House of Representatives.

Mr. BOUDINOT moved to strike out at the beginning of the third paragraph "the information," because the House were possessed of this knowledge by other means: they had, during the recess of Congress, an opportunity of consulting their constituents, and could therefore say of their own motion, that the measures of the last session have not proved dissatisfactory.

Mr. CLYMER, as one of the committee appointed to prepare a report, had agreed to the address, but he did not think himself precluded from agreeing to what he supposed would be an amendment. The words appeared to him necessary, as they were strongly implied, inasmuch as the address was in answer to the speech of the President, which really contained such information.

Mr. SMITH (of South Carolina) contended, that the House had no information with respect to the satisfaction their constituents experienced in the measures of the last session, except what was contained in the President's speech. He did not presume to deny, but every individual member of Congress might have received information of this nature in private conversation with the people, but no official communication could possibly be got at; it was therefore necessary to recognize, in the address, the quarter from whence they drew that information; in this view he considered the words necessary, and hoped they would be retained.

Mr. BOUDINOT meant to avoid the idea that it was from the Executive alone they drew this information, when it was a notorious fact, perceptible to common observation.

Mr. LAWRENCE said, the Executive was the proper source to draw such information from, and he was very happy to learn it from so respectable a quarter; he therefore hoped it would be permitted to remain in the report.

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The question was now taken for striking out the words, and it passed in the negative.

It was then moved to strike out, in the first line of the fourth paragraph, the word "gratifying" and insert "grateful."

Mr. WADSWORTH did not mean to call in question the right of gentlemen to amend the address in what manner they thought proper, but he would just remark, that the composition of two or three gentlemen, done with deliberation and coolness, generally had more elegance and pertinency, than the patchwork of a large assembly. He should therefore vote against every alteration that went to nothing more than to change the style; if gentlemen were disposed to contend for principle, he should listen to them with attention, and decide according to the best of his judgment, but he really conceived it to be a waste of time to discuss the propriety of two such terms as grateful and gratifying.

Mr. PAGE hoped that gentlemen would proceed to amend the address in such a way as to give it the highest degree of perfection. He would rather have his feelings hurt, provided they could be said to be hurt by changing the language of his most favorite production, than that an address should go from this body with any incorrectness whatever. He hoped the House would always criticise upon, strike out and amend, whatever matter was before them with boldness and freedom. And he would observe to gentlemen, that the most refined and accurate writers were never ashamed to have it said of them, that they blotted out.

Mr. WHITE said, that every gentleman had an undoubted right to take the sense of the House upon an amendment, and that it ought not to be considered as a reflection upon those who drew up the address.

Mr. WADSWORTH did not pretend to be a critic, but thought he understood the meaning of the words gratifying and grateful, and he conceived the difference to be too trifling to engage the attention of the House. He hoped that he had been as modest as a man could be in his observations, and was sorry to have drawn his worthy friend from Virginia into any severities.

Mr. THATCHER apprehend the meaning of these two words to be the same, and the reception of either was only important as it related to the measure or harmony of the period. Now those gentlemen who are qualified to decide this point, might vote for the substitute; but for his part he

was very well satisfied with it as it stood.

Mr. STURGES wished the sentence struck out altogether, because he did not conceive the assertion to be true; for he did believe that there was something which could and ought to be more gratifying to the representatives of a free people than the reflection that their labors are rewarded by the approbation of their fellow-citizens; to be sure it was a grateful reflection, but there was one much more so, which was, that their labors had tended to advance the real interests of the people. If it is, as it ought to be, our highest ambition to promote the general interest, it must be most gratifying to us to learn that we have attained that desirable end.

Mr. PAGE had only heard some expressions from the gentleman from Connecticut (Mr. WADSWORTH) which he imagined had a tendency to discourage the House from making necessary alterations; but he was convinced, from the known candor and impartiality of that gentleman, that he must not have fully comprehended his intentions, and therefore begged to apologize to him for any thing he might have said partaking of severity.

The question was now put for striking out "gratifying" and inserting "grateful," and passed in the negative.

The committee then agreed to the report, rose, and the Chairman reported it without amendment.

Mr. Speaker being seated in the chair, the address was read again and unanimously agreed to by the House.

It was then moved that a committee be appointed to wait on the President of the United States, to learn from him at what time, and in what place he would receive this address. Messrs. SMITH, (of South Carolina,) CLYMER, and LAWRENCE, were appointed the committee on this occasion.

WEDNESDAY, January 13.

BENJAMIN HUNTINGTON, from Connecticut; LAMBERT CADWALADER, from New Jersey; DANIEL HEISTER, from Pennsylvania, and WILLIAM SMITH, from Maryland, appeared and took their seats.

Mr. SMITH (of South Carolina) reported that the President would be ready to receive their address to-morrow at 12 o'clock.

THURSDAY, January 14.

THEODORE SEDGWICK, from Massachusetts, and THOMAS HARTLEY, from Pennsylvania, appeared and took their seats.

The House then went and presented the address to the President, to which the President was pleased to make the following reply:

Gentlemen:

I receive, with pleasure, the assurances you give me, that you will diligently and anxiously pursue such measures as shall appear to you conducive to the interests of your constituents; and that an early and serious consideration will be given to the various and weighty matters recommended by me to your attention.

I have full confidence that your deliberations will continue to be directed by an enlightened and virtuous zeal for the happiness of our country.

GEO. WASHINGTON.

FRIDAY, January 15.

JAMES JACKSON, from Georgia, appeared and took his seat.

Mr. HARTLEY moved an adjournment, when

Mr. PAGE rose and said, he wished to call the attention of the House, before they adjourned, to a subject which he thought of importance, and which ought no longer to be in the undecided state it had been in since the last session; it was this, whether the persons who had taken down and published the debates of the House, by the tacit consent of the members during the last session, and who had withdrawn from the seats they then held in the House, to the gallery, during this session, might not return to the same seats. He supposed that they had modestly withdrawn, on the supposition that the debate which took place just before the adjournment, showed that the sense of the members was against their sitting in the House; but the contrary was the case; that he knew their publications had given great satisfaction to many of the constituents of that House; that the House was applauded for its conduct on that occasion, both at home and abroad, and had been highly commended for it in some British publications; that he was anxious that the short-hand writers should resume their seats in the House, lest it might be insinuated by the jealous enemies of our Government, that the House of Representatives were more republican and indulgent the last session than this; that removing those writers to the gallery, was but a step towards removing them from the House, and that this suspicion would be increased by circumstances which, however innocent, nay proper in themselves, might be misunderstood and excite uneasiness. The doors of the gallery had been two days shut, the House had made a parade through the streets, and had displayed their eagle in their hall; that these circumstances, if followed by the exclusion of the short-hand writers, might spread an alarm which ought to be

avoided; he therefore hoped that those gentlemen who had retired to the gallery might be informed that they might return to the seats they occupied in the last session—that he avoided making a regular motion to this effect, because he knew that some worthy members who wished to admit those writers, or any others, did not think their admission ought to be sanctioned by vote, and appear on the journals, lest that might sanction and authenticate erroneous publications; but that if he should not discover that the sense of the members present was in favor of the ideas he had expressed, that to-morrow he would bring forward a motion made by a member from South Carolina, (Mr. TUCKER,) last session, for that purpose, for he had no fears that a vote of the House to authorize the admission of such writers, would make the House answerable for their publications.

Mr. HARTLEY withdrew his motion for adjournment, in order that the subject alluded to by the gentleman from Virginia (Mr. PAGE) might be understood.

Mr. WHITE said, he felt averse to enter into a positive resolution for the admission of any person to take down the debates, but wished them permitted to a convenient seat within the bar for the purpose of hearing with greater accuracy. But he feared that a vote of the House would give a sanction to the details, which the publications ought not to have. Not that he thought them worse than similar publications in other countries; on the contrary, he thought them better, if he judged from what had fallen under his particular observation, and what he recollected to have from others. He did not wish a positive motion for the admission of short-hand writers, because gentlemen might object to a vote of the kind, and he should be very loth to discourage publications of the advantages of which he was well convinced; he knew they had given great satisfaction to the people of America, and it was a satisfaction of which he would not deprive them. Although these publications had not given an exact and accurate detail of all that passed in Congress, yet their information had been pretty full, and he believed the errors not very many; those that were made, he supposed to arise rather from haste or inadvertence, than from design. He was convinced of this, from the disposition the publishers had manifested to correct any errors that were pointed out, and the pains they sometimes took to ask gentlemen what were their particular expressions, when they either did not hear distinctly, or did not comprehend the speaker's meaning. He wished, therefore, the business might go on; but silently, as it had heretofore done, without the express approbation of the House. He was fully convinced, that neither the editor of the Register, nor any other man, but the members of the House, had a right to a seat within those walls, without the consent of every member; but he thought this consent would be tacitly given if no gentleman opposed their introduction, and in this way he most heartily concurred with his colleague in agreeing to the admission of such persons as thought themselves qualified, and were inclined to take down and publish their debates and proceedings; he should be glad to see them in the seats they had last session, but he should object to the vote being entered on the journals of the House.

Mr. BOUDINOT thought the mode proper to be pursued on this occasion, would be to give a discretionary power to the Speaker to admit such persons as he thought proper. Under such a regulation, short-hand writers might be admitted, without giving to their publications any degree of legislative authority.

Mr. THATCHER hoped that it was not the intention of gentlemen to confine the business to one person only, because others might appear of equal capacity, and equally deserving of encouragement.

Mr. PAGE said, he did not wish to confine the vote to any two or three writers, he cared not how many were admitted. It ought to be remembered, that he said, when this subject was before the House at the last session, that he saw no reason why Mr. FENNO should not be within the House as well as Mr. LLOYD, instead of being in the gallery. He had no objection to admitting any number of short-hand writers, provided they did not incommode the members.

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Mr. SMITH, (of South Carolina.)—I do not wish, Mr. Speaker, to exclude others from a convenient seat; but at the same time, I think those who were here before, have a pre-emption right to the best. I assure you, sir, I am sorry for the loss of them off the floor, because I think their publications had a salutary tendency. It has been said, that it was the design of the short-hand writers to give a partial representation of our proceedings. I believe, if they are not correctly given, it is owing to the hurry in which business of this kind is conducted, and I am confirmed in this opinion, by some errors which I have discovered in the publication of our proceedings. It was said that a committee was appointed to bring in a bill for the preservation and safe-keeping of the *accounts* of the United States. I thought within myself that we were not so tenacious on this head, therefore suspected some mistake, and on consulting the journals I found that a committee had been appointed to bring in a bill for the safe-keeping and preservation of the *acts* of the United States. The similarity of the letters in those two words, and the great abridgment short-hand writers are obliged to make for the sake of expedition, may have caused him to substitute the one for the other. In another place I found a greater blunder still; it was said, that the House had appointed a committee for the regulation of the *barbers* of the United States; this struck me as a very gross misrepresentation, for I could hardly believe that the Legislature of the Union would, at so early a day, attempt to usurp an authority not vested in them by the constitution, and that, too, over a body of men who could at any time put an end to the tyranny with the edge of the razor; but on searching the minutes in this case, I found that a bill was brought in for the regulation of the *harbors* of the United States. Upon the whole, I believe, inaccurate as this work is, it has given to our constituents great satisfaction, and I should be glad to see our *Argus* restored to his former situation behind the Speaker's chair, from whence he could both see and hear distinctly every thing that passed in the House.

TUESDAY, January 19.

The bill for enumerating the inhabitants of the United States was read a second time, and ordered to be committed to a Committee of the Whole.

WEDNESDAY, January 20.

JAMES MADISON and JOSIAH PARKER, from Virginia, appeared and took their seats.

THURSDAY, January 21.

GEORGE LEONARD, from Massachusetts, PETER SYLVESTER, from New York, and THOMAS FITZSIMONS, from Pennsylvania, appeared and took their seats.

MONDAY, January 25.

Census of the Union.

The House resolved into Committee of the Whole on the bill providing for the actual enumeration of the inhabitants of the United States, Mr. BALDWIN in the chair.

Mr. MADISON observed, that they had now an opportunity of obtaining the most useful information for those who should hereafter be called upon to legislate for their country, if this bill was extended so as to embrace some other objects besides the bare enumeration of the inhabitants; it would enable them to adapt the public measures to the particular circumstances of the community. In order to know the various interests of the United States, it was necessary that the description of the several classes into which the community is divided should be accurately known. On this knowledge the Legislature might proceed to make a proper provision for the agricultural, commercial, and manufacturing interests, but without it they could never make their provisions in due proportion.

This kind of information, he observed, all Legislatures had wished for; but this kind of information had never been obtained in any country. He wished, therefore, to avail himself of the present opportunity of accomplishing so valuable a purpose. If the plan was pursued in taking every future census, it would give them an opportunity of marking the progress of the society, and distinguishing the growth of every interest. This would furnish ground for many useful calculations, and at the same time answer the purpose of a check on the officers who were employed to make the enumeration; forasmuch as the aggregate number is divided into parts, any imposition might be discovered with proportionable ease. If these ideas meet the approbation of the House, he hoped they would pass over the schedule in the second clause of the bill, and he would endeavor to prepare something to accomplish this object.

The committee hereupon agreed to pass over the part of the bill alluded to.

Mr. LIVERMORE moved to amend the last clause of the bill, by striking out all that related to the mode of compensating the Marshal and his assistants, which were specified sums, proportioned to the service, and to substitute a provision, authorizing the Marshal, or his assistants, to receive from every male white inhabitant above the age of twenty-one, five cents; and of the owner of every male slave, of like age, three cents; reserving, for his own use, four cents out of every five, and paying the other one cent to the Marshal. He thought this was an equitable tax, agreeable to the spirit of the constitution; that it might be collected with safety and satisfaction; while, on the other hand, the mode proposed in the bill would be extremely inconvenient; it would draw a considerable sum out of the Treasury, which their present situation did not enable them to spare.

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On the question this motion was lost.

The committee then, after making some small amendments, rose and reported progress.

THURSDAY, January 28.

Report of the Secretary of the Treasury.

Mr. AMES observed, that the subject of the Secretary's report, on the means of promoting public credit, is the order for this day; but when I consider the circumstances under which this order was entered into, I am inclined to wish for an extension of the time. It will be recollected that this report was ordered to be printed, in order that the members might have it in their hands for consideration; when this was done, it was expected that the printing would be more expeditiously executed than the event has demonstrated it could be, of consequence our time for deliberation has been curtailed; and those gentlemen who were against so early a day before, will think the present rather premature. In order to accommodate them, I shall move you a longer day than otherwise I might be disposed to do; and if I am seconded, I move that the order of the day be postponed till next Monday week.

Mr. JACKSON.—The report of the Secretary of the Treasury, Mr. Speaker, embraces subjects of the utmost magnitude, which ought not to be lightly taken up, or hastily concluded upon. It appears to me to contain two important objects, worthy of our most serious and indefatigable disquisition. The first is, that all idea of discrimination among the public creditors, as original holders and

transferees, ought to be done away; and on this head, I must own to you, sir, that I formerly coincided in something like the same opinion, but circumstances have occurred, to make me almost a convert to the other. Since this report has been read in this House, a spirit of havoc, speculation, and ruin, has arisen, and been cherished by people who had an access to the information the report contained, that would have made a *Hastings* blush to have been connected with, though long inured to preying on the vitals of his fellow-men. Three vessels, sir, have sailed within a fortnight from this port, freighted for speculation; they are intended to purchase up the State and other securities in the hands of the uninformed, though honest citizens of North Carolina, South Carolina, and Georgia. My soul rises indignant at the avaricious and moral turpitude which so vile a conduct displays.

Then, sir, as to the other object of the report, the assumption of the State debts by the General Government, it is a question of delicacy as well as importance. The States ought to be consulted on this point, some of them may be against the measure, but surely it will be prudent in us to delay deciding upon a subject that may give umbrage to the community. For my part, before I decide, I should be glad to know the sentiments of the Legislature of the State from which I come, and whether it would, in their opinion, be more conducive to the general and particular interests of these United States, than retaining them on their present footing. I trust I am not singular on this point; for gentlemen desirous of deciding on full information, will not only wish for the sense of the Legislatures of the several States, but of every individual also. Perhaps gentlemen of the neighboring States may think it proper to take up this business at an early day, because they can learn the desires of their constituents in a short time; but let those gentlemen consider for a moment, that the distant States ought to have an equal opportunity, and we cannot hear the voice of Georgia in a week, nor a month. I should therefore be as much in the dark on Monday week, as I am at present; I would wish, if the postponement is intended to answer any valuable purpose, that it should be extended to a longer period. I think the first Monday in May would be sufficiently soon to enter upon it, and shall therefore move it. In this time, the State Legislatures may have convened, and be able to give us their sentiments on a subject in which they are so deeply concerned.

Mr. BOUDINOT agreed with the honorable gentleman who was last up, that this subject is a matter of the highest importance, and worthy of due deliberation; that speculation had risen to an alarming height; but this consideration bade him to be in favor of the only measure which could put a stop to the evil, that is, appreciating the public debt, till the evidences in the hands of the creditors came to their proper value. I also agree, said he, with the gentleman, that it would be a desirable thing to have the sense of the State Legislatures, and every part of the community, because it would tend to elucidate the subject; but we should not be led by visionary pursuits to defer a business of this magnitude too long. I think we may go into a Committee of the Whole on Monday week, without coming to a final determination; but if it is put off for a long period, it will cause a still greater fluctuation in the market, and increase those circumstances which the honorable gentleman laments as injurious to the peace and happiness of the community. We had better, therefore, look the business in the face, take it into consideration, and go through it deliberately; but, at the same time, as expeditiously as the novelty of our circumstances will admit. In this way also we may acquire information, because we obtain more from listening to each other's sentiments, than we can procure from any other source. But if, after all, gentlemen should find themselves unprepared on Monday week, the business may be postponed to a further day. But I would by no means consent to lose sight of it for so long a period as from now till May.

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Mr. JACKSON.—If the members of this body had known the plan in contemplation, and they had had an opportunity of consulting their constituents on the subject, then, I venture to say, this demon of speculation would not have extended its baleful influence over the remote parts of the Union. It arose and seized on us by surprise, advantages are taken without any warning, and such as cannot but exasperate. But, sir, waiving all these reflections, let us recollect that the State of North Carolina forms a part of this Union; this measure is to affect her, as well as the States who are represented on this floor. Shall we then proceed without them? Her citizens are indubitably as much concerned in the event as others, and will you bind her in a case of this importance, when she has not a single Representative within these walls? If no other consideration can induce gentlemen to defer this business, deference to a sister State who has so lately acceded to the Union ought. But, in addition to this, I contend that the State Legislatures ought to be consulted; and I declare myself, that I shall not know how to vote until I learn the sense of my constituents. If we consent to this proper and reasonable delay, our constituents will be prepared for our decisions, and a stop will be put to the speculation; or if any man burns his fingers, which I hope to God, with all the warmth of a feeling heart, they may, they will only have their own cupidity to blame. The people will then generally remain satisfied, under the general assurance, that Congress will pursue proper measures for the support of public credit, and little or no evil can be apprehended; but much substantial good may arise from a delay of a few months.

Mr. SHERMAN hoped the business would be conducted in such a way as to be concluded before the end of the present session. As to obtaining the sense of the State Legislatures, he did not think that necessary. The people appointed the members of this House, and their situation enabled them to consult and judge better what was for the public good, than a number of distinct parts, void of relative information, and under the influence of local views. He supposed that Congress contained all the information necessary to determine this or any other national question. As to the first observation of the gentleman from Georgia, that speculations had been carried on to a great extent, he had only to observe, that this had been the case from the time when the public securities were first issued, and he supposed they would continue until the holders were satisfied with what was done to secure the payment.

As to the State debts, it was a subject which he apprehended would not be ultimately decided, till the sense of the people is generally known; and on this occasion, it might be well to be acquainted with the sense of the State Legislatures; he hoped, therefore, that it would be the case. But with regard to the foreign and domestic continental debts, he did not hesitate to say, it was proper for Congress to take them into consideration as speedily as possible; for the sooner they are discussed, the sooner will the House make up there judgment thereon. He believed they were possessed of all the facts they could be possessed of, and therefore any great delay was improper. He was in favor of making the business the order of the day for Monday week.

Mr. SEDGWICK.—I believe the House at present have not come to a conclusion in their own opinion, on the various circumstances which are necessary to be attended to in the report of the Secretary of the Treasury; therefore, I think some delay is necessary, but it should be as early a day as we could act upon it understandingly. The ardent expectations of the people on this subject want no other demonstration than the numerous body of citizens assembled within these walls.^[32] And while the public expectation is kept thus alive and in suspense, gentlemen cannot but suppose designs will be framed and prosecuted that may be injurious to the community. For, although I do not believe that speculation, to a certain degree, is baneful in its effects upon society, yet, when it is extended too far, it becomes a real evil, and requires the administration to divert or suppress it. If the capital employed in merchandise is taken from that branch of the public interest, and employed in speculations no way useful in increasing the labor of the community, such speculation would be pernicious. The employment of the time of merchants in this way, in addition to the employment of their capital, is a serious and alarming circumstance. A spirit of gambling is of such evil tendency, that every legislative endeavor should be made to suppress it. From these considerations, I take it, Mr. Speaker, that there are two things very evident; first, that the postponement should be so long as to enable us to enter upon the task with understanding; and that this pernicious temper, or spirit of speculation, should be counteracted at as early a period as can possibly take place.

Mr. GERRY.—I am a friend to the postponement, Mr. Speaker, though not for so long a time as the gentleman from Georgia proposes. It will be agreed, on all hands, that public credit is the main pillar on which this Government is to stand; but so embarrassed are our finances, that they require both time and consideration for their due arrangement.

With respect to the suppression of speculation, I do not conceive that possible, by either a longer or a shorter postponement. Does any gentleman expect, while we have a public debt, to prevent speculation in our funds? If they do, they expect to accomplish what never was effected by any nation, nor, in my opinion, ever will be. But if they could accomplish it, they would do an injury to the community; for speculation gives a currency to property that would lie dormant; all public debts would hereafter be contracted on terms ruinous to the debtors. As to the policy of speculation, I doubt whether the speculation of foreigners in our funds is not rather advantageous than disadvantageous to the community. If we look abroad, and judge by comparative reasoning, we shall be led to believe that nations derive great advantages from being possessed of the money of foreigners; they not only endeavor to acquire it by direct, but also by indirect loans. During the late war, the Dutch held 40 or 50,000,000 sterling, in the funds of Great Britain, and she was sensible of the benefit. The speculations of individuals have perhaps been of the greatest advantage to those who held public securities, by giving a circulation to the certificates. Hence it has been thought that a public debt is a source of great emolument to a nation, by extending its capital, and enlarging the operations of productive industry.

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Mr. JACKSON.—I know, sir, that there is, and will be, speculation in the funds of every nation possessed of public debt; but they are not such as the present report has given rise to, by the advantage those at the seat of Government obtained of learning the plan contemplated by the principal of the Treasury Department, before others had heard a word thereof. If we had either received this report privately, or not sat in a large city, then, sir, none of these speculations would have arisen, because Congress could have devised means of diffusing the information so generally as to prevent any of its ill effects. Under these impressions, I am led to express my ardent wish to God, that we had been on the banks of the Susquehanna or Potomac, or at any place in the woods, and out of the neighborhood of a populous city; all my unsuspecting fellow-citizens might then have been warned of their danger, and guarded themselves against the machinations of the speculators. To some gentlemen, characters of this kind may appear to be of utility; but I, sir, view them in a different light; they are as rapacious wolves, seeking whom they may devour, and preying upon the misfortunes of their fellow-men, taking an undue advantage of their necessities. This, sir, is the sentiment of my heart, and I will always use its language. I say, sir, whatever might be the happy effects of speculation in other countries, it has had the most unhappy and pernicious effects in this. Look at the gallant veteran, who nobly led your martial bands in the hour of extreme danger, whose patriotic soul acknowledged no other principle than that his life was the property of his country, and who evinced it by his repeated exposures to a vengeful enemy. See him deprived of those limbs, which he sacrificed in your service! and behold his virtuous and tender wife sustaining him and his children in a wilderness, lonely, exposed to the arms of savages, where he and his family have been driven by these useful class of citizens, these speculators, who have drained from him the pittance which a grateful country had afforded him, in reward for his bravery and toils, and a long catalogue of merits. Nor is their insatiable avarice yet satisfied, while there remains a single class of citizens who retain the evidence of their demands upon the public; the State debts are to become an object for them to prey upon, until other citizens are driven into scenes of equal distress. Is it not the duty of the House to check this spirit of devastation? It most assuredly is. If by the ill-timed promulgation of this report, we have laid the foundation for the calamity, ought we not to counteract it? This may be

done by postponing the subject, until the sense of the State Legislatures is obtained, with respect to their particular debts. Then these men may send off other vessels to countermand their former orders; and, perhaps, we may yet save the distant inhabitants from being plundered by these harpies.

MONDAY, February 1.

GEORGE GALE, from Maryland, appeared and took his seat.

TUESDAY, February 2.

THEODORE BLAND, from Virginia, appeared and took his seat.

WEDNESDAY, February 3.

The engrossed bill for enumerating the inhabitants of the United States was read the third time, and then ordered to lie on the table.

Rule of Naturalization.

The House then went into a Committee of the Whole on the bill establishing a uniform rule of Naturalization, Mr. BALDWIN in the chair. The first clause enacted, that all free white persons, who have, or shall migrate into the United States, and shall give satisfactory proof, before a magistrate, by oath, that they intend to reside therein, and shall take an oath of allegiance, *and shall have resided in the United States for one whole year*, shall be entitled to all the rights of citizenship, except being capable of holding an office under the State or General Government, which capacity they are to acquire after a residence of two years more.

Mr. TUCKER moved to strike out the words "and shall have resided within the United States for one whole year;" because he conceived it the policy of America to enable foreigners to hold lands, in their own right, in less than one year; he had no objection to extending the term, entitling them to hold an office under Government, to three years. In short, the object of his motion was, to let aliens come in, take the oath, and hold lands without any residence at all.

Mr. HARTLEY said, he had no doubt of the policy of admitting aliens to the rights of citizenship; but he thought some security for their fidelity and allegiance was requisite besides the bare oath; that is, he thought an actual residence of such a length of time as would give a man an opportunity of esteeming the Government from knowing its intrinsic value, was essentially necessary to assure us of a man's becoming a citizen. The practice of almost every State in the Union countenanced a regulation of this nature; and perhaps it was owing to a wish of this kind, that the States had consented to give this power to the General Government. The terms of citizenship are made too cheap in some parts of the Union; to say, that a man shall be admitted to all the privileges of a citizen, without any residence at all, is what can hardly be expected.

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The policy of the old nations of Europe has drawn a line between citizens and aliens: that policy has existed to our knowledge ever since the foundation of the Roman Empire; experience has proved its propriety, or we should have found some nation deviating from a regulation inimical to its welfare. From this it may be inferred, that we ought not to grant this privilege on terms so easy as is moved by the gentleman from South Carolina. If he had gone no further in his motion than to give aliens a right to purchase and hold lands, the objection would not have been so great; but if the words are stricken out that he has moved for, an alien will be entitled to join in the election of your officers at the first moment he puts his foot on shore in America, when it is impossible, from the nature of things, that he can be qualified to exercise such a talent; but if it was presumable that he was qualified by a knowledge of the candidates, yet we have no hold upon his attachment to the Government.

Mr. SHERMAN thought that the interest of the State where the emigrant intended to reside ought to be consulted, as well as the interests of the General Government. He presumed it was intended by the convention who framed the constitution, that Congress should have the power of naturalization, in order to prevent particular States receiving citizens, and forcing them upon others who would not have received them in any other manner. It was therefore meant to guard against an improper mode of naturalization, rather than foreigners should be received upon easier terms than those adopted by the several States. Now, the regulation provided for in this bill, entitles all free white persons, which includes emigrants, and even those who are likely to become chargeable. It certainly never would be undertaken by Congress to compel the States to receive and support this class of persons; it would therefore be necessary that some clause should be added to the bill to counteract such a general proposition.

Mr. PAGE was of opinion, that the policy of European nations and States respecting naturalization, did not apply to the situation of the United States. Bigotry and superstition, or a deep-rooted prejudice against the Government, laws, religion, or manners of neighboring nations had a weight in that policy, which cannot exist here, where a more liberal system ought to prevail. I think, said he, we shall be inconsistent with ourselves, if, after boasting of having opened an asylum for the oppressed of all nations, and established a Government which is the admiration of the world, we make the terms of admission to the full enjoyment of that asylum so hard as is now proposed. It is nothing to us, whether Jews or Roman Catholics settle amongst us; whether subjects of kings, or citizens of free States wish to reside in the United States, they will find it

their interest to be good citizens, and neither their religious nor political opinions can injure us, if we have good laws, well executed.

Mr. BOUDINOT was against striking out the words, because he would rather choose to alter it from one year to two years, than strike out all that respected the capacity of an alien to be elected into any office. He conceived, that after a person was admitted to the rights of citizenship, he ought to have them full and complete, and not be divested of any part.

Mr. WHITE noticed the inconvenience which would result from permitting an alien to all the rights of citizenship, merely upon his coming and taking an oath that he meant to reside in the United States. Foreign merchants and captains of vessels might by this means evade the additional duties laid on foreign vessels; he thought, therefore, if the words were struck out, that another clause ought to be added, depriving persons of the privilege of citizenship, who left the country and staid abroad for a given length of time.

Mr. LAWRENCE was of opinion, that Congress had nothing more to do than point out the mode by which foreigners might become citizens. The constitution had expressly said how long they should reside among us before they were admitted to seats in the Legislature; the propriety of annexing any additional qualifications is therefore much to be questioned. But this bill is not confined to the qualifications of the General Government only, it descends to those of the State Governments; it may be doubly questioned how far Congress has the power to declare what residence shall entitle an alien to the right of a seat in the State Legislatures.

The reason of admitting foreigners to the rights of citizenship amongst us is the encouragement of emigration, as we have a large tract of country to people. Now, he submitted to the sense of the committee, whether a term, so long as that prescribed in the bill, would not tend to restrain rather than encourage emigration? It has been said, that we ought not to admit them to vote at our elections. Will they not have to pay taxes from the time they settle amongst us? And is it not a principle that taxation and representation ought to go hand and hand? Shall we then restrain a man from having an agency in the disposal of his own money? It has been also observed, that persons might come and reside amongst us for some time, and then leave the country; he did not doubt that such might be the case, but it was not presumable, that after they had once taken an oath that they meant to reside here, and had become citizens, that they would return as soon as the occasion which required their absence had terminated.

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Mr. MADISON.—When we are considering the advantages that may result from an easy mode of naturalization, we ought also to consider the cautions necessary to guard against abuses. It is no doubt very desirable that we should hold out as many inducements as possible for the worthy part of mankind to come and settle amongst us, and throw their fortunes into a common lot with ours. But why is this desirable? Not merely to swell the catalogue of people. No, sir, it is to increase the wealth and strength of the community; and those who acquire the rights of citizenship, without adding to the strength or wealth of the community, are not the people we are in want of. And what is proposed by the amendment is, that they shall take nothing more than an oath of fidelity, and declare their intention to reside in the United States. Under such terms, it was well observed by my colleague, aliens might acquire the right of citizenship, and return to the country from which they came, and evade the laws intended to encourage the commerce and industry of the real citizens and inhabitants of America, enjoying at the same time all the advantages of citizens and aliens.

I should be exceedingly sorry, sir, that our rule of naturalization excluded a single person of good fame that really meant to incorporate himself into our society; on the other hand, I do not wish that any man should acquire the privilege, but such as would be a real addition to the wealth or strength of the United States.

It may be a question of some nicety, how far we can make our law to admit an alien to the right of citizenship, step by step; but there is no doubt we may, and ought to require residence as an essential.

Mr. SMITH (of South Carolina) thought some restraints proper, and that they would tend to raise the Government in the opinion of good men, who are desirous of emigrating; as for the privilege of electing, or being elected, he conceived a man ought to be some time in the country before he could pretend to exercise it. What could he know of the Government the moment he landed? Little or nothing: how then could he ascertain who was a proper person to legislate or judge of the laws? Certainly gentlemen would not pretend to bestow a privilege upon a man which he is incapable of using?

Mr. HARTLEY said that the subject had employed his thoughts for some time, and that he had made up his mind in favor of requiring a term of residence. The experience of all nations, and the constitutions of most of the States induced the same opinion. An alien has no right to hold lands in any country, and if they are admitted to do it in this, we are authorized to annex to it such conditions as we think proper. If they are unreasonable, they may defeat the object we have in view, but they have no right to complain; yet, considering the circumstances of this country, he was favorable to easy terms of admission, because, he thought, it might be some inducement to foreigners to come and settle among us. It has been remarked, that we must admit those whom we call citizens to all the rights of citizenship at once. This opinion, he presumed, was not well founded; the practice of this country in no instance warrants it. The constitutions of the several States admit aliens to the privilege of citizenship, step by step; they generally require a residence for a certain time, before they are admitted to vote at elections; some of them annex to it the condition of payment of taxes and other qualifications; but he believed none of the States render a foreigner capable of being elected to serve in a legislative capacity, without a probation of

some years. This kind of exception is also contemplated in the Constitution of the United States. It is there required, that a person shall be so many years an inhabitant before he can be admitted to the trust of legislating for the society. He thought, therefore, that this part of the objection is not well supported.

Mr. WHITE doubted whether the constitution authorized Congress to say on what terms aliens or citizens should hold lands, in the respective States; the power vested by the constitution in Congress, respecting the subject now before the House, extends to nothing more than making a uniform rule of naturalization. After a person has once become a citizen, the power of Congress ceases to operate upon him; the rights and privileges of citizens in the several States belong to those States; but a citizen of one State is entitled to all the privileges and immunities of the citizens in the several States. Now, if any State in the Union should choose to prohibit its citizens from the privilege of holding real estates, without a residence of a greater number of years than should be thought proper by this House, they could do it, and no authority of the Government, he apprehended, could enforce an obedience to a regulation not warranted by the constitution. So, in the case of elections, if the constitution of a particular State requires four, five, or six years residence, before a man is admitted to acquire a legislative capacity, with respect to the State Government, he must remain there that length of time notwithstanding you may declare he shall be eligible after a residence of two years; all, therefore, that the House have to do on this subject, is to confine themselves to a uniform rule of naturalization, and not to a general definition of what constitutes the rights of citizenship in the several States.

Mr. JACKSON conceived the present subject to be of high importance to the respectability and character of the American name; the veneration he had for, and the attachment he had to, this country, made him extremely anxious to preserve its good fame from injury. He hoped to see the title of a citizen of America as highly venerated and respected as was that of a citizen of old Rome. I am clearly of opinion, that rather than have the common class of vagrants, paupers, and other outcasts of Europe, that we had better be as we are, and trust to the natural increase of our population for inhabitants. If the motion made by the gentleman from South Carolina, should obtain, such people will find an easy admission indeed to the rights of citizenship; much too easy for the interests of the people of America. Nay, sir, the terms required by the bill on the table are, in my mind, too easy. I think, before a man is admitted to enjoy the high and inestimable privileges of a citizen of America, that something more than a mere residence amongst us is necessary. I think he ought to pass some time in a state of probation, and at the end of the term, be able to bring testimonials of a proper and decent behavior; no man, who would be a credit to the community, could think such terms difficult or indelicate: if bad men should be dissatisfied on this account, and should decline to emigrate, the regulation will have a beneficial effect; for we had better keep such out of the country than admit them into it. I conceive, sir, that an amendment of this kind would be reasonable and proper; all the difficulty will be to determine how a proper certificate of good behavior should be obtained; I think it might be done by vesting the power in the grand jury or district courts to determine on the character of the man, as they should find it.

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Mr. PAGE.—I observed before, Mr. Chairman, that the European policy did not apply to the United States. I gave my reasons for it; they are such as have not been controverted, and I presume cannot be.

With respect to the idea of excluding bad men from the rights of citizenship, I look upon it as impracticable; hard terms of admission may exclude good men, but will not keep out one of the wretches alluded to; they will come in various forms, and care little about citizenship. If we make use of the grand jury for this purpose, as proposed by the member from Georgia, (Mr. JACKSON,) we must, to complete the plan, authorize the grand jury to indict such emigrants as are unworthy to become citizens, and expel them. We must add an inquisition, and as it will not be sufficient for our views of having immaculate citizens, we should add censors, and banish the immoral from amongst us. Indeed, sir, I fear, if we go on as is proposed now, in the infancy of our republic, we shall, in time, require a test of faith and politics of every person who shall come into these States. As to any precautions against admitting strangers to vote at elections, though I think them of less importance than some gentlemen, I object not to them; but contend, that every man, upon coming into the States, and taking the oath of allegiance to the Government, and declaring his desire and intention of residing therein, ought to be enabled to purchase and hold lands, or we shall discourage many of the present inhabitants of Europe from becoming inhabitants of the United States.

Mr. LAWRENCE.—We are authorized to establish a uniform rule of naturalization; but what are the effects resulting from the admission of persons to citizenship, is another concern, and depends upon the constitutions and laws of the States now in operation. I have therefore an objection to that part of the bill which respects the qualification of the members of the State Legislatures. But with respect to residence, before a man is admitted, I am of opinion with the gentleman from Virginia, (Mr. PAGE,) at least it may be questioned, whether any good can result from it, to compensate for the evil it may effect by restraining emigration. The gentleman has said he would admit none but such as would add to the wealth or strength of the nation. Every person who comes among us must do one or the other; if he brings money, or other property with him, he evidently increases the general mass of wealth, and if he brings an able body, his labor will be productive of national wealth, and an addition to our domestic strength. Consequently, every person, rich or poor, must add to our wealth and strength, in a greater or less degree.

Mr. TUCKER had no object in making his motion, but to enable people to hold lands, who came from abroad to settle in the United States. He was otherwise satisfied with the clause, so far as it

made residence a term of admission to the privilege of election; but there was a seeming contradiction in making them freeholders, and, at the same time, excluding them from the performance of duties annexed to that class of citizens. He thought the citizens had a right to require the performance of such duties, by every person who was eligible under their State laws and constitutions. Now, if the motion could be modified in any way to accomplish his object with consistency, he would cheerfully acquiesce therein.

He had no doubt the Government had a right to make the admission to citizenship progressive; the constitution pointed out something of this kind, by the different ages and terms of residence they annexed to the right of holding a seat in this House and in the Senate, and of being chosen President. No inhabitant can become President of the United States, unless he has been an inhabitant fourteen years; which plainly infers that he might have been a citizen for other purposes, with a shorter residence. But it goes still further, it enables Congress to dictate the terms of citizenship to foreigners, and to prevent them from being admitted to the full exercise of the rights of citizenship by the General Government; because it declares that no other than a natural-born citizen, or a citizen at the time of the adoption of this constitution, shall be eligible to the office of President.

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Mr. SMITH (of S. C.) hoped the question would not be put to-day, as he wished to reflect further on the subject. A variety of observations had been made, which merited the serious attention of the committee; he would suggest another. An alien, in Great Britain, is not permitted to inherit, or hold real estate for his own use; consequently, a citizen of the United States, and a subject of Great Britain, would not be on an equal footing with respect to estates descended to them by inheritance. He thought this, and other weighty observations, would induce the House to postpone the subject till to-morrow.

Mr. SEDGWICK was against the indiscriminate admission of foreigners to the highest rights of human nature, upon terms so incompetent to secure the society from being overrun with the outcasts of Europe; besides, the policy of settling the vacant territory by emigration is of a doubtful nature. He believed, in the United States, the human species might be multiplied by a more eligible and convenient mode, than what seemed to be contemplated by the motion now before the committee. He was well satisfied for himself, that there existed no absolute necessity of peopling it in this way; and, if there was no absolute necessity, he thought Congress might use their discretion, and admit none but reputable and worthy characters; such only were fit for the society into which they were blended. The citizens of America preferred this country, because it is to be preferred; the like principle he wished might be held by every man who came from Europe to reside here; but there was at least some grounds to fear the contrary; their sensations, impregnated with prejudices of education, acquired under monarchical and aristocratical governments, may deprive them of that zest for pure republicanism, which is necessary in order to taste its beneficence with that gratitude which we feel on the occasion. Some kind of probation, as it has been termed, is absolutely requisite, to enable them to feel and be sensible of the blessing. Without that probation, he should be sorry to see them exercise a right which we have gloriously struggled to attain.

Mr. BURKE thought it of importance to fill the country with useful men, such as farmers, mechanics, and manufacturers, and, therefore, would hold out every encouragement to them to emigrate to America. This class he would receive on liberal terms; and he was satisfied there would be room enough for them, and for their posterity, for five hundred years to come. There was another class of men, whom he did not think useful, and he did not care what impediments were thrown in their way; such as your European merchants, and factors of merchants, who come with a view of remaining so long as will enable them to acquire a fortune, and then they will leave the country, and carry off all their property with them. These people injure us more than they do us good, and, except in this last sentiment, I can compare them to nothing but leeches. They stick to us until they get their fill of our best blood, and then they fall off and leave us. I look upon the privilege of an American citizen to be an honorable one, and it ought not to be thrown away upon such people. There is another class also that I would interdict, that is, the convicts and criminals which they pour out of British jails. I wish sincerely some mode could be adopted to prevent the importation of such; but that, perhaps, is not in our power; the introduction of them ought to be considered as a high misdemeanor.

Mr. STONE had no doubt but an alien might be admitted to the rights of citizenship, step by step; but he questioned the power of the House to say that a man shall be citizen for certain purposes, as it respects the individual State Governments; he concluded that the laws and constitutions of the States, and the constitution and laws of the United States would trace out the steps by which they should acquire certain degrees of citizenship. Congress may point out a uniform rule of naturalization; but cannot say what shall be the effect of that naturalization, as it respects the particular States. Congress cannot say that foreigners, naturalized under a general law, shall be entitled to privileges which the States withhold from native citizens.

Mr. BOUDINOT.—An exchange of sentiment on this floor I find always tends to throw more light on a subject than is generally to be obtained in any other way. But, as the subject is not yet fully elucidated, I shall be in favor of letting it remain undecided till to-morrow, for which reason, I move the committee to rise.

This motion being put, the committee rose, and reported progress, after which the House adjourned.

Tuesday, February 4.

Rule of Naturalization.

The House again resolved itself into a Committee of the Whole on the naturalization bill, Mr. BALDWIN in the chair.

Mr. TUCKER's motion was still before the committee.

The committee being about to take a question on the motion,

Mr. PAGE wished it delayed until he saw the gentleman from South Carolina (Mr. BURKE) in his place.

Mr. SMITH (of S. C.) said, he believed the object of his colleague was nothing more than to let foreigners, on easy terms, be admitted to hold lands; that this object could be better effected by introducing a clause to that purpose, and he had no doubt but it would be equally satisfactory to his colleague.

Mr. GOODHUE was against the motion, because it made our citizenship too cheap; after it was decided against, he would move to make the term two years, instead of one, before an alien should be entitled to the privilege of a citizen.

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Mr. JACKSON.—It was observed yesterday, Mr. Chairman, that we could not modify or confine our terms of naturalization; that we could not admit an alien to the rights of citizenship progressively. I shall take the liberty of supporting the contrary doctrine, which I contend for, by a reference to the very accurate commentator on the laws of England, *Justice Blackstone*, I., 10. —"Naturalization," says he, "cannot be performed but by an act of Parliament; for by this an alien is put in exactly the same state as if he had been born in the King's legiance, *except* only, that he is incapable, as well as a denizen, of being a member of the Privy Council, or Parliament, holding offices, grants, &c. No bill for naturalization can be received in either House of Parliament without such disabling clause in it." So that here we find, in that nation from which we derive most of our ideas on this subject, not only that citizens are made progressively, but that such a mode is absolutely necessary to be pursued in every act of Parliament for the naturalization of foreigners.

The same learned Judge then goes on to show the attempts that were made to introduce a general system of naturalization, and how they failed; and that, to this day, even of their meritorious naval and military characters they make an exception, as to sitting in Parliament, &c., and holding grants of land from the Crown, within the Kingdoms of Great Britain and Ireland. After this, I presume, it will not be contended that we cannot found our law on the principle of a progressive and probational naturalization.

Mr. HUNTINGTON.—The terms of the bill are too indefinite; they require the emigrant to take an oath that he intends to reside in the United States; but how long, and for what purpose, is not ascertained. He may determine to stay here until he accomplishes a particular object; and he may go into the most obscure part of the Union to take this oath. The community certainly will not be benefited by such emigrants, and therefore they ought not to be admitted to the privileges of citizenship. The mode of naturalization, pointed out in this bill, is much too easy. In the State to which I belong, said he, no person could be naturalized, but by an act of the Legislature; the same is the case in several of the other States, and in Britain. He never knew a good inhabitant, who wished to be admitted to the rights of citizenship, but what found this mode sufficiently easy. The term that an emigrant should reside ought to be sufficiently long to give him an opportunity of acquiring a knowledge of the principles of the Government, and of those who are most proper to administer it; otherwise he cannot exercise his privilege with any advantage to himself, or to the community. He therefore wished that the clause might be amended, in such a manner as to leave the naturalization of foreigners to the State Legislatures.

Mr. BURKE.—Unless some residence is required, it may be attended with confusion. In large cities, like Boston, New-York, or Philadelphia, an election may be carried by the votes of the body of sailors who happened to be in port. If the French fleet was here at such a time, and a spirit of party strongly excited, perhaps one of the candidates might get the crews of every ship in the fleet, and after qualifying them, by taking an oath of no definite meaning, carry them up to the hustings, and place himself or his friend on this floor, contrary to the voice of nine-tenths of the city. Even a residence of one year is too short, it ought to be two, three, or four; but seven is too long. Indeed, the whole of this bill seems somehow objectionable; there are some cases also omitted, which may show the necessity of recommitting it.

The case of the children of American parents born abroad ought to be provided for, as was done in the case of English parents, in the 12th year of William III. There are several other cases that ought to be likewise attended to.

Mr. JACKSON had an objection to any persons holding land in the United States without residence, and an intention of becoming a citizen; under such a regulation the whole Western Territory might be purchased up by the inhabitants of England, France, or other foreign nations; the landholders might combine and send out a large tenantry, and have thereby such an interference in the Government as to overset the principles upon which it is established. It will be totally subversive of the old established doctrine that allegiance and land go together; a person owing no allegiance to a sovereign, ought not to hold lands under its protection, because he cannot be called upon and obliged to give that support which invasion or insurrection may render necessary. But with respect to residence and probation, before an alien is entitled to the privilege of voting at elections, I am very clear it is necessary; unless gentlemen mean to render the rank of an American citizen the maygame of the world. Shall stories be told of our citizenship, such as

I have read in the Pennsylvania Magazine, of the citizenship there: if my memory serves me right, the story runs, that at a contested election in Philadelphia, when parties ran very high, and no stone was left unturned, on either side, to carry the election, most of the ships in the harbor were cleared of their crews, who, ranged under the masters and owners, came before a magistrate, took the oath of allegiance, and paid half-a-crown tax to the collector, as the constitution required, then went and voted, and decided the contest of the day. On the return of one of the vessels, whose crew had been employed in the affair of the election, they fell in with a shoal of porpoises off Cape Henlopen: "Ha!" said one of them, "what merry company have we got here! I wonder where they are going so cheerfully?" "Going," replied one of his comrades, "why, going to Philadelphia, to be sure, to pay taxes and vote for Assembly men!" I hope, Mr. Chairman, we have more respect for our situation as citizens, than to expose ourselves to the taunts and jeers of a deriding world, by making that situation too cheap.

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Mr. BURKE said, no person ought to be permitted to inherit by descent in America, unless the same privilege was reciprocated by other nations; perhaps this point would be properly settled by treaty, and it would be well to introduce a provisional clause to this effect. He was also in favor of admitting foreigners to hold lands on easy terms, if they would come to reside among us: and here he would take an opportunity of doing justice to some of them, as it might be supposed, from what had fallen from various parts of the House, that foreigners, educated under a monarchy, were inimical to the pure principles of republicanism. He was convinced that this doctrine was untrue, because he had often remarked, that foreigners made as good citizens of republics as the natives themselves. Frenchmen, brought up under an absolute monarch, evinced their love of liberty in the late arduous struggle; many of them are now worthy citizens, who esteem and venerate the principles of our Revolution. Emigrants from England, Ireland, and Scotland, have not been behind any in the love of this country; so there is but little occasion for the jealousy which appears to be entertained for the preservation of the Government.

Mr. TUCKER thought the bill must be recommitted; but he did not wish it done till the sense of the House was known on some of the various points that had presented themselves during the debate. With respect to the latter part of the first clause, he agreed with the gentleman from Maryland, (Mr. SENEY,) that we ought to provide a rule of naturalization, without attempting to define the particular privileges acquired thereby under the State Governments. By the Constitution of the United States, the electors of the House of Representatives are to have the qualifications requisite for electors of the most numerous branch of the State Legislatures. He presumed it was to be left to the discretion of the State constitutions, who were to be the electors of the State Legislatures, and therefore the General Government had no right to interfere therein.

Mr. HARTLEY observed, that the subject was entirely new, and that the committee had no positive mode to enable them to decide; the practice of England, and the regulations of the several States, threw some light on the subject, but not sufficient to enable them to discover what plan of naturalization would be acceptable under a government like this. Some gentlemen had objected to the bill, without attending to all its parts, for a remedy was therein provided for some of the inconveniences that have been suggested. It was said the bill ought to extend to the exclusion of those who had trespassed against the laws of foreign nations, or been convicted of a capital offence in any foreign kingdom; the last clause contains a proviso to that effect, and he had another clause ready to present, providing for the children of American citizens born out of the United States.

Mr. LIVERMORE thought the bill very imperfect, and that the committee ought to rise, and recommend it to be referred to a select committee; observing, that it was extremely difficult for fifty or sixty persons to arrange and make a system of a variety of motions and observations that had been brought forward.

On the question being put, the committee rose and reported, and the bill was recommitted to a committee of ten.^[33]

MONDAY, February 8.

Public Credit.

The House then resolved itself into a Committee of the Whole on the state of the Union. The report of the Secretary of the Treasury relative to a provision for the support of public credit was before them. Mr. BALDWIN in the chair.

After a silence of some minutes,

Mr. LIVERMORE asked, what part of the report it was expected that gentlemen should speak to? He wished some gentleman would select such parts as he conceived to be of importance, and submit them to the committee.

Mr. SMITH (of South Carolina) was of opinion, that the committee had better consider the object of the report, in separate points of view, by which means they would be able to go through the investigation with a greater degree of accuracy than if they were left to range at large in the extensive field before them. The report contains objects so various, that it is possible gentlemen may agree, with respect to one or two, and yet differ on a third: from this consideration, he was induced to suggest the idea of single and independent resolutions, and had prepared the following: if the manner met the approbation of the committee, he would lay them on the table for consideration. They were to the following effect:

Resolved, That Congress ought not adjourn, until they have adopted such measures as will make an adequate provision for the public debt.

Resolved, That in making such provision, no discrimination shall be made between the original holders of the evidences and the assignees thereof.

Resolved, That such of the debts of the individual States as have been incurred by them, during the late war, ought to be assumed by the General Government, and like funds provided for them.
[34]

Resolved, That the arrearages of interest, on the Continental and State debts, ought to be funded, and consolidated with the principal.

Resolved, That the interest to be paid thereon does not exceed — per cent. per annum, for the present. [Pg 191]

These motions were severally expressive of objects contemplated in the Secretary's report. The last was upon a principle of modification, such as was held out in the plan for reloading the debt.

TUESDAY, February 9.

Public credit: Providing for the public debt: Assuming the State debts: Funding their certificates: Report of General Hamilton, Secretary of the Treasury.

[To the first object, that of providing for the public debt, there was no objection; to the assumption and the funding there was a strenuous opposition, and their adoption became one of the landmarks of party.]

Mr. JACKSON.—Believe me, Mr. Chairman, I have as high a sense of the obligation we are under to the public creditors, and feel as much gratitude towards them as any man on this floor. I shall ever cheerfully acknowledge the duty we owe to our benefactors, and in a peculiar manner to those brave soldiers who, at the risk of their lives and fortunes, secured the independency of America. I have also the most sincere wishes for the re-establishment of public credit, and that upon firm and solid ground, and on principles which cannot be called in question; but there appears to me a previous question, which has not yet been brought forward; it is this, whether there exists an immediate necessity for funding the national debt in the permanent manner proposed?

The high regard I have for the nature and circumstances of the foreign debt, induced me to let the first proposition pass without any animadversion. The vote which has been taken on that point will serve to show foreigners that we are concerned to preserve our credit with them by a rigid performance of our stipulations; trusting, at the same time, that our fellow-citizens cannot object to a distinction so just and proper in itself; for, notwithstanding what the domestic creditors may say, it is the money of foreigners that has, in a great measure, established our independence.

It is doubtful with me whether a permanent funded debt is beneficial or not to any country; some of the first writers in the world, and who are most admired on account of the clearness of their perceptions, have thought otherwise, and declared that wherever funding systems have been adopted in a Government, they tend more to injure posterity than they would injure the inhabitants to pay the whole debt at the time it was contracted. The principle, I apprehend, is demonstrated by experience; the first system of the kind that we have any account of originated in the State of Florence in the year 1634; that Government then owed about £60,000 sterling, and being unable to pay it, formed the principal into a funded debt, transferable with interest at five per cent. What is the situation of Florence in consequence of this event? Her ancient importance is annihilated. Look at Genoa and Venice; they adopted a similar policy, and are the only two of the Italian Republics who can pretend to an independent existence, but their splendor is obscured; they have never been able since the period at which a funding system was introduced to raise themselves to that formidable state to which they were before. Spain seems to have learned the practice from the Italian Republics, and she, by the anticipation of her immense revenue, has sunk her consequence beneath that level which her natural situation might have maintained. France is considerably enfeebled, and languishes under a heavy load of debt. England is a melancholy instance of the ruin attending such engagements. In the reign of King William, 1706, the policy of the English Parliament laid the foundation of what is called their national debt; but the sum was inconsiderable; it little exceeded £5,000,000 sterling; the example then set has been closely followed. In 1711, it amounted to £9,177,769 sterling, during the wars in the reign of Queen Anne; since that, the capital of the debt of Great Britain amounted, in 1777, to about £136,000,000 sterling; and to such a pitch has the spirit of funding and borrowing been carried in that country, that in 1786, their national debt had increased to £230,000,000 sterling; a burthen which the most sanguine mind can never contemplate they will ever be relieved from. If future difficulties should involve that nation still further, what must be the consequence? The same effect must be produced that has taken place in other nations; it must either bring on a national bankruptcy, or annihilate her existence as an independent empire. Hence I contend that a funding system in this country will be highly dangerous to the welfare of the Republic; it may, for a moment, raise our credit, and increase our circulation by multiplying a new species of currency; but it must hereafter settle upon our posterity a burthen which they can neither bear nor relieve themselves from. It will establish a precedent in America that may, and in all probability will be pursued by the sovereign authority, until it brings upon us that ruin which it has never failed to bring, or is inevitably bringing, upon all the nations of the earth who have had

the temerity to make the experiment. Let us take warning by the errors of Europe, and guard against the introduction of a system followed by calamities so universal. Though our present debt be but a few millions, in the course of a single century it may be multiplied to an extent we dare not think of; for my part, I would rather have direct taxes imposed at once, which, in the course of a few years, would annihilate the principal of our debt. A few years' exertion in this way will save our posterity from a load of annual interest, amounting to the fifth, or perhaps the half of the sum we are now under engagements to pay.

But why, Mr. Chairman, should we hasten on this business of funding? Are our debts ascertained? The report of the Secretary of the Treasury proposes that we should not only fund the debts that are ascertained, but the unliquidated and unsettled debts due from the Continent; nor does the plan stop here, it proposes that we should assume the payment of the State debts—debts to us totally unknown. Many of the States, sir, have not yet ascertained what they owe; and if we do not know the amount of what we owe, or are to be indebted, shall we establish funds? Shall we put our hands into the pockets of our constituents, and appropriate moneys for uses we are undetermined of? But more especially shall we do this, when, in doing it, it is indisputably certain, that the encumbrance will more than exceed all the benefits and conveniences? Gentlemen may come forward, perhaps, and tell me, that funding the public debt will increase the circulating medium of the country, by means of its transferable quality; but this is denied by the best informed men. The funding of the debt will occasion enormous taxes for the payment of the interest. These taxes will bear heavily both on agriculture and commerce. It will be charging the active and industrious citizen, who pays his share of the taxes, to pay the indolent and idle creditor who receives them, to be spent and wasted in the course of the year, without any hope of a future reproduction; for the new capital which they acquire must have existed in the country before, and must have been employed, as all capitals are, in maintaining productive labor. Thus the honest, hard-working part of the community will promote the ease and luxury of men of wealth; such a system may benefit large cities, like Philadelphia and New York, but the remote parts of the continent will not feel the invigorating warmth of the American treasury; in the proportion that it benefits one, it will depress another.

Mr. SMITH, (of South Carolina.)—The report of the Secretary of the Treasury contains a proposition for the establishment of a sinking fund. I wish the gentleman who brought forward the resolutions under consideration, had included that part of the system in his propositions, as it might have had a tendency to ease the mind of the honorable gentleman from Georgia, and to have shown him that the public debt is not intended to acquire the permanency which he dreads. If our present debt cannot be paid off at once, all that can be done is to provide such funds for its gradual extinction as will morally ensure the object.

The gentleman has contended, that public funding is a public injury. I agree with him that funding a debt to a very great amount may be very injurious; yet funding a small debt is beneficial. But whether this is, or is not a fact, is not the object of our present inquiry; we are not in a situation to determine whether we will or will not have a public debt. We have it already, and it appears to me to be a matter of necessity that we should appropriate some funds for the payment of the interest upon it. When we consider the nature of the contract, for what it is we owe the money, and our ability to comply, it follows, of consequence, that we must pay; it follows as close as the shadow follows its substance; or as close as the night follows the day. The only question that can come before us is, the mode of doing it.

With respect to that part of our debt which is yet unascertained, I would just beg leave to observe, that it is not our fault that it remains in an unsettled state; neither is it the fault of those who have brought in their accounts and had them liquidated. Hence, it appears to me extremely hard that we should refuse to provide for the payment of those to whom we acknowledge ourselves to be indebted, because there are others whose claims against us are not yet adjusted. The argument, therefore, which relates to this point, as well as that which relates to the Western Territory, will apply ten years hence as well as now, and form an eternal pretext for deferring the business.

Mr. FITZSIMONS said, that the circumstances of the foreign debt were such as left no choice in our power, according to the plan proposed by the Secretary of the Treasury; but we have it in our power, and are recommended to make a different arrangement with respect to the domestic debt. I stated, when I introduced the resolutions, that they were intended to bring the Secretary's plan fairly before the committee. This resolution is differently worded on that account; but it may be observed, that the foreign creditors are not here to make a contract with the people of the United States, but the domestic creditors are; and we may hold out a modification to them for their acceptance. With respect to the means by which we shall be enabled to pay the interest and principal of our debt, this resolution has nothing to do, it leaves it to the consideration of the committee; and every gentleman will be perfectly at liberty to propose and support such as he supposes to be most suitable to our abilities.

Mr. LIVERMORE.—I do not clearly understand the import of the resolution before the committee. It seems worded rather in a doubtful manner. If it means, that funds ought to be appropriated for the payment of the interest and principal of the domestic debt, as the amount appears on the face of the certificates, I shall be totally against it; whether it pointedly carries that meaning or not, I cannot say.

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For my part, I consider the foreign and domestic debt to carry with them very material distinctions. The one is not like a debt, while the other has all the true qualities of one. However gentlemen may think on this subject, there is a great difference between the merits of that debt which was lent the United States in real coin, by disinterested persons, not concerned or

benefited by the revolution, and at a low rate of interest, and those debts which have been accumulating upon the United States, at the rate of six per cent. interest, and which were not incurred for efficient money lent, but for depreciated paper, or services done at exorbitant rates, or for goods or provisions supplied at more than their real worth, by those who received all the benefits arising from our change of condition. It is within the knowledge of every gentleman, that a very considerable part of our domestic loan-office debt arose in this manner. It is well known that loan-office certificates were issued as a kind of circulating medium, when the United States were in such straits for cash, that they could not raise the necessary supplies in any other way. And it is very well known, that those who sold goods or provisions for this circulating medium, raised their prices from six to ten shillings at least.

There is another observation I would beg leave to make. The prices at which our supplies were procured were such, even in hard money, that it might be said specie had depreciated, or, what amounted to the same thing, the commodities were sold for more than their current price; in many cases, half the price would now purchase the same thing. If so, there is as much reason that we should now consider these public securities in a depreciated state, as every holder of them has considered them from that time to this. There was a period at which they were considered of no greater value than three or four shillings in the pound; at this day they are not at more than eight or ten. If this, then, is the case, why should Congress put it upon the same footing as the foreign debt, for which they received a hard dollar for every dollar they engaged to pay? Could any possible wrong be done to those who hold the domestic debt, by estimating it at its current value? I do not speak of those only who have speculated in certificates. With respect to them, I do not see how a difference can be made. By the resolutions of Congress, and from the face of the papers, it appears that they were transferable.

It may be said, that there was some part of the domestic debt incurred by loans of hard money. There might be a small part lent in this way, but it was very small indeed, compared with the whole of the domestic debt. It is in the memory of every gentleman, that, before the beginning of the revolution, every State issued paper-money; it answered the exigencies of Government in a considerable degree. The United States issued a currency of the same nature, which answered their purposes, except in some particular cases, and these were effected by loans of certain sums of hard money. If any distinctions are to be made among the domestic creditors, they ought to be made in favor of such only, and that in consequence of the origin of the debt; while the great mass given for the depreciated paper, or provisions sold at double prices, ought to be liquidated at its real value. I cannot think it injustice to reduce the interests on those debts. I should therefore be against passing this resolution, if it carries in it the idea of paying the principal and interest, according to the face of the paper. It is well known, that a large proportion of this domestic debt was incurred for paper-money lent. To be sure Congress acknowledged its value equal to its name; but this was done on a principle of policy, in order to prevent the rapid depreciation which was taking place. But money lent in this depreciated and depreciating state, can hardly be said to be lent from a spirit of patriotism; it was a mere speculation in public securities. They hoped, by putting their money in the loan-office, though in a depreciated state, to receive hard money for it by and by. I flatter myself this prediction will never be effected.

The Secretary of the Treasury has offered some alternatives to the creditors, out of which they may make their election; but it seems to me that they, all of them, propose a reduction in the principal and interest, that they may have an annuity of two-thirds, at six per centum, or for the whole sum at four per centum, or they may accept of the other terms. Though this may make a reduction favorable to the public, yet this is not such a reduction as justice, in my opinion, requires; and as the resolution before the committee is intended to make way for the adoption of those principles, I shall vote against it, though I would rather it was passed over for the present, in order to see what is the sense of the House on making a specific provision for the payment of the debt.

Mr. PAGE was glad that the question had been asked the mover of the propositions on the table what was the object of the resolution now under consideration, because it was liable to be misunderstood. But now, he presumed, the answer had satisfied every gentleman's mind.

The gentleman from New Hampshire was pleased to observe, that foreigners were not interested in the late revolution; that what they did was from such motives as demanded our gratitude; but our citizens were deeply interested, and, I believe, if they were never to get a farthing for what is owing to them for their services, they would be well paid; they have gained what they aimed at; they have secured their liberties and their lives; they will be satisfied that this House has pledged itself to pay to foreigners the generous loans they advanced us in the day of distress. If we were to make distinctions adverse to their interests, we could never expect from them a further favor in the future exigencies of this country. But we may also look with confidence at home for loans and services; on such occasions they will be supplied us on the principles of patriotism; the adoption of the first resolution was therefore politic and just, but the motion of my worthy colleague is not necessary. I feel for my fellow-citizens who have gloriously exerted themselves in the salvation of their country by their services in the field, or the supplies which they yielded, as much as any man can do. I acknowledge the debt of gratitude the community owes to those select citizens, and am willing to pay it as far as we possibly can; but they cannot, they will not complain of the deference we have shown to others, whose particular situation merited such regard at our hands.

Mr. SCOTT.—I find myself obliged to consider the Government of the United States in a very different situation, with respect to our foreign and domestic creditors. With respect to the foreign debt, we, the representatives of the United States, are vested with full power, and we are bound

in duty to provide for the punctual payment according to the nature of the contract; but when I turn my eyes to the domestic debt, I find myself in a very different situation. I conceive myself a mere arbiter among the individuals of which the Union is composed. A part of the people have a claim upon somebody. I think that claim is against the people at large, and we are not only to provide for the payment of that claim, if just, but to determine whether that claim is just or not. One part of the community applies to us to recover of the other what is due to it; the other says, the debt is too large, it is more than is justly due; you must try and determine between us, and say what part is just, and what is not. This brings clearly into my view the whole subject, as a thing within the power of Congress to new model or modify, if we find that justice demands it; but we have no such authority with respect to the foreign debt. It is very clear to me, that we have the power to administer justice and impartiality among the members of the Union; and this will lead me freely to assert, that we have not only authority, but it is our duty, if, on examination, we find that not more than half the sum that is claimed is justly claimed, to strike off the other half.

Mr. BOUDINOT.—I am glad to see gentlemen bring into view principles on which to determine the great question before us; because, when they are once established, they will enable us to proceed with certainty to a decision. If the principles brought forward by the honorable gentleman from Pennsylvania are just, his arguments are of great weight; but if, on consideration, we shall find that the principles are unjust, then I presume, however cogent the system of reasoning he has founded thereon, it will not prevail. He supposes we sit here as judges to determine the different claims of the creditors of the United States. If we are in that predicament, I agree we ought not to proceed but on full evidence and hearing of those claims. But I have never hitherto been led to consider Congress in this light, nor can I now consider them in any such point of view. I consider the Congress, who entered into these engagements, as complete representatives of the United States, and, in their political capacity, authorized, by the articles of Confederation, to contract the debts for which our public faith is pledged; instead of being judges, or arbitrators, on this occasion, we are parties to the contract; nor is our case varied, by the dissolution of the old Confederacy, because the existing constitution has expressly recognized the engagements made under the former. All debts contracted before the adoption of this constitution, shall be as valid against the United States, under this Government, as under the Confederation. Now is the moment to establish the principle; if the constitution admits the borrowing of money, or paying for supplies, to be a contract, we are one of the parties to this contract, and all idea of being arbiters must vanish. We cannot judge in our own cause. The case will now stand clear; we owe a debt, contracted for a valuable consideration. The evidences of our debt are in the hands of our creditors, and we are called upon to discharge them; if we have it in our power, we ought to consider ourselves bound to do it, on every principle of honor, of justice, and of policy; but as we have not the ability to pay the whole off, nor, perhaps, the whole interest, we must endeavor to make such a modification as will enable us to satisfy every one. Not that this modification shall take place without the consent of the creditors; this would be improper and unjust. Each party is as much to be consulted on this occasion, as it was at the time of the first contract. If, then, Congress is bound by the first contract, no gentleman can say we are judges. If we are parties, what would be the decision before a court of justice? The creditor produces my bond, by which I have bound myself to pay a hundred dollars; I cannot gainsay the fact; no man is allowed to plead that he has made a bad bargain, and that at other times, he could have purchased what he got of the creditor at half the sum he was forced to allow him. The inquiry with the judges is not, whether the debtor made a good bargain or not, but whether he did it fairly and voluntarily. We are in the same predicament if we fairly and honestly received the *quid pro quo*; we are bound, as parties to the honest performance of the contract, to discharge the debt; otherwise, what avails the clause in the constitution, declaring all debts contracted, and engagements entered into, before the adoption to be as valid against the present Government as they were under the old Confederation? The debt was *bona fide* contracted; it was acknowledged by the United States; and the creditor received a certificate as to the evidence of his debt. It is immaterial to us what he did with it. I confess, if the original holder was to come forward, and say that he had been robbed of such evidence, we ought not to pay it until the point was ascertained in a court of justice.

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Some observations were made to point out a difference between the foreign and domestic debt. I admit there is a distinction, and that in another instance, which has not been mentioned. His Most Christian Majesty, when he first became our important ally, presented Congress with a large sum of money; but this being insufficient to procure us the necessary supply of military stores, a loan was made us from the royal coffers of France. But this also being inadequate, we endeavored to obtain further aid from foreigners. The credit of the United States was so much impaired, as to hold out but little encouragement to individuals to trust us with their money. The French King added another mark of his distinguished attention: he guarantied the loan, and the money was obtained—obtained of the widow and fatherless; of persons whose all depended upon a punctual payment of the interest. On this point I could refer you to letters from our commissioners in Europe, who beg that we may not put them on this business, unless we are certain that the United States will carefully provide for the payment of the interest; because, in case of failure, hundreds must perish for want. This is another motive why we should attend to the performance of our contracts; and I will repeat again, it is what we are called upon to do upon every principle of honor, justice, and policy.

Mr. LAWRENCE.—The observations of the honorable gentleman from Pennsylvania, (Mr. SCOTT,) if I rightly understand them, apply to the principal, and not the interest of the domestic debt. He imagines it to be too large; that is, that the individual who performed services, or rendered

supplies during the late war, received evidences of rather too great nominal value; and that, at this period of time, it is necessary to investigate every particular claim, and judge whether the balances are respectively due or not. The gentleman has distinguished between the foreign and domestic creditor on this point; he supposes the foreign debt ought not to be re-examined, because the holders of it are unconnected with our Government. They lent us money, and we are bound according to the precise terms of the contract. Here I agree with him; but that there should be a solid distinction in justice between the foreign and domestic creditor is to me a singular thing. It was observed, that the citizens of America would be well paid for their loans, supplies, and services, by the benefits and profits arising to them by the revolution; but are we to sacrifice the claims of individuals of the community for the advantage of the whole? Who are benefited by the revolution? Every citizen. Then every citizen is bound to contribute his equal part of the expenses attending the procurement. Should those of our citizens who furnished the supplies, or loaned their money, be the only class who are injured? Every citizen is bound to pay according to his ability, because every one has participated in the benefits: then the only question to ask is, whether this discrimination should be made to ascertain or new proportion the debt? This will lead me to inquire whether it is proper for us, after the resolution we passed at the last session, after the resolution we have just now passed, to scale the public debt anew? Shall we say that the evidence carries on its face fraud and deception? I contend we shall not. Why shall we liquidate a debt which is established upon a complete and final settlement? From the face of the evidences arises the demand, and that is the demand we are to make provision for. Shall we go to our officers and soldiers who served during the late war, individually, and say that the balance struck to be due to them is an imposition on the public, when the Government itself has determined that they were entitled to such particular reward? If, at the time those securities were given to them, Government had paid them in money, would any gentleman now contend that their accounts ought to be reliquidated, and every individual called upon to refund a part of what he acquired in conformity to the laws of this country? Certainly no gentleman would contend for such a measure. How is the nature of the case altered from the circumstances of our having been so unfortunate as to pay those worthy men with a certificate in lieu of the money which was due? The nature of the case, I conceive, is perfectly the same; and we are in duty bound to make a full compensation. The face of the paper expresses what that is, and it is to be our guide; the demand surely is not to be lessened.

Mr. JACKSON said there were, most surely, principles on which to ground a discrimination betwixt a foreign and domestic creditor; if there was no other, there was this, that the domestic creditors are those that are bound to pay the foreign creditors their demand; they ought, consequently, to do justice to others, by a punctual payment, before they require a discharge of their own claims.

Mr. AMES did not conceive it material to inquire whether there be an equal obligation on the people of the United States to pay their foreign and domestic creditors, when they meant to pay both; but if it is intended to reduce the principal of either, it will lead us into a discussion of the principles on which such a measure ought to be founded. The honorable gentleman from Pennsylvania (Mr. SCOTT) probably intends by the amendment to have a reduction of the debt; I have, said he, so much respect for the good sense and upright intentions of that honorable gentleman, that I will not impute to him unworthy motives; nor do I believe that he governs his conduct in private life by maxims which I suspect to be contained in the amendment now before us. I would not be understood, by any means, to convey an improper reflection upon the opinions of any one. The science of finance is new in America; a gentleman may therefore propose the worst of measures with the best intentions. What, let me inquire, will be the pernicious consequences resulting from the establishment of this doctrine? Will it not be subversive of every principle on which public contracts are founded? The evidences of the debt, possessed by the creditors of the United States, cannot, in reason, justice, or policy, be considered in any other light than as public bonds, for the redemption and payment of which the property and labor of the whole people are pledged. The only just idea is, that when the public contract a debt with an individual, that it becomes personified, and that with respect to this contract, the powers of Government shall never legislate. If this was not the case, it would destroy the effect it was intended to produce; no individual would be found willing to trust the Government, if he supposed the Government had the inclination and power, by virtue of a mere major vote, to set aside the terms of the engagement. If the public in such a case is, as I have said, personified, what conceivable difference is there, except in favor of the creditor, between the public and an individual in the case? If, then, the public contract is a solemn obligation upon us, we are bound to its true and faithful performance. What is the object for which men enter into society, but to secure their lives and property? What is the usual means of acquiring property between man and man? The best right to property is acquired by the consent of the last owner. If, then, an individual is possessed of property, in consequence of this right, how can Government, founded on this social compact, pretend to exercise the right of divesting a man of that object which induced him to combine himself with the society? every gentleman may determine this question by his own feelings. Shall it be said that this Government, evidently established for the purpose of securing property, that, in its first act, it divested its citizens of seventy millions of money, which is justly due to the individuals who have contracted with Government! I believe those gentlemen, who are apprehensive for the liberties and safety of their fellow-citizens, under the efficiency of the present constitution, will find real cause of alarm from the establishment of the present doctrine. I have heard, that in the East Indies the stock of the labor and property of the empire is the property of the prince; that it is held at his will and pleasure; but this is a slavish doctrine, which I hope we are not prepared to adopt here. But I will not go further into a consideration of the idea of discrimination. I will ask, though, is this country ever to be in a settled and quiet state? Must every transaction that took place, during the course of the last war, be ripped up?

Shall we never have done with the settlement and liquidation of our accounts?

Mr. LIVERMORE.—The arguments advanced by the gentlemen from Massachusetts and New York prove too much, and therefore prove nothing. That the late Congress had, at all times, from their first institution, the power to contract debts, for the benefit of the United States, cannot be denied; and that we are authorized to pay such debts, is equally certain. But this by no means contravenes the opinion of those gentlemen who think, that the whole may be properly considered and discharged at the rate which justice requires; for the same argument which is urged for the payment of the public securities at their nominal value, might be urged in favor of paying off the Continental debts of credit, according to the sums expressed on the face of them. They were issued with as much confidence, and were received with as much reliance on the public faith, as any species of securities whatever; yet, it seems to be given up on all hands, that the owners of the old Continental paper bills ought not to be paid according to their nominal value. Perhaps it may be said, on comparing them with the loan-office certificates, that the United States had not the benefit of that money; but had they not the value of it? It will be answered, that when the money was first issued, Congress had nearly the value for it; but afterwards the money greatly depreciated, and they had not the full value for it, yet the obligation to pay it is as explicit as words can make it. No advocate will be found for making all that money good. It has been thought proper, and it is just, that it should be reduced from its nominal value; if it is reduced on a scale of one hundred for one, the holders of it, I dare say, would cheerfully receive that sum. If the United States then had value for it, and if they had not value for the certificates, who can doubt of the justice of reliquidating, and duly ascertaining the public debt? All I contend for is this, that the present Government pay the debts of the United States; but as the domestic part of the debt has been contracted in depreciated notes, that less interest should be paid upon it than six per cent. Six per cent. was the usual interest upon the certificates when they were issued by Congress; but if the possessor has received no part of this six per cent. until this time, that now the principal and interest be consolidated into one sum, hereafter to bear an interest of three or four per cent.; then those citizens, who now stand as creditors of the Union, will find that part of their property has been the most productive of any, much more productive than the property of the citizens of the United States has generally been. Those who lent their money to individuals before and during the late war, generally lost or suffered by the depreciation some three-quarters of the capital; nay, some thirty-nine fortieths. But is this the case of the domestic creditor of the United States? No! he will preserve his property, through the chaos of the revolution, and be put now in a more eligible situation than he was at the time when he loaned the money. The capital sum which he lent is now increased, and very rapidly increased, for six per cent. is a very large interest. He will now receive 160 dollars for his 100, and putting that into the funds, at three or four per cent. he will find it more productive than any other method in which he could employ his money; for, I contend, that neither improved, nor unimproved lands, will give an interest near half of what the public creditor will receive. People who have held real property have sunk, with the taxes, and other losses, the greatest part of it; but the public creditor has let his run through the confusion of the revolution, and nevertheless gets it returned to him safe; and, so far from being impaired, that he has prodigiously accumulated, not only in a manner superior to the property of his fellow-citizens, but superior to the foreigner who lent his money at four per cent. Justice and equity require, on the behalf of the community, that these people be content with reasonable profit. They ought not, therefore, to receive, on a funded debt, so much as six per cent.; whether three or four, or something between three and four, would be a proper sum, I shall not pretend to determine. But I consider it a proper question for this committee to consider, in justice to those who are to pay, as well as to those who are to receive; nor do I believe the domestic creditors would be dissatisfied with it, provided they were sure of receiving this annual interest; for their debts, on such a footing, would be better to them than if they were established on an extravagant plan that could never be effected, but which would be likely to throw the nation into confusion. Every body has suffered more or less by the depreciation, but the public creditors very little, in regard to that part of their property which they had deposited in the hands of Government: it is true, that it has slept; but it is now waked up to some purpose.

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Mr. SCOTT.—A great deal has been said on a great principle that must be attended to in some stage of this business; but gentlemen have been led into a more extensive discussion on the doctrine of discrimination than I had any idea of when I proposed the amendment. It has been urged by some of the gentlemen, that however just my principle is, that the Legislature is in the quality of an arbitrator, yet we cannot adopt the amendment; others again have said, that the debt is a contract between the Government and the individual, and that we being parties we cannot be judges; for it is contrary to the principles of the law, that we should be judges in our own cause. If, in national transactions like this, interesting to our citizens only, the Government is to be supposed one party, and the individual the other party, I would ask the gentleman who is the judge? Can two parties exist in a well organized Government to dispute about property, and have no judge? The very idea must induce the gentleman to abandon his ground. It has been said, as the foundation of an opinion, that there is a great similitude between a certificate and a bond that is brought into court to demand payment upon; that no opposition can be made; that no plea can be entered; but I would wish to ask the gentleman who made the remark, as a professional man, whether the want of consideration would not be a good plea? In Courts of Equity, relief can be given against *prima facie* evidence.

Mr. BOUDINOT.—I am a friend to the discussion of every principle on which the great business before us may be supposed to turn, because I have a great desire that they should be settled on full information, that the public, as well as ourselves, may be satisfied with their propriety. This

leads me again to notice the arguments which have been urged in favor of considering this body as judges or arbitrators between the public and the individuals who have claims upon the public.

It must appear to the satisfaction of every unprejudiced mind, from the resolutions of the late Congress, that they acknowledge themselves a party on behalf of the public, to every engagement they entered into for services, supplies, or moneys loaned. If then it is admitted that the late Congress were parties to the contract, we must agree that our situation is precisely the same, because we stand in their shoes; and in my former argument I urged, if we are parties we cannot be judges.

Mr. JACKSON.—If there is no part of the debt of the United States unliquidated, besides the two millions which the gentleman alludes to, yet there is a very considerable part of what is in contemplation to fund, as Continental debt, not at present ascertained. I mean the State debts. The Secretary himself had no evidence before him, from which he could make a probable guess of the amount; if these are to be assumed by the General Government, I presume the General Government ought to be at liberty duly to ascertain them; and, therefore, the amendment proposed by the honorable gentleman from Pennsylvania ought to be admitted.

The honorable gentlemen who are in opposition, contend that no sort of discrimination ought to take place; yet from what they have let fall, on this occasion, I am led to believe that they favor that part of the report of the Secretary which makes a discrimination, in fact, equal to a loss of one-third of the principal. What will hold good in one case ought to hold good in another, and a discrimination might take place upon the same principles, between those to whom the Government was originally indebted, and who have never received satisfaction therefor, and those who had nothing to do with the Government in the first transaction; but have merely speculated, and purchased up the evidence of an original debt. Some gentlemen think, that the claims of this latter class merit a greater degree of attention, because by their actions, they seem to have evinced a greater degree of confidence in the Government than those who sold them. But, sir, these men have had more information, they have been at the seat of Government, and knew what was in contemplation before citizens of other parts of the Union could be acquainted with it. There has been no kind of proportion of knowledge between the two classes—to use the expression of a British Minister, the reciprocity has been all on one side. The people in this city are informed of all the motions of Government; they have sent out their money, in swift sailing vessels, to purchase up the property of uninformed citizens in the remote parts of the Union. Were those citizens acquainted with our present deliberations, and assured of the intention of Congress to provide for their just demands, they would be on an equal footing; they would not incline to throw away their property for considerations totally inadequate. Such attempts at fraud would justify the Government in interfering in the transactions between individuals, without a breach of the public faith; but this, sir, is not the object of the present motion, it only goes so far as to ascertain the amount of the debt, before we make provision for the payment; and this appears to me to be proper upon every principle of justice and discretion.

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Mr. BURKE wished the question postponed till to-morrow, as it was a subject of such high importance. He moved the committee to rise; whereupon the committee rose, and reported progress.

WEDNESDAY, February 10.

Public Credit.

The House again went into a Committee of the Whole, Mr. BALDWIN in the chair, on the report of the Secretary of the Treasury.

Mr. SCOTT's amendment being still under consideration.

Mr. SCOTT.—Some time was spent yesterday in the consideration of this subject; in my opinion, that time was not ill spent, nor would two or three days more be ill spent in discussing the question, for it involves in it the whole doctrine of discrimination and liquidation. If these two great points are once settled, the way will be clear and open before us to proceed to the discussion of the report: for if the principles of the report are good, I believe the plan itself is good. I believe, upon the principles which it holds forth, that it is wisely and judiciously drawn out, and does great honor to the officer who framed it. But it is incumbent on us to examine its principles before we adopt it; if they do not consist with equity and justice among the several inhabitants of the Union, they must be rejected. Now I doubt whether they consist with that equity and justice; I think there are others on this floor who have their doubts also. I wish, therefore, that we should coolly examine those principles, consult our judgment and understanding, and when we have collected all the information we can get from each other, we may determine; and when we have determined this, and the two grand points I have mentioned, our business will be easy.

In support of the principles held out in the report, it is said that a solemn contract is entered into that cannot be violated; that the debt is ascertained and cannot be extinguished, but by the absolute payment of what it acknowledged to be due. Now, I doubt whether the necessary concomitants of a contract to the amount mentioned on the face of the paper, really accompanies the public securities. Let us revert back to the time that this contract was entered into. At the close of the war, at the commencement of issuing final settlements, there was a demand against the United States for real and essential services rendered; the claimants came forward, and asked something for their demand. Congress having no money to give them, offered something;

what? A certificate to a certain nominal amount; nay more, of a certain known value; the nominal amount was twenty shillings, the certain known value was two and sixpence. Did the soldier accept of this offer? Yes. On what principle did he accept it? He knew it was putting the capstone on the building which he had erected by his labor and cemented with his blood. I have done you services, said he, to the amount of twenty shillings, but you are poor and unable to pay me; I will accept now of your two and sixpence, and give you a discharge. Thus, the soldier who had, through blood and slaughter, established the liberties of his country, crowned the whole by the sacrifice of pecuniary emoluments. His consent was given to the contract, and he received two and sixpence in the pound. Now, if there is any other contract existing like this, I cannot see it. The soldier never received it, nor the officer who handed it out, never believed it to be worth more than two and sixpence in the pound. It was like compounding a debt by the consent of the creditor, and there an equal liquidation ought to take place. If this reasoning is right, we know the value at once of our paper currency; if it is not right, I would wish to know upon what principle of rationality, a rate can be established for the value of our certificates.

Mr. BOUDINOT.—I am convinced that the principles laid down by the gentleman from Pennsylvania, if true, ought to effect the final determination of this question; and if I was satisfied with them, I should clearly vote with him. If I was convinced that the certificates, at the time they were given out, were worth no more than 2s. 6d. in the pound, and that the creditors received them at that price, in full discharge of their demands, I should be very loath to raise them to so great a value; I would treat them precisely the same as Continental money. I should think that the public did complete justice by complying with the terms of their contract; while this is a matter of dispute we can never agree in our determination. But if I can show that this is not the case, that he has not looked into the origin of this debt, so as to be well ascertained of the fact, I hope he will give up his opinion, and join with me in the conclusion.

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The debt of the United States is of four kinds; first, paper money; second, money lent; third, the pay to the army, including commutation, and the allowance for depreciation; and fourth, certificates, or evidences of the debts due from the United States to individuals, for supplies furnished, or services rendered at different periods of the last war. As to the bills of credit, I mentioned yesterday that they stand upon a different footing from the rest; because it was one of the parties who ascertained their depreciation, contrary to the opinion of the other, who had a desire of keeping them up to their nominal value. The money loaned to the United States, is a debt which we are bound to pay, on every principle of honor and justice; nor can it be said that the certificate given to the person who loaned the money, was given as a payment in discharge of the debt. With respect to the army, including commutation, I shall beg leave to read two or three resolutions of Congress, to show that Congress had a different idea of the certificates they gave to the officers and soldiers, in evidence of the balance of their account, which is still due. When they were first issued to the soldiers, Congress guarded them from being transferable; but as the soldiers could get nothing for them in that form, upon representation, Congress passed another resolution, by which they were made transferable, in order that the soldier might avail himself of the acknowledgment of Congress in his favor; (the resolutions referred to were in May, 1783, April, 1784, and June, 1784.) This recurrence to the resolutions of Congress, under which the evidences of the debt were issued, sufficiently explodes a supposition, that they were understood to be worth no more than 2s. 6d. in the pound, at the time they were issued and received. From the personal knowledge I have of the transactions of that time, I can venture to say, that no idea of payment was ever entertained. They were, in fact, and were so considered, evidences of the liquidated and specific sums due to the creditors of the United States. The step which Congress took for the benefit of the army, in making their certificates transferable, so far from accommodating them, would have proved a real injury. If the assignee had supposed himself to stand in a less eligible situation than the assignor, he never would have been induced to have given him the price which he did. If the soldier had received a certificate of twenty shillings, as only 2s. 6d. nobody would have inclined to have given him 2s. 6d. for it, because he could never expect to obtain a repayment of a greater sum, even in such money as Congress should find convenient; upon every principle of assignation of debts or contracts, such an idea ought to be reprobated.

Mr. SEDGWICK.—I will express my idea on the point which the gentleman has made an inquiry respecting, in a few words. I said, that I conceived a delay of this business would endanger the peace of the Union by diminishing the energy of the Government, without which this constitution would be of no value. These are considerations which must appear weighty and important, if justly considered by the committee. A great and respectable body of our citizens are creditors of the United States. There are a variety of opinions prevailing respecting their claims, with respect to funding, discrimination, and interest. This diversity of opinion may probably irritate and produce heats and animosities, which may terminate in forming factions among the people. The State debts may produce a difference between the General and particular Governments. If the matter is taken up as the business of a party, one may be pitted against the other, until, in the end, they disturb the public tranquillity, or sacrifice the general welfare to opposition and party spirit. Besides this, the reputation, the credit of the Government is at stake; the public expectation is alive to all the measures of Government at the present moment. They expect that justice and equity will be administered as far as the abilities of our country extend; it lies with the Legislature to realize this expectation. If Congress pursue the present inquiry, and come to a determination without delay, the public sentiment will be brought to a point, and a general acquiescence may be expected; but if it is postponed to a future session, such may be the effect of faction and disappointment during the recess, that the probability is, that no one party will comprise a sufficient number to comprehend the majority of the whole.

Mr. JACKSON.—Do not gentlemen think there is some danger on the other side? Will there not be ground of uneasiness when the soldier and the meritorious citizen are called upon to pay the speculator more than ten times the amount they ever received from him for their securities? I believe, Mr. Chairman, there is more just reason of alarm on this than on the other side of the question.

A gentleman from Pennsylvania (Mr. HARTLEY) has noticed my arguments of yesterday, respecting a funding system. I beg leave to make a few observations in answer to him. He has said, that a funded debt is of great advantage to a nation, and has adduced the situation of England as a proof, founded on experience. But England is a solitary example, and the force of that example dwindles into nothing, if we examine into the real cause of her seeming affluence. She does not owe much of respectability to her national debt; she owes the most of it, at present, to the troubles of other countries, and when those have subsided, the bubble of her credit may blow up, as did the South Sea project, for Government stock can never be considered as cash. The stock employed in agriculture, commerce, and manufactures may, by great prospects of advantage, be diverted into the hands of brokers, for the purpose of speculating further in the funds; but no real addition will be made to the means of productive industry, nor was any thing of this kind contemplated at the time funding was first introduced into England. We learn from *Blackstone*, that the reason for establishing a national debt, was in order to support a system of foreign politics, and to establish the new succession at the revolution; because it was deemed expedient to create a new interest, called the moneyed interest, in favor of the Prince of Orange, in opposition to the landed interest, which was supposed to be generally in favor of the king, who had abdicated the throne. I hope there is no such reason existing here; our Government, I trust, is firmly established without the assistance of stock-jobbers. We ought to reign universally in the hearts of our fellow-citizens, on account of the salutary tendency of our measures to promote the general welfare, and not depend upon the support of a party, who have no other cause to esteem us but because we realize their golden dreams of unlooked-for success.

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Mr. SMITH, (of South Carolina.)—If we were about to contract debts for the purpose of funding them, the observations of the gentleman from Georgia would apply; but we have already contracted them, and the only question is, shall we fund or pay? We must do one or the other. With respect to the remark of Blackstone, he is writing of an enormous public debt when he mentions it as injurious, because he expressly says, that "a certain proportion of debt seems to be highly useful to a trading people; but what proportion that is it is not for me to determine." To be sure he adds afterwards, "that the present magnitude of our national encumbrances very far exceeds all calculations of commercial benefit, and is productive of the greatest inconveniences." And here I agree with him: but our public debt is not of such enormous magnitude as to counterbalance the good effects of throwing out such a quantity of a stable paper as will answer all the purposes of a circulating medium.

Mr. TUCKER.—I very much applaud the gentleman who made the motion now before the committee, because he has boldly come forward to combat an opinion so generally received in this place, that many thought it could not be controverted by any man possessed of common honesty; and because I am persuaded, that he has done it with an honorable intention of substituting real and substantial justice, in the place of that which he deems to be only the name and the shadow.

Although it is probable I differ with the gentleman who moved the amendment, I am inclined to think a discrimination of some kind is equitable and necessary. I believe it may be fairly said, that there are three classes of domestic creditors. The first, those who hold the Continental bills of credit, which have been long out of circulation. Second, those who hold certificates that were given for services or supplies, in their own names. And, third, those who hold certificates by purchase. I would wish to consider the obligation to each of these three classes, and whether, in equity, some kind of discrimination may not be made. On a strict and impartial examination, I am inclined to believe they will not appear to be the same. I will now turn to the examination of the first; namely, the holders of the Continental bills of credit. The Secretary of the Treasury has reported in favor of some degree of provision being made for them. But, sir, what is the situation of the people who hold these bills? If I recollect rightly, the face of the bills declares, that the bearer shall be entitled to receive so many Spanish milled dollars as is therein expressed. When these bills were issued, their real value was equal to their nominal value; no person refused, or wished to refuse, them as such; but, in a short time, too large a quantity were issued, and they began to depreciate. Congress then recommended to the several States to pass tender-laws for the support of their credit. This was done by all the States; and they continued, in some of them, to pass as specie, under those laws, when they were depreciated twenty, thirty, and forty for one. Those people, who received them in this state, suffered a very great loss by an act of the Government, and many were ruined by the measure. When these bills had thus depreciated, Congress passed a resolution, calling them in at forty for one. This ordinance of Congress immediately reduced the claims of the first class of creditors by an arbitrary act of power. I do not pretend to say that the measure was unnecessary, but it was rigorous to deprive them of 39-40ths of their claims. Perhaps we cannot return to all the transactions of that time, because it would involve the Government in a thousand difficulties, and produce, perhaps, greater evils than it would remedy. But there remains a claim upon our justice to pay the holders one dollar, at least, for forty. By the act of Congress, which I alluded to before, these bills were thrown out of circulation, and have ever since lain in the hands of individuals. Now, it appears to me, that, in equity, we ought to make all the reparation in our power. Surely, then, we ought to allow interest on the principal from the time the bills were scaled, and forced out of circulation. These creditors, I take it, have a strong claim upon us; because the Government has materially injured

them, and the least satisfaction we can give them, is to put this part of the debt on the best footing we can; if we cannot do complete justice, let us approximate towards it as far as it is in our power. The second class of our creditors have obligations that are strong. It has been said, and generally passed current as an incontrovertible opinion, that those who transferred their certificates have conferred to the purchaser every claim they had upon the public. I mean, sir, to deny this assertion. There is a claim which they could not transfer, that is, a claim in equity; they were entitled to the principal sum when they presented their accounts to the United States, and we ought, in justice, to have paid it at that time; but, perhaps, from our inability to do this, we were obliged to force on them a certificate of the balance, with a promise to pay them an annual interest thereon; but a promise to pay the interest does not exonerate us from paying the principal, as soon as we have it in our power. Now, this is a claim which the original creditor, who parted with the evidence of his debt, did not transfer to the person to whom he sold it. The United States are under no contract with the purchaser who bought a loaned debt, to pay him any thing more than what the paper specifies, that is, to pay him the interest from year to year, but not the principal, until we find it convenient.

Then, with respect to the third class, if the residue of the revenue is insufficient to pay them the interest on their whole principal, I would give them certificates for such part as we are able to provide for the payment of the interest upon, at six per cent., to be paid in the same manner with the others. And I would give them other certificates for the remainder, on a like interest of six per cent., the payment whereof should commence at a fixed period, say three, four, or five years, as it might be found that the increasing resources of our country would, enable us to do; but I would undertake nothing now beyond our present ability.

THURSDAY, February 11.

[Mr. FITZSIMONS presented the address of the yearly (Quaker) meeting of Pennsylvania, New Jersey, Delaware, and the Western parts of Maryland and Virginia, held at Philadelphia, against the continuance of the African slave trade, and praying Congress to remove that reproach from the land, and Mr. LAWRENCE presented an Address to the same effect from the Society of Friends in New York.]

Mr. HARTLEY moved to refer the Address of the annual assembly of Friends, held at Philadelphia, to a committee; he thought it a mark of respect due to so numerous and respectable a part of the community.

Mr. WHITE seconded the motion.

Mr. SMITH (of S. C.)—However respectable the petitioners may be, I hope gentlemen will consider that others equally respectable are opposed to the object which is aimed at, and are entitled to an opportunity of being heard before the question is determined. I flatter myself gentlemen will not press the point of commitment to-day, it being contrary to our usual mode of procedure.

Mr. FITZSIMONS.—If we were now to determine the final question, the observation of the gentleman from South Carolina would apply; but, sir, the present question does not touch upon the merits of the case; it is merely to refer the memorial to a committee, to consider what is proper to be done; gentlemen, therefore, who do not mean to oppose the commitment to-morrow, may as well agree to it to-day, because it will tend to save the time of the House.

Mr. JACKSON wished to know why the second reading was to be contended for to-day, when it was diverting the attention of the members from the great object that was before the Committee of the Whole? Is it because the feelings of the Friends will be hurt to have their affair conducted in the usual course of business? Gentlemen, who advocate the second reading to-day, should respect the feelings of the members who represent that part of the Union which is principally affected by the measure. I believe, sir, that the latter class consists of as useful and as good citizens as the petitioners, men equally friends to the revolution, and equally susceptible of the refined sensations of humanity and benevolence. Why, then, should such particular attention be paid to them, for bringing forward a business of questionable policy? If Congress are disposed to interfere in the importation of slaves, they can take the subject up without advisers, because the constitution expressly mentions all the power they can exercise on the subject.

Mr. SHERMAN suggested the idea of referring it to a committee, to consist of a member from each State, because several States had already made some regulations on this subject. The sooner the subject was taken up he thought it would be the better.

Mr. PARKER.—I hope, Mr. Speaker, the petition of these respectable people will be attended to with all the readiness the importance of its object demands; and I cannot help expressing the pleasure I feel in finding so considerable a part of the community attending to matters of such momentous concern to the future prosperity and happiness of the people of America. I think it my duty, as a citizen of the Union, to espouse their cause; and it is incumbent upon every member of this House to sift the subject well, and ascertain what can be done to restrain a practice so nefarious. The constitution has authorized us to levy a tax upon the importation of such persons as the States shall authorize to be admitted. I would willingly go to that extent; and if any thing further can be devised to discountenance the trade, consistent with the terms of the constitution, I shall cheerfully give it my assent and support.

Mr. MADISON.—The gentleman from Pennsylvania (Mr. FITZSIMONS) has put this question on its proper ground; if gentlemen do not mean to oppose the commitment to-morrow, they may as well acquiesce in it to-day; and, I apprehend, gentlemen need not be alarmed at any measure it is likely Congress will take; because they will recollect, that the constitution secures to the

individual States the right of admitting, if they think proper, the importation of slaves into their own territory, for eighteen years yet unexpired; subject, however, to a tax, if Congress are disposed to impose it, of not more than ten dollars on each person. The petition, if I mistake not, speaks of artifices used by self-interested persons to carry on this trade; and the petition from New York states a case that may require the consideration of Congress. If any thing is within the Federal authority to restrain such violation of the rights of nations and of mankind, as is supposed to be practised in some parts of the United States, it will certainly tend to the interest and honor of the community to attempt a remedy, and is a proper subject for our discussion. It may be, that foreigners take the advantage of the liberty afforded them by the American trade, to employ our shipping in the slave trade between Africa and the West Indies, when they are restrained from employing their own by restrictive laws of their nation. If this is the case, is there any person of humanity that would not wish to prevent them? Another consideration why we should commit the petition is, that we may give no ground of alarm by a serious opposition, as if we were about to take measures that were unconstitutional.

Mr. *Stone* feared that if Congress took any measures indicative of an intention to interfere with the kind of property alluded to, it would sink it in value very considerably, and might be injurious to a great number of the citizens, particularly in the Southern States. He thought the subject was of general concern, and that the petitioners had no more right to interfere with it than any other members of the community. It was an unfortunate circumstance, that it was the disposition of religious sects to imagine they understood the rights of human nature better than all the world besides; and that they would, in consequence, be meddling with concerns in which they had nothing to do. As the petition relates to a subject of a general nature, it ought to lie on the table as information. He would never consent to refer petitions, unless the petitioners were exclusively interested. Suppose there was a petition to come before us from a society, praying us to be honest in our transactions, or that we should administer the constitution according to its intent, what would you do with a petition of this kind? Certainly it would remain on your table. He would, however, not have it supposed that the people had not a right to advise and give their opinion upon public measures; but he would not be influenced by that advice or opinion to take up a subject sooner than the convenience of other business would admit. Unless he changed his sentiments, he would oppose the commitment.

Mr. *BURKE* thought gentlemen were paying attention to what did not deserve it. The men in the gallery had come here to meddle in a business with which they have nothing to do; they were volunteering in the cause of others, who neither expected nor desired it. He had a respect for the body of Quakers, but, nevertheless, he did not believe they had more virtue or religion than other people, nor perhaps so much, if they were examined to the bottom, notwithstanding their outward pretences. If their petition is to be noticed, Congress ought to wait till counter applications were made, and then they might have the subject more fairly before them. The rights of the Southern States ought not to be threatened, and their property endangered, to please people who would be unaffected by the consequences.

Mr. *HARTLEY* thought the memorialists did not deserve to be aspersed for their conduct, if influenced by motives of benignity. They solicited the Legislature of the Union, to prevent, as far as is in their power, the increase of a licentious traffic; nor do they merit censure, because their behavior has the appearance of more morality than other people. Congress ought not to refuse to hear the applications of their fellow-citizens, while those applications contain nothing unconstitutional or offensive. What is the object of the address before us? It is intended to bring before this House a subject of great importance to the cause of humanity; there are certain facts to be inquired into, and the memorialists are ready to give all the information in their power; they are waiting, at a great distance from their homes, and wish to return; if, then, it will be proper to commit the petition to-morrow, it will be equally proper to-day, for it is conformable to our practice; besides, it will tend to their conveniency.

Mr. *LAWRENCE*.—The gentleman from South Carolina says, the petitioners are of a society not known in the laws or constitution. Sir, in all our acts, as well as in the constitution, we have noticed this society; or, why is it that we admit them to affirm in cases where others are called upon to swear? If we pay this attention to them, in one instance, what good reason is there for contemning them in another? I think the gentleman from Maryland (Mr. *STONE*) carries his apprehensions too far, when he fears that negro property will fall in value, by the suppression of the slave trade; not that I suppose it immediately in the power of Congress to abolish a traffic which is a disgrace to human nature; but it appears to me, that, if the importation was crushed, the value of a slave would be increased instead of diminished; however, considerations of this kind have nothing to do with the present question. Gentlemen may acquiesce in the commitment of the memorial, without pledging themselves to support its object.

Mr. *JACKSON*.—I differ much in opinion with the gentleman last up. I apprehend, if through the interference of the General Government the slave trade was abolished, it would evince to the people a disposition towards a total emancipation, and they would hold their property in jeopardy. Any extraordinary attention of Congress to this petition may have, in some degree, a similar effect. I would beg to ask those, then, who are desirous of freeing the negroes, if they have funds sufficient to pay for them? If they have, they may come forward on that business with some propriety; but, if they have not, they should keep themselves quiet, and not interfere with a business in which they are not interested. They may as well come forward and solicit Congress to interdict the West India trade, because it is injurious to the morals of mankind; from thence we import rum, which has a debasing influence upon the consumer. But, sir, is the whole morality of the United States confined to the Quakers? Are they the only people whose feelings are to be

consulted on this occasion? Is it to them we owe our present happiness? Was it they who formed the constitution? Did they, by their arms or contributions, establish our independence? I believe they were generally opposed to that measure: why, then, on their application, should we injure men who, at the risk of their lives and fortunes, secured to the community their liberty and property? If Congress pay any uncommon degree of attention to their petition, it will furnish just ground of alarm to the Southern States. But why do these men set themselves up in such a particular manner against slavery? Do they understand the rights of mankind, and the disposition of Providence, better than others? If they were to consult that book, which claims our regard, they will find that slavery is not only allowed but commended. Their Saviour, who possessed more benevolence and commiseration than they pretend to, has allowed of it: and if they fully examine the subject, they will find that slavery has been no novel doctrine since the days of Cain; but be these things as they may, I hope the House will order the petition to lie on the table, in order to prevent an alarm to our Southern brethren.

Mr. SEDGWICK.—If it was a serious question whether the memorial should be committed or not, I would not urge it at this time; but that cannot be a question for a moment, if we consider our relative situation with the people. A number of men, who are certainly very respectable, and of whom, as a society, it may be said with truth, that they conform their moral conduct to their religious tenets, as much as any people in the whole community, come forward and tell you, that you may effect two objects by the exercise of a constitutional authority, which will give great satisfaction. On the one hand, you may acquire revenue, and on the other, restrain a practice productive of great evil. Now, setting aside the religious motives which influence their application, have they not a right as citizens to give their opinion of public measures? For my part, I do not apprehend that any State, or any considerable number of individuals in any State, will be seriously alarmed at the commitment of the petition, from a fear that Congress intend to exercise an unconstitutional authority, in order to violate their rights. I believe there is not a wish of the kind entertained by any member of this body; how can gentlemen hesitate, then, to pay that respect to a memorial which it is entitled to, according to the ordinary mode of procedure in business? Why shall we defer doing that till to-morrow, which we can do to-day; for the result, I apprehend, will be the same in either case.

Mr. SMITH, (of South Carolina.)—The question, I apprehend, is whether we will take the petition up for a second reading, and not whether it shall be committed? Now, I oppose this, because it is contrary to our usual practice, and does not allow gentlemen time to consider of the merits of the prayer. Perhaps some gentlemen may think it improper to commit it to so large a committee as has been mentioned; a variety of causes may be supposed to show that such a hasty decision is improper; perhaps the prayer of it is improper. If I understood it right on its first reading, though to be sure I did not comprehend perfectly all that the petition contained, it prays that we should take measures for the abolition of the slave trade. This is desiring an unconstitutional act, because the constitution secures that trade to the States, independent of Congressional restrictions, for a term of twenty-one years. If, therefore, it prays for a violation of constitutional rights, it ought to be rejected as an attempt upon the virtue and patriotism of the House.

Mr. BOUDINOT.—It has been said, that the Quakers have no right to interfere in this business. I am surprised to hear this doctrine advanced, after it has been so lately contended and settled, that the people have a right to assemble and petition for redress of grievances. It is not because the petition comes from the society of Quakers that I am in favor of the commitment, but because it comes from citizens of the United States who are equally concerned in the welfare and happiness of their country with others. There certainly is no foundation for the apprehensions which seem to prevail in gentlemen's minds. If the petitioners were so uninformed as to suppose that Congress could be guilty of a violation of the constitution, yet I trust we know our duty better than to be led astray by an application from any man or set of men whatever. I do not consider the merits of the main question to be before us; it will be time enough to give our opinions upon that when the committee have reported. If it is in our power, by recommendation, or any other way, to put a stop to the slave trade in America, I do not doubt of its policy; but how far the constitution will authorize us to attempt to depress it, will be a question well worthy of our consideration.

Mr. SHERMAN observed, that the petitioners from New York stated, that they had applied to the Legislature of that State to prohibit certain practices which they conceived to be improper, and which tended to injure the well-being of the community; that the Legislature had considered the application, but had applied no remedy, because they supposed that power was exclusively vested in the General Government under the Constitution of the United States; it would, therefore, be proper to commit that petition, in order to ascertain what are the powers of the General Government in the case.

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Mr. GERRY thought gentlemen were out of order in entering upon the merits of the main question at this time, when they were considering the expediency of committing the petition. He should, therefore, not follow them further in that track than barely to observe, that it was the right of the citizens to apply for redress, in every case in which they conceived themselves aggrieved; and it was the duty of Congress to afford redress as far as in their power. That their Southern brethren had been betrayed into the slave trade by the first settlers, was to be lamented; they were not to be reflected on for not viewing this subject in a different light, the prejudice of education is eradicated with difficulty; but he thought nothing would excuse the General Government for not exerting itself to prevent, as far as they constitutionally could, the evils resulting from such enormities as were alluded to by the petitioners; and the same considerations induced him highly to commend the part the Society of Friends had taken; it was the cause of humanity they had

interested themselves in, and he wished, with them, to see measures pursued by every nation, to wipe off the indelible stain which the slave trade had brought upon all who were concerned in it.

Mr. MADISON thought the question before the committee was no otherwise important than as gentlemen made it so by their serious opposition. Had they permitted the commitment of the memorial, as a matter of course, no notice would have been taken of it out of doors; it could never have been blown up into a decision of the question respecting the discouragement of the African slave-trade, nor alarm the owners with an apprehension that the General Government were about to abolish slavery in all the States; such things are not contemplated by any gentleman; but they excite alarm by their extended objections to committing the memorials. Gentlemen may vote for the commitment of the petition without any intention of supporting the prayer of it.

Mr. WHITE would not have seconded the motion, if he had thought it would have brought on a lengthy debate. He conceived that a business of this kind ought to be decided without much discussion; it had constantly been the practice of the House, and he did not suppose there was any reason for a deviation.

Mr. PAGE said, if the memorial had been presented by any individual, instead of the respectable body from whom it emanated, he should have voted in favor of a commitment, because it was the duty of the Legislature to attend to subjects brought before them by their constituents; if, upon inquiry, it was discovered to be improper to comply with the prayer of the petitioners, he would say so, and they would be satisfied.

Mr. STONE thought the business ought to be left to take its usual course; by the rules of the House, it was expressly declared that petitions, memorials, and other papers, addressed to the House should not be debated or decided on the day they were first read.

Mr. BALDWIN felt at a loss to account why precipitation was used on this occasion, contrary to the customary usage of the House. He had not heard a single reason advanced in favor of it. To be sure it was said the petitioners are a respectable body of men; he did not deny it; but certainly gentlemen did not suppose they were paying respect to them or to the House, when they urged such a hasty procedure. It was contrary to his idea of respect, and the idea the House had always expressed, when they had important subjects under consideration; and, therefore, he should be against the motion. He was afraid that there was really a little volunteering in this business, as it had been termed by the gentleman from Georgia.

Mr. HUNTINGTON considered the petitioners as much disinterested as any persons in the United States; he was persuaded they had an aversion to slavery, yet they were not singular in this; others had the same; and he hoped, when Congress took up the subject, they would go as far as possible to prohibit the evil complained of. But he thought that would be better done by considering it in the light of revenue; when the Committee of the Whole on questions of finance might properly take the subject into consideration, without giving any ground for alarm.

Mr. TUCKER.—I have no doubt on my mind respecting what ought to be done on this occasion; so far from committing the memorial, we ought to dismiss it without further notice. What is the purport of the memorial? It is plainly this, to reprobate a particular kind of commerce, in a moral point of view, and to request the interposition of Congress to effect its abrogation. But Congress has no authority, under the constitution, to do more than lay a duty of ten dollars upon each person imported; and this is a political consideration, not arising from either religion or morality, and is the only principle upon which we can proceed to take it up. But what effect do these men suppose will arise from their exertions? Will a duty of ten dollars diminish the importation? Will the treatment be better than usual? I apprehend not; nay, it may be worse, because an interference with the subject may excite a great degree of restlessness in the minds of those it is intended to serve, and that may be a cause for the masters to use more rigor towards them than they would otherwise exert: so that these men seem to overshoot their object. But if they will endeavor to procure the abolition of the slave trade, let them prefer their petitions to the State Legislatures, who alone have the power of forbidding the importation. I believe their applications there would be improper; but if they are any where proper, it is there. I look upon the address then to be ill-judged, however good the intention of the framers.

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Mr. SMITH claimed it as a right that the petition should lie over till to-morrow.

THURSDAY, February 11.

Assumption of State Debts.

[Mr. MADISON'S motion to discriminate between original creditors and present holders, so as to pay claims in full to the former, and the highest market price to the assignee, and the remainder to the original creditor.]

The House then again resolved itself into a Committee of the Whole upon the report of the Secretary of the Treasury, Mr. BALDWIN in the chair.

Mr. BURKE'S amendment being under consideration,

Mr. BURKE said, he had brought his motion forward, in consequence of a hasty promise he had given a member of this House; but as he did not mean to support it, or vote for it, he would withdraw it.

Mr. MADISON.—No gentleman, Mr. Chairman, has expressed more strongly than I feel, the

importance and difficulty of the subject before us. Although I have endeavored to view it under all its aspects, and analyze it in all its principles, yet have I kept my mind open, and been anxious to aid my own reflections by the reflected light to be expected from gentlemen on this floor who enter into the discussion. For this purpose, I have chosen hitherto rather to be a hearer than a speaker on the subject, and should even at this moment have continued in my seat, but that the turn which the business has taken, renders it requisite for me now, if at all, to trouble the committee with my reflections, and the opinion in which they have terminated.

It has been said, by some gentlemen, that the debt itself does not exist in the extent and form which is generally supposed. I confess, sir, I differ altogether from the gentleman who takes that ground. Let us consider, first, by whom the debt was contracted, and then let us consider to whom it is due. The debt was contracted by the United States, who, with respect to that particular transaction, were in a national capacity. The Government was nothing more than the agent or organ, by which the whole body of the people acted. The change in the Government which has taken place has enlarged its national capacity, but it has not varied the national obligation, with respect to the engagements entered into by that transaction. For, in like manner, the present Government is nothing more than the organ, or agent, of the public. The obligation which they are under, is precisely the same with that under which the debt was contracted; although the Government has been changed, the nation remains the same. There is no change in our political duty, nor in the moral or political obligation. The language I now use, sir, is the language of the constitution itself; it declares that all debts shall have the same validity against the United States, under the new, as under the old form of Government. The obligation remains the same, though I hope experience will prove that the ability has been favorably varied.

The next question is, to what amount the public are at present indebted? I conceive the question may be answered in a few words. The United States owe the value they received, which they acknowledge, and which they have promised to pay: what is that value? It is a certain sum in principal, bearing an interest of six per cent. No logic, no magic, in my opinion, can diminish the force of the obligation.

The only point on which we can deliberate is, to whom the payment is really due; for this purpose, it will be proper to take notice of the several descriptions of people who are creditors of the Union, and lay down some principles respecting them, which may lead us to a just and equitable decision. As there is a small part of the debt yet unliquidated, it may be well to pass it by and come to the great mass of the liquidated debt. It may here be proper to notice four classes into which it may be divided:

First, Original creditors, who have never alienated their securities.

Second, Original creditors who have alienated.

Third, Present holders of alienated securities.

Fourth, Intermediate holders, through whose hands securities have circulated.

The only principles that can govern the decision on their respective pretensions, I take to be, 1. Public Justice; 2. Public Faith; 3. Public Credit; 4. Public Opinion.

With respect to the first class, there can be no difficulty. Justice is in their favor, for they have advanced the value which they claim; public faith is in their favor, for the written promise is in their hands; respect for public credit is in their favor, for if claims so sacred are violated, all confidence must be at an end; public opinion is in their favor, for every honest citizen cannot but be their advocate.

With respect to the last class, the intermediate holders, their pretensions, if they have any, will lead us into a labyrinth, for which it is impossible to find a clew. This will be the less complained of, because this class were perfectly free, both in becoming and ceasing to be creditors; and because, in general, they must have gained by their speculations.

The only rival pretensions, then, are those of the original creditors, who have assigned, and of the present holders of the assignments.

The former may appeal to justice, because the value of the money, the service, or the property advanced by them, has never been really paid to them. [Pg 206]

They may appeal to good faith, because the value stipulated and expected, is not satisfied by the steps taken by the Government. The certificates put into the hands of the creditors, on closing their settlements with the public, were of less real value than was acknowledged to be due; they may be considered as having been forced, in fact, on the receivers. They cannot, therefore, be fairly adjudged an extinguishment of the debt. They may appeal to the motives for establishing public credit, for which justice and faith form the natural foundation. They may appeal to the precedent furnished by the compensation allowed to the army during the late war, for the depreciation of bills, which nominally discharged the debts. They may appeal to humanity, for the sufferings of the military part of the creditors can never be forgotten, while sympathy is an American virtue. To say nothing of the singular hardship, in so many months, of requiring those who have lost four-fifths, or seven-eighths of their due, to contribute the remainder in favor of those who have gained in the contrary proportion.

On the other hand, the holders by assignment have claims, which I by no means wish to depreciate. They will say, that whatever pretensions others may have against the public, these cannot affect the validity of theirs. That if they gain by the risk taken upon themselves, it is but the just reward of that risk. That as they hold the public promise, they have an undeniable demand on the public faith. That the best foundation of public credit is that adherence to literal

engagements on which it has been erected by the most flourishing nations. That if the new Government should swerve from so essential a principle, it will be regarded by all the world as inheriting the infirmities of the old. Such being the interfering claims on the public, one of three things must be done; either pay both, reject wholly one or the other, or make a *composition* between them on some principle of equity. To pay both is perhaps beyond the public ability; and as it would far exceed the value received by the public, it will not be expected by the world, nor even by the creditors themselves. To reject wholly the claims of either is equally inadmissible; such a sacrifice of those who possess the written engagements would be fatal to the proposed establishment of public credit; it would moreover punish those who had put their trust in the public promises and resources. To make the other class the sole victims is an idea at which human nature recoils.

A composition, then, is the only expedient that remains; let it be a liberal one in favor of the present holders, let them have the highest price which has prevailed in the market; and let the residue belong to the original sufferers. This will not do perfect justice; but it will do more real justice, and perform more of the public faith, than any other expedient proposed. The present holders, where they have purchased at the lowest price of the securities, will have a profit that cannot reasonably be complained of; where they have purchased at a higher price, the profit will be considerable; and even the few who have purchased at the highest price cannot well be losers, with a well funded interest of six per cent. The original sufferers will not be fully indemnified; but they will receive, from their country, a tribute due to their merits, which, if it does not entirely heal their wounds, will assuage the pain of them. I am aware, that many plausible objections will lie against what I have suggested, some of which I foresee and will take some notice of. It will be said, that the plan is impracticable; should this be demonstrated, I am ready to renounce it; but it does not appear to me in that light. I acknowledge that such a scale as has often been a subject of conversation, is impracticable.

The discrimination proposed by me, requires nothing more than a knowledge of the present holders, which will be shown by the certificates; and of the original holders, which the office documents will show. It may be objected, that if the Government is to go beyond the literal, into the equitable claims against the United States, it ought to go back to every case where injustice has been done. To this the answer is obvious: the case in question is not only different from others in point of magnitude and of practicability, but forces itself on the attention of the committee, as necessarily involved in the business before them. It may be objected, that public credit will suffer, especially abroad; I think this danger will be effectually obviated by the honesty and disinterestedness of the Government displayed in the measure, by a continuance of the punctual discharge of foreign interest, by the full provision to be made for the whole foreign debt, and the equal punctuality I hope to see in the future payments on the domestic debts. I trust also, that all future loans will be founded on a previous establishment of adequate funds; and that a situation, like the present, will be thereby rendered impossible.

I cannot but regard the present case as so extraordinary, in many respects, that the ordinary maxims are not strictly applicable to it. The fluctuations of stock in Europe, so often referred to, have no comparison with those in the United States. The former never exceeded 50, 60, or 70 per cent.: can it be said, that because a Government thought this evil insufficient to justify an interference, it would view in the same light a fluctuation amounting to seven or eight hundred per cent.

I am of opinion, that were Great Britain, Holland, or any other country, to fund its debts precisely in the same situation as the American debt, some equitable interference of the Government would take place. The South Sea scheme, in which a change, amounting to one thousand per cent. happened in the value of stock, is well known to have produced an interference, and without any injury whatever to the subsequent credit of the nation. It is true, that in many respects, the case differed from that of the United States; but, in other respects, there is a degree of similitude, which warrants the conjecture. It may be objected, that such a provision as I propose will exceed the public ability; I do not think the public unable to discharge honorably all its engagements, or that it will be unwilling, if the appropriations shall be satisfactory. I regret, as much as any member, the unavoidable weight and duration of the burthens to be imposed; having never been a proselyte to the doctrine, that public debts are public benefits. I consider them, on the contrary, as evils which ought to be removed as fast as honor and justice will permit, and shall heartily join in the means necessary for that purpose. I conclude with declaring, as my opinion, that if any case were to happen among individuals, bearing an analogy to that of the public, a Court of Equity would interpose for its redress; or that if a tribunal existed on earth, by which nations could be compelled to do right, the United States would be compelled to do something not dissimilar in its principles to what I have contended for.

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Mr. LIVERMORE wished the amendment he had formerly mentioned might be made to the original proposition; it was, to insert, before the word "interest," the words, "at a certain rate o."

Mr. SHERMAN apprehended it would strongly imply that Congress meant to reduce the rate of interest, and he did not wish that question involved with the present.

Mr. LIVERMORE's motion being seconded, the question was put thereon, and it being lost,

Mr. MADISON moved to amend the original proposition, so as to read as follows:

Resolved, That adequate funds ought to be provided for paying the interest and principal of the domestic debt, as the same shall be liquidated; and that in such liquidation, the present holders of public securities, which have been alienated, shall be settled with according to the highest market rate of such securities; and

that the balance of the sums due from the public, be paid in such proportion to the original holder of such securities.

Mr. BOUDINOT said, he had long been in the habit of paying great respect to the sentiments of the gentleman from Virginia; but he feared, on this occasion, he had not viewed the subject with his usual accuracy. He was not surprised that the gentleman was led away by the dictates of his heart, for he believed he really felt for the misfortunes of his fellow-citizens, who had been the prey of avaricious men. Indeed, it is matter of less surprise, on another account, for heretofore I contemplated the subject in nearly the same point of view. Influenced by a desire to do justice to every person connected with the public, I wished for the means of compensating the original holders, who had sold their certificates at a great loss; but I found the thing, upon long and careful examination, to be both unjust and impracticable.

The honorable gentleman tells us, that the debt was contracted for meritorious services, and inquires whether the creditor received an adequate compensation in full discharge? I say, sir, this debt is still due, and that the person to whom it is due, has received nothing but a certificate as evidence of his claim; but then, if any of our first creditors have put another person in their shoes, the question will arise, are we to disown the act of the party himself? Are we to say, we will not be bound by your transfer, we will not treat with your representative, but insist upon a resettlement with you alone? But the same reasoning will oblige us to go further, and investigate all the claims of those who have received of the Government Continental money, which they afterwards parted with for ten, forty, or one hundred for one.

FRIDAY, February 12.

Abolition of Slavery.

The following memorial of the Pennsylvania Society for promoting the Abolition of Slavery, the relief of free negroes unlawfully held in bondage, and the improvement of the condition of the African race, was presented and read:

The memorial respectfully sheweth,

That from a regard for the happiness of mankind, an association was formed several years since in this State, by a number of her citizens, of various religious denominations, for promoting the abolition of slavery, and for the relief of those unlawfully held in bondage. A just and acute conception of the true principles of liberty, as it spread through the land, produced accessions to their numbers, many friends to their cause, and a Legislative co-operation with their views, which, by the blessing of Divine Providence, have been successfully directed to the relieving from bondage a large number of their fellow-creatures of the African race. They have also the satisfaction to observe, that in consequence of that spirit of philanthropy and genuine liberty which is generally diffusing its beneficial influence, similar institutions are forming at home and abroad.

That mankind are all formed by the same Almighty Being, alike objects of his care, and equally designed for the enjoyment of happiness, the Christian religion teaches us to believe, and the political creed of Americans fully coincides with the position. Your memorialists, particularly engaged in attending to the distresses arising from slavery, believe it their indispensable duty to present this subject to your notice. They have observed, with real satisfaction, that many important and salutary powers are vested in you for "promoting the welfare and securing the blessings of liberty to the people of the United States;" and as they conceive that these blessings ought rightfully to be administered, without distinction of color, to all descriptions of people, so they indulge themselves in the pleasing expectation, that nothing which can be done for the relief of the unhappy objects of their care will be either omitted or delayed.

From a persuasion that equal liberty was originally the portion, and is still the birthright of all men; and influenced by the strong ties of humanity, and the principles of their institution, your memorialists conceive themselves bound to use all justifiable endeavors to loosen the bands of slavery, and promote a general enjoyment of the blessings of freedom. Under these impressions, they earnestly entreat your serious attention to the subject of slavery; that you will be pleased to countenance the restoration of liberty to those unhappy men, who alone, in this land of freedom, are degraded into perpetual bondage, and who, amidst the general joy of surrounding freemen, are groaning in servile subjection; that you will devise means for removing this inconsistency from the character of the American people; that you will promote mercy and justice towards this distressed race, and that you will step to the very verge of the power vested in you for discouraging every species of traffic in the persons of our fellow-men.

BENJ. FRANKLIN, *President.*

PHILADELPHIA, *February 3, 1790.*

Mr. HARTLEY then called up the memorial presented yesterday, from the annual meeting of Friends at Philadelphia, for a second reading; whereupon the same was read a second time, and moved to be committed.

Mr. TUCKER was sorry the petition had a second reading, as he conceived it contained an unconstitutional request, and from that consideration he wished it thrown aside. He feared the commitment of it would be a very alarming circumstance to the Southern States; for if the object was to engage Congress in an unconstitutional measure, it would be considered as an interference with their rights, the people would become very uneasy under the Government, and lament that they ever put additional powers into their hands. He was surprised to see another memorial on the same subject; and that signed by a man who ought to have known the constitution better. He thought it a mischievous attempt, as it respected the persons in whose favor it was intended. It would buoy them up with hopes, without a foundation, and as they could not reason on the subject, as more enlightened men would, they might be led to do what they would be punished for, and the owners of them, in their own defence, would be compelled to exercise over them a severity they were not accustomed to. Do these men expect a general emancipation of slaves by law? This would never be submitted to by the Southern States without a civil war. Do they mean to purchase their freedom? He believed their money would fall short of the price. But how is it they are more concerned in this business than others? Are they the only persons who possess religion and morality? If the people are not so exemplary, certainly they will admit the clergy are; why, then, do we not find them uniting in a body, praying us to adopt measures for the promotion of religion and piety, or any moral object? They know it would be an improper interference; and to say the best of this memorial, it is an act of imprudence, which he hoped would receive no countenance from the House.

Mr. SENEY denied that there was any thing unconstitutional in the memorial; at least, if there was it had escaped his attention, and he should be obliged to the gentleman to point it out. Its only object was, that Congress should exercise their constitutional authority to abate the horrors of slavery, as far as they could; indeed, he considered that all altercation on the subject of commitment was at an end, as the House had impliedly determined yesterday that it should be committed.

Mr. BURKE saw the disposition of the House, and he feared it would be referred to a committee, maugre all their opposition; but he must insist, that it prayed for an unconstitutional measure; did it not desire Congress to interfere and abolish the slave trade, while the constitution expressly stipulates that Congress shall exercise no such power? He was certain the commitment would sound an alarm, and blow the trumpet of sedition in the Southern States. He was sorry to see the petitioners paid more attention to than the constitution; however, he would do his duty and oppose the business totally; and if it was referred to a committee, as mentioned yesterday, consisting of a member from each State, and he was appointed, he would decline serving.

Mr. SCOTT.—I cannot entertain a doubt but the memorial is strictly agreeable to the constitution; it respects a part of the duty particularly assigned to us by that instrument, and I hope we may be inclined to take it into consideration. We can at present lay our hands upon a small duty of ten dollars; I would take this, and if it is all that we can do, we must be content: but I am sorry that the framers of the constitution did not go further, and enable us to interdict the traffic entirely; for I look upon the slave trade to be one of the most abominable things on earth; and if there was neither God nor devil, I should oppose it upon the principles of humanity, and the law of nature. I cannot, for my part, conceive how any person can be said to acquire a property in another; is it by virtue of conquest? What are the rights of conquest? Some have dared to advance this monstrous principle, that the conqueror is absolute master of his conquest; that he may dispose of it as his property, and treat it as he pleases; but, enough of those who reduce men to the state of transferable goods, or use them like beasts of burthen, who deliver them up as property or patrimony to others. Let us argue on principles countenanced by reason and becoming humanity; the petitioners view the subject in a religious light, but I do not stand in need of religious motives to induce me to reprobate the traffic in human flesh; other considerations weigh with me to support the commitment of the memorial, and to support every constitutional measure likely to bring about its total abolition. Perhaps, in our Legislative capacity, we can go no further than to impose a duty of ten dollars; but I do not know how far I might go, if I was one of the Judges of the United States, and those people were to come before me and claim their emancipation; but I am sure I would go as far as I could.

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Mr. JACKSON differed with the gentleman last up, and supposed the master had a qualified property in his slave. He said the contrary doctrine would go to the destruction of every species of personal service. The gentleman said, he did not stand in need of religion to induce him to reprobate slavery, but if he is guided by that evidence upon which the Christian system is founded, he will find that religion is not against it. He will see, from Genesis to Revelations, the current setting strong that way. There never was a Government on the face of the earth, but what permitted slavery. The purest sons of freedom in the Grecian Republics, the citizens of Athens and Lacedæmon, all held slaves. On this principle the nations of Europe are associated; it is the basis of the feudal system. But suppose all this to have been wrong, let me ask the gentleman if it is good policy to bring forward a business at this moment, likely to light up the flame of civil discord; for the people of the Southern States will resist one tyranny as soon as another? The other parts of the continent may bear them down by force of arms, but they will never suffer themselves to be divested of their property without a struggle. The gentleman says, if he was a Federal Judge, he does not know to what length he would go in emancipating these people; but I believe his judgment would be of short duration in Georgia, perhaps even the existence of such a judge might be in danger.

Mr. SHERMAN could see no difficulty in committing the memorial; because it was probable the committee would understand their business, and perhaps they might bring in such a report as

would be satisfactory to gentlemen on both sides of the House.

Mr. BALDWIN was sorry the subject had ever been brought before Congress, because it was of a delicate nature as it respected some of the States. Gentlemen who had been present at the formation of this constitution could not avoid the recollection of the pain and difficulty which the subject caused in that body. The members from the Southern States were so tender upon this point, that they had well-nigh broken up without coming to any determination; however, from the extreme desire of preserving the Union, and obtaining an efficient Government, they were induced mutually to concede, and the constitution jealously guarded what they agreed to. If gentlemen look over the footsteps of that body, they will find the greatest degree of caution used to imprint them, so as not to be easily eradicated; but the moment we go to jostle on that ground, I fear we shall feel it tremble under our feet. Congress have no power to interfere with the importation of slaves beyond what is given in the ninth section of the first article of the constitution; every thing else is interdicted to them in the strongest terms. If we examine the constitution, we shall find the expressions relative to this subject cautiously expressed, and more punctiliously guarded than any other part, "The migration or importation of such persons shall not be prohibited by Congress." But lest this should not have secured the object sufficiently, it is declared, in the same section, "That no capitation or direct tax shall be laid, unless in proportion to the census;" this was intended to prevent Congress from laying any special tax upon negro slaves, as they might, in this way, so burthen the possessors of them as to induce a general emancipation. If we go on to the fifth article, we shall find the first and fifth clauses of the ninth section of the first article restrained from being altered before the year 1808.

Gentlemen have said that this petition does not pray for an abolition of the slave trade. I think, sir, it prays for nothing else; and therefore we have no more to do with it than if it prayed us to establish an order of nobility, or a national religion.

Mr. SYLVESTER said, that he had always been in the habit of respecting the Society called Quakers; he respected them for their exertions in the cause of humanity; but he thought the present was not a time to enter into a consideration of the subject, especially as he conceived it to be a business within the province of the State Legislatures.

Mr. LAWRENCE observed, that the subject would undoubtedly come under the consideration of the House; and he thought, as it was now before them, that the present time was as proper as any; he was therefore for committing the memorial, and when the prayer of it had been properly examined, they could see how far Congress may, constitutionally, interfere: as they knew the limits of their power on this, as well as every other occasion, there was no just apprehension to be entertained that they would go beyond it.

Mr. SMITH (of South Carolina) insisted that it was not in the power of the House to grant the prayer of the petition, which went to the total abolishment of the slave trade, and it was therefore unnecessary to commit it. He observed, that in the Southern States difficulties had arisen on adopting the constitution, inasmuch as it was apprehended that Congress might take measures under it for abolishing the slave trade.

Perhaps the petitioners, when they applied to this House, did not think their object unconstitutional, but now they are told that it is, they will be satisfied with the answer, and press it no further. If their object had been for Congress to lay a duty of ten dollars per head on the importation of slaves, they would have said so, but that does not appear to have been the case. The commitment of the petition, on that ground, cannot be contended. If they will not be content with that, shall it be committed to investigate facts? The petition speaks of none. For what purpose, then, shall it be committed? If gentlemen can assign no good reason for the measure, they will not support it when they are told that it will create jealousies and alarm in the Southern States; for I can assure them that there is no point on which they are more jealous and suspicious, than on a business with which they think the Government has nothing to do.

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When we entered into this confederacy, we did it from political, not from moral motives, and I do not think my constituents want to learn morals from the petitioners; I do not believe they want improvements in their moral system; if they do, they can get it at home.

The gentleman from Georgia has justly stated the jealousy of the Southern States. On entering into this Government, they apprehend that the other States, not knowing the necessity the citizens of the Southern States were under to hold this species of property, would, from motives of humanity and benevolence, be led to vote for a general emancipation; and had they not seen that the constitution provided against the effect of such a disposition, I may be bold to say they never would have adopted it. And, notwithstanding all the calmness with which some gentlemen have viewed the subject, they will find that this discussion alone will create great alarm. We have been told, that if this would be the case, we ought to have avoided it, by saying nothing; but it was not for that purpose that we were sent here. We look upon this measure as an attack upon the palladium of the property of our country; it is therefore our duty to oppose it by every means in our power. Gentlemen should consider, that when we entered into a political connection with the other States, that this property was there; it was acquired under a former Government, conformably to the laws and constitution, therefore any thing that will tend to deprive them of that property, must be an *ex post facto* law, and, as such, is forbidden by our political compact.

I said the States would never have entered into the Confederation, unless their property had been guaranteed to them, for such is the state of agriculture in that country, that without slaves it must be abandoned. Why will these people, then, make use of arguments to induce the slave to turn his hand against his master? We labor under difficulties enough from the ravages of the late war. A gentleman can hardly come from that country with a servant or two, either to this place or

Philadelphia, but there are persons trying to seduce his servants to leave him; and, when they have done this, the poor wretches are obliged to rob their master, in order to obtain a subsistence; all those, therefore, who are concerned in this seduction, are accessories to the robbery.

The reproaches which they cast upon the owners of negro property, is charging them with the want of humanity. I believe the proprietors have as much humanity as persons in any part of the continent, and are as conspicuous for their good morals as their neighbors. It was said yesterday that the Quakers are a society known to the laws and the constitution, but they are no more so than other religious societies; they stand exactly in the same situation; their memorial, therefore, relates to a matter in which they are no more interested than any other sect, and can only be considered as a piece of advice, which it is not customary to refer to a committee; but if it is supposed to pray for what they think a moral purpose, is that sufficient to induce us to commit it? What may appear a moral virtue in their eyes, may not be so in reality. I have heard of a sect of Shaking Quakers, who, I presume, suppose their tenets of a moral tendency. I am informed one of them forbids to intermarry, yet you may see them with a numerous offspring about them. Now, if these people were to petition Congress to pass a law prohibiting matrimony, would gentlemen agree to refer such a petition? I think if they would reject one of that nature, as improper, they ought also to reject this.

Mr. PAGE was in favor of the commitment. He hoped that the designs of the respectable memorialists would not be stopped at the threshold, in order to preclude a fair discussion of the prayer of the memorial. He observed, that gentlemen had founded their arguments upon a misrepresentation; for the object of the memorial is not declared to be the total abolition of the slave trade, but that Congress will consider whether it be not in reality within their power to exercise justice and mercy, which, if adhered to, they cannot doubt must produce the abolition of the slave trade. If, then, the prayer contained nothing unconstitutional, he trusted the meritorious effort of the petitioners would not be frustrated.

With respect to the alarm that was apprehended, he conjectured there was none; but there might be just cause if the memorial was not taken into consideration. He placed himself in the case of a slave, and said, that, on hearing that Congress had refused to listen to the decent suggestions of a respectable part of the community, he should infer that the General Government (from which was expected great good would result to every class of citizens) had shut their ears against the voice of humanity, and he should despair of any alleviation of the miseries he and his posterity had in prospect; if any thing could induce him to rebel, it must be a stroke like this, impressing on his mind all the horrors of despair. But if he was told that application was made in his behalf, and that Congress was willing to hear what could be urged in favor of discouraging the practice of importing his fellow-wretches, he would trust in their justice and humanity, and wait the decision patiently. He presumed that these unfortunate people would reason in the same way, and he, therefore, conceived the most likely way to prevent danger was to commit the petition. He lived in a State which had the misfortune of having in her bosom a great number of slaves; he held many of them himself, and was as much interested in the business, as any gentleman in South Carolina or Georgia, yet if he was determined to hold them in eternal bondage, he should feel no uneasiness or alarm on account of the present measure, because he should rely upon the virtue of Congress that they would not exercise any unconstitutional authority.

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Mr. MADISON.—The debate has taken a serious turn, and it will be owing to this alone if an alarm is created; for, had the memorial been treated in the usual way, it would have been considered as a matter of course, and a report might have been made so as to have given general satisfaction. If there was the slightest tendency by the commitment to break in upon the constitution, he would object to it; but he did not see upon what ground such an event was to be apprehended. The petition prayed, in general terms, for the interference of Congress, so far as they were constitutionally authorized: but even if its prayer was, in some degree, unconstitutional, it might be committed, as was the case on Mr. Churchman's petition, one part of which was supposed to apply for an unconstitutional interference by the General Government. He admitted, that Congress is restricted by the constitution from taking measures to abolish the slave trade; yet there are a variety of ways by which it could countenance the abolition, and regulations might be made in relation to the introduction of them into the new States to be formed out of the Western Territory. He thought the object well worthy of consideration.

Mr. GERRY thought the interference of Congress fully compatible with the constitution, and could not help lamenting the miseries to which the natives of Africa were exposed by this inhuman commerce. He never contemplated the subject, without reflecting what his own feelings would be, in case himself, his children, or friends were placed in the same deplorable circumstances. He then adverted to the flagrant acts of cruelty which are committed in carrying on that traffic; and asked, whether it can be supposed that Congress has no power to prevent such abuses? He then referred to the constitution, and pointed out the restrictions laid on the General Government respecting the importation of slaves. It was not, he presumed, in the contemplation of any gentleman in this House to violate that part of the constitution; but that we have a right to regulate this business, is as clear as that we have any rights whatever; nor has the contrary been shown by any person who has spoken on the occasion. Congress can, agreeably to the constitution, lay a duty of ten dollars on imported slaves; they may do this immediately. He made a calculation of the value of the slaves in the Southern States, and supposed they may be worth ten millions of dollars. Congress have a right, if they see proper, to make a proposal to the Southern States to purchase the whole of them, and their resources in the Western Territory might furnish them with the means. He did not intend to suggest a measure of this kind; he only

instanced these particulars to show that Congress certainly has a right to intermeddle in the business. He thought that no objection had been offered of any force to prevent the commitment of the memorial.

Mr. BOUDINOT had carefully examined the petition and found nothing like what was complained of by gentlemen contained in it; he, therefore, hoped they would withdraw their opposition and suffer it to be committed.

Mr. SMITH (of South Carolina) said, that as the petitioners had particularly prayed Congress to take measures for the annihilation of the slave trade; and as that was admitted, on all hands, to be beyond their power, and as the petitioners would not be gratified by a tax of ten dollars per head, which was all that was within their power, there was, of consequence, no occasion for committing it.

The question on the commitment being about to be put, the yeas and nays were called for, and were as follows:

YEAS.—Messrs. Ames, Benson, Boudinot, Brown, Cadwalader, Clymer, Fitzsimons, Floyd, Foster, Gale, Gerry, Gilman, Goodhue, Griffin, Grout, Hartley, Hathorn, Heister, Huntington, Lawrence, Lee, Leonard, Livermore, Madison, Moore, Muhlenberg, Page, Parker, Partridge, Rensselaer, Schureman, Scott, Sedgwick, Seney, Sherman, Sinnickson, Smith, (of Maryland,) Sturges, Thatcher, Trumbull, Wadsworth, White, and Wynkoop—43.

NAYS.—Messrs. Baldwin, Bland, Burke, Coles, Huger, Jackson, Matthews, Sylvester, Smith, (of South Carolina,) Stone, and Tucker—14.

The memorials were referred accordingly.

MONDAY, February 15.

Public Credit.

The House went again into a Committee of the Whole on the report of the Secretary of the Treasury, Mr. BALDWIN in the chair.

Mr. MADISON'S motion for a discrimination being under consideration,

Mr. SEDGWICK.—The proposition, Mr. Chairman, contains a question of the utmost importance. And the committee must be obliged to the gentleman who brought it forward for his very ingenious discussion of the subject of the domestic debt. With respect to the question now before the committee, so much has been said, that I think it will not be necessary to consume much of their time in the investigation. On the subject of contracts I have to observe, that whenever a voluntary engagement is made for a valuable consideration for property advanced or services rendered, and the terms of the contract are understood, if no fraud or imposition is practised, the party engaging is bound to the performance, according to the literal meaning of the words in which it is expressed. Such contract, whether of a Government or an individual, may be either transferable or not transferable. The latter species of contract receives an additional value from its capacity of being transferred, if the circumstances of the possessor should render a sale of it necessary or convenient to him. To render the transferable quality of such evidences of contract in any degree advantageous to the possessor, it is necessary to consider, in case of sale, the alienee possessed of all the property of the original holder; and indeed it is highly absurd, and even contradictory, to say, that such evidences of debt are transferable, and at the same time to say that there is in them a kind of property that the holder could not convey by *bona fide* contract.

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This is the construction which has invariably been given to these contracts, whether formed by Government or by individuals. To deprive the citizen of the power of binding himself by his own voluntary contract, or to prevent a disposition of property in its nature alienable, would be a violent and unjustifiable invasion of one of those rights of which man, as a citizen, is the most tenacious, and would indeed break one of the strongest bonds by which society is holden together.

In the transfers which have been made, the contracts were fairly made; the whole rights have been transferred. It is not pretended any fraud or imposition has been practised. The risk was calculated by the parties, and it was observed, that the risk contemplated a revolution in the Government.

From the foregoing deduction of particulars, it is presumed to be proved that a property is vested in the transferees. That if this property is divested by the Government, the law for that purpose would have a retrospective operation, and that no *ex post facto* law could be more alarming than that by which the right of private property is violently invaded.

Having considered the nature of the contract, and of the obligations which result from it, I beg leave to call the attention of the committee to those circumstances by which that obligation may be destroyed, impaired, or suspended. They are stated to be, 1. Performance. 2. Voluntary discharge. 3. Composition. 4. Inability.

And gentlemen are called upon to give information of any other causes which can produce either of those effects.

With regard, more particularly, to the proposition before the committee, I have, to observe, that

with regard to these contracts, there has existed a depreciation in consequence of the failure of Government regularly to pay the interest. That in this depreciated state, the securities have been alienated; that of course the original holders have sustained a loss; that if the loss resulted from the fault, and not the misfortune of Government, the creditors have, undeniably, a demand against the Government for compensation; that this demand, however well founded, can never authorize the Government to invade the honestly acquired property of the present possessors, a property warranted by the terms of the contract itself, and sanctioned by the act of Congress, of April, 1783, and the validity of it recognized by the constitution we have sworn to support.

With regard to the claims of the original holders, it is, however, observable, that the domestic creditor, at the time the contract was formed, well knew the nature of the constitution of the Government administered by Congress, the other contracting party; that its power of performance depended on the ability and good-will of the States; that Congress had always performed its duty, had made the necessary requisitions; that this was its utmost power; and that the failure had arisen wholly from the neglect of the States. I therefore submit it to the committee, whether, if the original holder has a just or equitable demand, he should not resort to the State of which he is a member?

I admit, that the case of an original holder is indeed a hard one; that I have a respect for his misfortunes and for his pretensions; that if satisfaction is discovered to be just and practicable, I would not hesitate to go to the utmost ability of the Government for that purpose. But let me ask, what merit will the Government possess, if it strip one class of citizens, who have acquired property by the known and established rules of law, under the specious pretence of doing justice to another class of citizens?

It was implicitly agreed, that eighty per cent. depreciation would not authorize the interference proposed by the motion. I ask, then, for some point of depreciation to be pointed out, which will authorize such interference.

The question for which I contend has received the universal approbation of mankind; there are no instances of the interference contended for, and this general sense of mankind affords me some evidence of truth.

This contract was founded on a valuable consideration. It was the price of our liberty and independence. The possessor claimed, according to the very terms of the contract, though it is not pretended that the engagements of Government have been performed. No composition with the creditors is proposed; nor is the proposition founded on any pretended inability of the Government; for to comply with the intention of it, 1,600,000 dollars, annually, more than is proposed by the report of the Secretary, would be required.

By reason of the circumstances which have taken place, the honorable gentleman (Mr. MADISON) supposes, that, if the whole amount of a security shall be paid to the present possessor, he will have a sum of money to which the original holder is equitably entitled. If this is true, then, no interposition is necessary, it being a well-known rule of law, that an action will always lie to recover money out of the hands of another, to which the plaintiff, from the principles of equity and good conscience, is entitled.

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With regard to the effects, which will probably result from this measure, I have to observe, that they will be destructive to our national character. That the world is now willing, charitably, to impute our former miscarriages to events we could not control; but should our first measures, in regard to public faith, be a violent infraction of our contracts, it will sanction all our bitterest enemies have said, to our disadvantage. With regard to its effects on credit, little dependence will be placed on the plighted faith of a Government which, under the pretence of doing equity, has exercised a power of dispensing with its contracts, and has thereby formed for itself a precedent of future violations, both with respect to its funds and contracts. With regard to discovering who was the original holder, except so far as respects the army debt, I am certain there are no documents by which the necessary facts can be discovered.

I presume it is a fact, with regard to much the greater part of the debt, that any fictitious name was inserted. And with regard to the army debt, the soldiers, generally, who were in the service at the conclusion of the war, had received ample satisfaction for their services, at the time of their enlistment, having been paid more, on an average, than two hundred and fifty dollars per man.

I have only to add, that the proposed system will lay a foundation for infinite frauds and perjuries, and that it will, beyond all powers of calculation, multiply the evils of speculation.

Mr. LAWRENCE observed, that the proposition of the gentleman from Virginia (Mr. MADISON) derived force from the talents and knowledge of that gentleman in public transactions; but that, on examination, it would be found to contain doctrines very repugnant to the interest and prosperity of the Union.

He then stated, that the debts contracted by the United States were for loans of money, supplies of articles necessary for the public wants, and for actual services rendered in different employments. That these debts were ultimately adjusted and reduced to their present transferable form. That every part of the contract was essential to it. The negotiability was a material part. That the nature of the contract was frequently recognized by the late Government. That, in 1783, Congress recommended certain funds to be established to pay the interest, and put the principal in a course of discharge. That this recommendation was unequivocal, as to the nature of it, and made no discrimination between the possessor and original holder. That the subsequent conduct of that body was conformable to this recommendation. That they had

annually called on the States to furnish money to pay the interest, without discriminating between the original holder and present possessor. That they had paid interest on the securities, without making any discrimination. That provision had been made for holders of loan-office certificates that were subject to liquidation, to have them cancelled, and others issued for the specie value. That the holders of certificates were enabled to have them registered, to guard against accidents; and that no distinction was made between the original holder and the alienee. That the transferable nature of the claim was for the benefit of the creditor, because it gave it an active value. That he consented to take it, and consulted his own advantage. That the conduct of the late Congress, since the war, had been uniform in the support of this contract, and they had done no act to impair its obligation, according to the terms of it. That this contract was valid against the Government; for, notwithstanding the truth of the gentleman's observations, that the nation is the same, though the bodies that administered the Government were different, there was yet far greater security; and to remove all doubt, a clause that made all debts and engagements valid against the United States, under the late General Government, valid against the present, was inserted in the constitution.

He further observed, that this contract having descended upon the Government, there was no right in the Legislature to impair the force of it. That the particular Governments are restrained from passing laws impairing the obligations of contracts. That this interference would be a violation of the contract, between the individuals, when the certificate was transferred; and it would not be presumed, the States being prohibited, that the General Government had the power to do it.

He then adverted to the principles of the gentleman, to wrest the obligation of the public to the original holder; and observed, that the same principles were in favor of the present possessor. That public justice required a performance of contracts, when there was no fraud on the part of the holder. That the possessor had been guilty of no fraud, no deception. That the contract between him and the original holder was fair, and that a hazard and risk attended the purchase adequate to the advantage. That nothing short of a revolution in Government could have produced payment. That if there was an imposition, the public occasioned it; and between the original holder and the public, there might be a claim for retribution. That public faith was as sacredly pledged to the bearer, or present possessor, as to the original creditor. That public credit results from fair and upright conduct; that the Government, to support it, must perform its contract. That this was a contract recognized by them, and as such should be discharged. That the condition we have been in made it proper for us to be cautious on this subject; and even at present, people doubted our disposition to establish our credit. That this would give a fatal blow to it, and when we should recover, if ever, was doubtful. That the public opinion was difficult to be ascertained; gentlemen had different modes to determine it. He supposed it was better ascertained by the acts of public bodies than by squibs in the newspapers, or by pamphlets written by individuals. That the uniform conduct of men, deputed by the particular States to represent them, in the late General Government, was the best standard; and their opinion, from the year 1783, was in favor of the present possessor. That the conduct of the particular States was another circumstance; that he did not know of any discrimination made by them, though it had been attempted. That the general opinion of men of property was in favor of it; and that these sources of public opinion were more certain than those he had before mentioned.

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He further observed, that although he believed gentlemen supposed no advantage would be derived to the United States from this discrimination, yet much would arise. That part of the army was composed of foreigners, many had left the country, others were dead; all their part would be unclaimed. That certificates were issued to public officers to a great amount, and were paid by them to persons from whom they purchased. The difficulty of making proof of the original creditor would be great; and, from this circumstance, great sums would be gained to the public. That there were persons enough who would have sagacity to discern this; and they would doubt the purity of the public motive, should the gentleman's plan be adopted.

He then adverted to the circumstance of the new creditor receiving paper. That this paper might be subject to another liquidation on the same principle as the present. That it would introduce doubt and distrust of public engagements; and there would be no greater security, although a fund was pledged, than there is at present, for whenever the public pleased, they might destroy the obligation. Arguments were improperly addressed to their feelings; but that however hard it may be for the original creditor, who had parted with his certificates, to contribute to pay the debt, yet it would be equally hard on him who had been injured by Continental money, who had been plundered by the enemy, who had had his property burned by them in the course of the war; and that instances of these kinds were numerous.

He then adverted to the doctrine of the Court of Equity; and urged that this court must be governed by principle. That were the committee this high court, and the United States the original creditor, and the present possessor before them; and if there appeared no fraud on the part of the possessor, the original creditor would have no just claim on him. That between the United States and original creditors, the United States were in fault, and the claim, if good, would be against them.

Mr. SMITH (of S. C.) remarked, that it was necessary and proper the House should give the subject the most ample discussion. The question had long agitated the public mind, and the people should know that it had occupied the serious attention of their Representatives, and be made acquainted with the principles of their decision. For his part, having bestowed on it the most attentive consideration, he could assert, that the more he contemplated it, the more he was impressed with a conviction, that the proposition was unjust, impolitic, and impracticable. It

consisted of two parts: The one was to take away the property of one person; the other was to give that property to another; and this by a voluntary interposition of the House, by a mere act of power, without the assent of the former, or without even the application of the latter. For it was remarkable, that the original holders, who had alienated their certificates, had not come forward with this demand; and it is presumable, that, had they applied for redress, they would reject any indemnification which was the result of such manifest injustice. To prove that this was taking away the property of a citizen by force, he observed, that the purchaser had, by a fair purchase, acquired a right to the full amount of the sum expressed in the certificate, which it was not within the power of the House to divest him of. No tribunal on earth could lawfully deprive a man of his property fairly obtained. The purchaser bought under the act of Congress, making the securities transferable; and having given the market price, without fraud or imposition, he was, by virtue of such purchase, vested with the complete and absolute ownership of the certificate, as fully as the original holder; and had as much right to demand full payment as the original holder would have had, had the security been still in his hands. Even should the House refuse, by an act of power, to pay him more than half his demand, the other half would still remain against the public; it could not be extinguished. The debt would continue to haunt them; the creditors would loudly clamor for justice, and sooner or later the balance would be paid. Then would they incur all the odium of a violation of private rights, without deriving to the public any advantage whatever. He considered the measure as doing a certain evil, that a possible good might result from it. This was not, in his opinion, the proper mode of doing good. Justice cannot be founded on injustice; and to take money out of the pocket of one man, to put it into that of another, is a precedent which may justify future interferences. This step would lead the House to others: for, if the principle be a just one, then the Government should look into all the transactions and speculations of individuals, in order to correct them, and make retribution to every individual according to his losses. He was persuaded, that the true policy of a Legislative body was, to pursue the broad road of justice, clearly marked out before them; for it was an undeniable truth, that whenever they deviated into by-roads and trackless paths, without any other guide than their own imagination, they would get bewildered in a labyrinth of difficulties, and rejoice to trace back their steps, and regain the plain road. Now, the plain line of conduct is, to do strict justice, such as is enforced in judicial tribunals, between man and man, in a similar case. The debtor is bound to pay the debt to the holder of the security; the contract, between the giver of the bond and the person to whom it was given, is done away the moment the latter assigns it to another person. If A gives a bond to B, who parts with it to C, there is no longer any obligation on the part of A to pay B, but he must pay it to C. A has nothing to do with the private negotiations between B and C, nor to inquire what consideration was given for the security. All that he has to inquire is, whether he really signed it and had value received for it, and the amount of it. He cannot say to the holder, you gave but fifty dollars for this security of one hundred dollars, and I will pay you only fifty; for the law will compel him to pay the hundred. This is a point of justice between man and man. Is there another point of law and justice for the Government? By what rule is the Government to square its conduct, if not by those sacred rules which form the basis of civil society, and are the safeguard of private property?

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The gentleman from Virginia has said, that giving the present holders, by alienation, the highest market price, would be doing them ample justice; but did the public mean to refund them the money they had actually advanced? No; they were to receive this ample justice by a bit of paper, nominally for ten shillings; but which this very measure would instantly depreciate to eight, or six shillings. They would have this consolation, that, according to the gentleman's reasoning, they would still have a claim against the Government for the balance. For, if the original holder, by selling his certificate for four shillings, has now a just claim against the Government for the balance of sixteen shillings, which it is asserted he has, of course the alienee, to whom the public should now acknowledge a debt of ten shillings, which he would sell for only six, would hereafter have a just demand against the public for four shillings. The reasoning might be carried further, for it would follow, that whenever the public shall pay in paper which shall depreciate, the seller will have a demand against the Government for the difference.

The constitution itself, he said, was opposed to the measure, for it was an *ex post facto* law, which was prohibited in express terms. The transfer of public securities was lawful at the time these alienations were made; an attempt, therefore, to punish the transferees is an attempt to make an *ex post facto* law, by making that now unlawful which was lawful at the time it was done. It alters the nature of the transaction, and annexes the idea of guilt to that which at the moment of commission, was not only perfectly innocent, but was explicitly authorized and encouraged by a public act of Congress. By that act those who had money were invited to purchase of those who held securities, and now we are called upon to punish the purchasers who bought under that invitation. The constitution restrains the States from passing any laws impairing the force of contracts; *a fortiori* is the Legislature of the Union restrained. What an example to hold up to the Judiciary of the United States! How could they annul a State law, when the State would be able to plead a precedent on the part of Congress? The right of property is a sacred right; no tribunal on earth can deprive a citizen of his property, unless for a fair equivalent, for the public welfare. The purchaser is vested, by the sale, with an absolute right, to the full amount of the security, and it is beyond their authority to divest him of it. They might, indeed, by an act of power, declare that he should be paid only half; but his right to the other moiety would not be extinguished. It had been said, that the original holder still had a claim against the public, because he had received only two shillings and sixpence for services worth twenty shillings. On the same principle, and with more justice, the present holder would still have a claim for ten shillings, because he has the public bond for twenty shillings. No ingenuity can overcome these stubborn principles of law and justice; they are immutable, and must ultimately

prevail. The House had been told that if the Government had defrauded the original holders out of their dues, it was fit the public should rectify the fraud. The former Government was not deficient in inclination to do them ample justice; but, from the imbecility of the Confederation, had not the means. In those days of democratic enthusiasm, the people were afraid of an energetic Government: having so recently experienced the severity of the former one, the citizens of these States were cautious in trusting any Government with power; and it is not improbable that some of the original holders, who suffered their embarrassments, from the want of a Government competent to the payment of its debts, would themselves have opposed vesting Congress with powers adequate to this object. Even the present constitution, which is a mild one, met with considerable opposition: had it been rejected, the public securities would have never been paid.

Mr. AMES agreed with the gentleman from Virginia (Mr. MADISON) in regard to the validity of the debt. There was propriety in saying the nation is the same, though the Government be changed. The debt is the price of our liberties, and cannot be diminished a farthing, the gentleman from Virginia says; and why? Because the Government, as one of the contracting parties, cannot annul, or vary the bargain without the consent of the other. If the measure proposed by that gentleman corresponds with that sound principle, he should have the pleasure of agreeing with him on the ultimate decision; but if the measure should be found, on a fair discussion, to be subversive of that principle, it would not merit the countenance of the committee.

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A claim upon our justice is made, on behalf of the original holders of securities, who have transferred them. Does the plighted faith of the country stand charged to pay the difference between the price their securities sold for in the market and their nominal sum? In order to make the affirmative appear, the worthy gentleman has said, that the paper is the only evidence of a prior contract; and while the paper was sold, the residuary right to the debt still remained in the seller. Supposing this novel doctrine to be true, which cannot be conceded, it will not warrant any conclusion in prejudice of any purchaser of the Loan-office debt; for the paper was given when the loan was made; as no prior debt existed, the paper is the very debt. The gentleman ought, therefore, to confine his motion to the army debt, as his principle seems inapplicable to any other. And even on liquidating the army debt, the certificate extinguished the prior debt; otherwise the public would be twice charged. As, when one man owes another an account, and gives his bond for the balance, the account is no longer of force. By the terms of the certificate, the person transferring has lost his claim against the public. He has freely transferred; for if violence or fraud were practised, the law will afford him redress. In society, as well as in a state of nature, property is changed by the consent of the last occupant. He may dispose of it by gift or at half price, and give a complete title. Nor will the pretence that this transfer was free only in appearance, avail; for the motives which disposed the owner to sell cannot affect the right of the purchaser. Every such creditor risked something; either that the Government would not pay him at all, or not in due season. The risk, computed in free and open market, will be nearly right. It is a kind of insurance against these risks, and the insurers and insured will calculate the rate of insurance better than Government can do it. If there is a new risk of Government interposing, it seems that the purchaser, who may be called the insurer, did not rate his risk high enough. It seems pretty clear, therefore, that there is no claim on the stipulated justice of the country.

The committee rose, reported progress, and obtained leave to sit again.

TUESDAY, February 16.

Public Credit.

The House again resolved itself into a Committee of the Whole on the report of the Secretary of the Treasury, Mr. BALDWIN in the chair.

Mr. MADISON's proposition still under consideration.

Mr. JACKSON observed, that although as young a politician as any on the floor, and convinced that the weight of experience was against him, on so important a national subject, he could not be silent; particularly as he had the honor of seconding the gentleman's motion (Mr. MADISON) now before the House, that it would be therefore expected that he should bring forward his reasons, and the principle which actuated him to it. He confessed, that had he not before leaned to the side of a discrimination, the arguments of that able gentleman would have induced him to support the plan he had brought forward. He was induced on another motive to rise, to show that the numerous arguments of the gentlemen in opposition, yesterday, had not convinced him of the impracticability or injustice of the composition.

The House were told much of the moral obligations we were under of paying our debts, and the impolicy and injustice of interfering with private contracts. The obligation, he believed, was nowhere denied; the debt was of the highest nature; it was the price of our independence: the only difficulty is, how that debt shall be discharged. He would here observe, that the justice of the plan before the House, had not been so fully objected to, as the impracticability, although it had been asserted to be unjust, by some of the gentlemen who had spoken.

He would consider the justice of the proposition. The House had been told the nature of those contracts, and the valuable considerations of them. The contract, as it struck him, fell under the legal terms of *do, ut des*; I give that thou mayest give—or, I give that I may receive. In all contracts there are three requisites: 1st. The agreement. 2d. The consideration. 3d. The thing to be done or omitted. This consideration is to be an equivalent, or full recompense for the thing to

be performed. Let us examine what is the thing to be done, and what the consideration is. The creditor, who was to perform the third article of the contract, held twenty shillings, which was to be given for a valuable consideration. What was this consideration? Two shillings and sixpence. He argued, that if this twenty shillings was worth no more than two shillings and sixpence, the contract was fair and substantial; but, if gentlemen carried the idea further, and declared this twenty shillings was money of equal value with the two shillings and sixpence given, he contended that the contract was destroyed. Equity would relieve, would declare it an unrighteous bargain, that there was not an adequate compensation, and would set aside the contract.

This public opinion is in favor of the original creditor; it is impossible to be otherwise. The people of America are a grateful people, and they cannot, with indifference, view the earnings of those who established their independence, converted into the coffers of the wealthy and ambitious. The speculator, he contended, was already more than satisfied, if it was only on the principle of interest which had accrued for six, seven, and eight years past, and which they had speculated on since.

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Mr. BENSON.—The gentlemen in favor of this motion.—come forward as the advocates of the late army. I wish, therefore, to be ascertained of one fact, do the army wish a measure of this kind to take place? I apprehend they do not; and I am led to this opinion from a knowledge of the habits of military men; they prefer their honor to every pecuniary consideration, and they generally are actuated by that principle alone. I will state a case. Suppose I purchased an officer's certificate for one hundred dollars, and I was to fund it; the Treasurer would say, you are to receive but fifty dollars, the other fifty are reserved for the original holder. Now, if I was to go and tell the officer, that, notwithstanding my purchase of all his right, title, and claim to the one hundred dollars, the Government would give me but fifty, retaining the other fifty for him, he would answer, I will never receive a farthing of it, because it is your money, fairly and honorably purchased of me. Now, in this case, what would you do? Should these fifty dollars fall to the Government, or to me? I reason in this manner, because I suppose this would be a general case. The Society of Cincinnati, of the State of New York, have, by a resolution, which they have published in the papers, disavowed the principle; and, in Rhode Island, a member of the Society was expelled for taking advantage of the tender-law of that State, and paying off a *bona fide* debt with depreciated paper. I apprehend the principle of action still remains the same throughout the whole of the army. When the soldier conveyed his certificate, there was a contract between the parties, that whatever sum the Government could pay, the whole of it should go to the assignee. Now, by an act of violence, you take the half of it away, and enable the assignor to discharge the contract by paying fifty dollars, when he had engaged that the purchaser should receive one hundred. This is, in effect, the same as the payment of depreciated paper under a tender-law, and would be equally rejected by those whom it is intended to favor.

I would state the case, as if it had happened between the gentleman and myself, could he hesitate to say the whole sum was fairly mine, and surrender it up, notwithstanding the legal interference of the Government? This is a question I would not suffer myself to reason upon; I would not trust my mind with it, lest it should preponderate in favor of self-interest, though against the common principles of truth and justice. I cannot think the army would accept the interposition; we ought, therefore, to be cautious how we trifle with the honor of other people.

I do not pretend to say, that the persons intended to be relieved by the proposed scheme have not a claim against the United States; but I deny that it is a claim upon our equity or justice; it may be a claim upon our humanity; and, whether we will satisfy this claim, depends on circumstances which have no connection with the present question.

Mr. JACKSON.—God forbid, Mr. Chairman, that I should trifle with the honor of men I value, and esteem so highly; it would be the last thing I could think of. But, sir, as a Legislator, I cannot consent that the pittance which was the reward of distinguished services, shall be torn from them by the arts of insidious speculators; but there are others, who have a claim in equity upon our justice, who ought not to be sacrificed to the soldier's honor.

Mr. WHITE said he agreed with the gentleman from Massachusetts (Mr. SEDGWICK) in the principle, that if a contract is made for a valuable consideration, and with the understanding of both parties, the Legislature ought not to interfere in it; and should it appear that the transaction between the original holders of certificates and the purchasers was a fair one, the dispute, in his mind, was at an end. But no gentleman had attempted to show that this was the case, though all the arguments against a discrimination were founded on that supposition. Perhaps it might be said, that every argument ought to be considered as fair; unless the contrary be proved. But where one man has obtained the property of another to the amount of £100 for £10, or £12 10s. the transaction must be explained to him, before he would believe it to be honest. What is the present case? The original holders, who have parted with the evidences of their debts, were principally common soldiers, militiamen, and farmers in indigent circumstances. Who were the purchasers? The Secretary of the Treasury tells us, that the most enlightened among our citizens are the creditors of the United States; common soldiers cannot be comprehended in this description. What must have passed, he asked, between the soldier, the militiaman, or farmer, and the purchaser? What reason could the purchaser assign for offering £10 for a paper which specified an obligation to pay £100? It must be something like this—the States will never pay you; if they do, it will be at a very remote period, so long as to be useless to you; but to relieve your present necessities, I will take the risk on myself, and give you £10. Now, could any enlightened man, he asked, in 1783, or at any subsequent period, in which time the transfers took place, believe that the independence of America was in danger, or that the debts could not be provided for?

He knew so many instances of transactions like that which he had stated, that he doubted not the greater part of the certificates had been obtained by similar means. Indeed he could not conceive any other by which they could be obtained.

He said we were, perhaps, without a precedent in any other nation which would be strictly applicable; but he desired gentlemen to determine for themselves, whether, under such circumstances, the man who had rendered services to his country should be deprived of his reward, or whether the purchaser ought to receive it. He said it was very different in the common transactions of life. If a man purchased a tract of land for £1,000, paid the money, and took a bond for the conveyance, a third person, by informing the purchaser that the seller could not make a title, or by other false suggestions should obtain a transfer of the bond in consideration of £100, and get a conveyance and possession of the land, yet, on repaying the £100, the conveyance would be set aside, and he would be restored to his land.

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He gave some other instances of a similar nature, and said, he believed, if a bond, whether due, or to become due, was assigned under such circumstances, that the obligee would be justifiable in contesting it in a court of law, and that the injured person would, on application, obtain redress. He said, that in cases of extreme hardship, Courts of Equity would give relief without express proof of fraud; that this was the law of Great Britain, and was agreeable to the principles of the civil law; that the Roman jurists, he believed, had fixed the point of extreme hardship to one half of the value of the property transferred; in England the court was to judge.

He said he did not think the present holders were strictly entitled to any thing more than the original purchasers; that here the maxim, quoted on the other side of the question, that the assignee stands in the shoes of the assignor, properly applied. You cannot place another on more advantageous ground than that on which you stand yourself. The plea of an innocent purchaser could not take place; the nature of the transaction must appear evident to every man concerned in the transfer.

He said the reverse of this did not hold. An assignee was not always in as advantageous a situation as the assignor; and instanced the case of an executor who should obtain the assignment of his testator's bond at an undervalue; and who, he said, could not retain in his hands the amount of the sum specified in the bond, which the creditor might have recovered, but only the sum which he actually paid for the bond.

He said, that, though in his opinion the present holders of certificates were strictly entitled to no more than what had been paid to the original holders, yet, as an investigation of that circumstance would be involved in inextricable difficulties, and since we were (as had been very properly observed and well expressed by a gentleman from South Carolina) settling the business of a family, he was willing to acquiesce in the motion of his colleague. He said, that arbitrators often gave the injured party less than his due, for peace sake; and he was willing to act on the same principle. He doubted not but courts of justice would give relief in particular cases; but in a matter of that magnitude, he thought the interference of the Legislature very proper. The South Sea business, he thought, in that respect, a good precedent. Two gentlemen had mentioned the business; he would not say they had misstated the transaction, but he thought their accounts imperfect. They said they had the documents under their hands; he wished they had been read; he had them not, but would state from memory what he thought applicable to the case in question. The directors of the South Sea Company, by various arts, induced the people to give as high as £1,000 for £100 stock; in many instances the money was paid, in others it was contracted to be paid. A gentleman has said, that Parliament interfered, not to violate, but to perfect the contract: but what did Parliament do? They confiscated the estates of the directors, and applied the amount to the relief of those who had actually paid their money, and suspended suits against those who had not paid; and authorized the debtors to discharge their debts by the payment of ten per cent. on the real value of the stock subscribed for. But if he was wrong in supposing the present holders ought to stand in the place of the first purchasers, they could be considered only as having purchased, in market, a paper of indefinite value; if, then, they get the highest market price, they are not injured.

He would now endeavor to obviate some of the objections to the measure, on account of its impracticability; and in general terms observed, that much greater pains had been taken to show the impracticability than the injustice of it. He said, if it was just, we ought to adopt it; and he did not doubt but the wisdom of the Legislature would be able to carry it into effect. Purchasers, he said, had been represented as the supporters of public credit; but he could not consider them in that light. The offering a tenth or an eighth part of the value of the bond of an individual would tend rather to blast his credit than to support it; it would have the same effect with respect to the public.

He said he had lived long enough to be convinced that wise and great men, having the same object in view, often differ in opinion with respect to the means of accomplishing it; therefore, every proposition ought to be treated with candor and respect. He made that observation in consequence of what passed yesterday. A gentleman from Massachusetts had introduced his speech in a manner somewhat new—with an apology for an impropriety which he *intended to commit*. He pursued the arguments of those who went before him, in opposition to the amendment; but his speech consisted principally in an effusion of opprobrious epithets, some of which he repeated, and said, to detail the whole would perhaps fill half a column of a newspaper. He said he felt, on the occasion, not for himself, for he had not expressed his sentiments on the subject under debate, but for the honor of the House, in which, he thought, no such language ought to be used.

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It had been said we came forward as volunteers; that the original holders did not put in their claim. That might be easily accounted for; they were generally obscure and indigent; had too much modesty, or perhaps not the capacity, to come forward. That he believed the crowd in the gallery did not consist of original holders.

Mr. HARTLEY.—I do not wish to trespass upon the time of the committee, but I cannot consent to give a silent vote on this occasion. I mean, however, to confine myself to a few observations, as many of my ideas have been communicated by other gentlemen. The honorable gentleman from South Carolina (Mr. SMITH) has anticipated much of what I had to urge; I shall therefore reduce my view of the subject to two points; first, as to the justice or legality of the measure, in obliging a creditor, or assignee, to take less than a certificate expresses, and pay the difference to another: second, as to the practicability or policy of the motion and its consequences.

As to making further satisfaction to the officers and soldiers of the late army, who have sold their certificates for an inconsiderable sum, and who have in consequence reaped a less reward than the Government contracted for, and intended them, I conceive it has nothing to do with the present question. However, if there is a disposition in Congress to make a further compensation to those brave and meritorious men, I would be among the first to support the measure; but I think this a subject too momentous to be involved collaterally in the question now under consideration.

With respect to the first point that offers itself, I have to remark, that a man who enters into a contract should know the consideration, and understand the principles upon which it is made, and these should be expressed on the face of the evidence of the contract. Now, if this contract be of a negotiable nature, the person to whom the same is offered, looks on its face, from which it discovers the *agrementum*, and is naturally led to consider the circumstances of the debtor, his ability and integrity. Suppose even the evidence of the contract to be obtained by fraud, unless it be against the express provision of a statute, and is transferred to a third person for a valuable consideration, without notice of fraud, it, must be paid. A fraud in any link of the chain is corrected by a *bona fide* transfer for a valuable consideration, without a knowledge of that circumstance by the purchaser.

Now, let us apply these principles to the present case. Here is an instrument of writing, specifying a debt to be due from the United States to the original holder, or bearer; this being brought into market, is offered to a third person, he, before his purchase, sees that the contract was executed in consequence of a consideration, and not against any positive statute; he then inquires the ability of the Union, and its disposition to comply with the contract; and, from a consideration of these circumstances, he concludes, with respect to his own interest and safety in the purchase, and pays what is conceived to be the value. What is there to discharge the Government from the payment? Is it pretended that the services and supplies were an inadequate compensation? If it even was so supposed, it would not authorize us to refuse a compliance with our engagements; any interference would set afloat the great principle upon which the public tranquillity and happiness depend. This leads me to consider the subject in my second point of view, with respect to its policy and practicability, and the consequences that would result from the attempt.

There are but few original holders who have transferred, that can be found; of consequence, you would throw the major part of the debt into an intricate labyrinth. The present possessor would be shifting back the certificate to the original holder, as far as a latitude is given. Many persons who were bare trustees, would be reaping advantages, and drawing money from the Public Treasury, to which they are not entitled; oaths would be multiplied on oaths; perjuries on perjuries; fraud upon fraud; and every species of speculation would ensue; deception would be a strong trait in the character of the times, and the whole of the United States would be in motion, each endeavoring to prey upon the other. The consequences of a second inundation of this nature are to be dreaded, and ought to be carefully avoided.

Mr. MOORE observed, that it was agreed on all hands, and proposed in the report of the Secretary, that some discrimination ought to take place. It was, therefore, incumbent on the House to inquire how this might be effected with the greatest degree of equity. He supposed the result would be, that we are at liberty to pay the most meritorious first. Who constituted this class of citizens? He trusted the late army had an incontrovertible title to it. He could never believe that the men who stripped the soldiers of their hard earnings, by allowing them a tenth of their claim, would have the temerity to pretend that they had acquired the title of merit with their money, and that the soldier relinquished, with his certificate, the honor of his corps.

Had the present question been agitated in the hour of distress, when an army was essential to our defence, the arguments of justice and equity would have had their weight. Perhaps it is the soldier's misfortune, that the question arises at a time when the object for which he was employed is secured. But notwithstanding all that has been said, I am fully convinced that his claim is insuperable in equity. The soldier did not engage to fight your battles to be compensated with a certificate, acknowledging you were indebted to him; it was specie you promised, and specie he had a right to expect, or something equal to it in reality. The public faith was actually pledged to him for a compensation for his services; but will any one say the public faith was inviolably kept with him, when a certificate, worth but two shillings in the pound was forced upon him as specie? The poor soldier, thus situated, was followed by gangs of speculators, who endeavored to impose on his judgment by the relation of artful and insidious opinions of the public capacity and integrity in the discharge of these acknowledgments. The soldier, incapable of detecting the specious falsehood, swallows the bait, and becomes the easy prey of designing men. The people felt and resented the injuries thus perpetrated on those they esteemed; and I am

much mistaken if the citizens of America do not still retain favorable impressions of the soldiers' services.

A great deal has been said, with respect to public opinion on this question. It is impossible, perhaps, to ascertain the public mind with precision; but there is but one way in our power, that is, to suffer the subject to be suspended for the present session, and on our return, or the election of our successors, the public sentiment in this respect will be evinced; but if we are to determine the public mind from our own observation, I should not hesitate to say that nine out of ten would be in favor of a discrimination. The people would, on this principle, I conceive, submit cheerfully to the payment of those taxes which are requisite to discharge the public engagements; but if they are to flow into the large cities, or into the hands of foreigners, who have speculated upon the misfortunes of the most meritorious class of our citizens, they will bear the burthen with murmurs and complaints.

Can any principle of justice demand the payment of the present possessor of a certificate, that does not apply more forcibly as it respects original holders? Will gentlemen, then, comply with the one, and neglect the other? Or rather, as my colleague has proposed, if they are incapable to pay both, will they not prefer a composition?

Mr. WADSWORTH.—It appears to me that we have mistaken this business from the beginning, for we are proceeding as if it was taken for granted that all those who had alienated their certificates, have been compelled to it by necessity; there is nothing further from the truth. So far as it respects the army debt it may be just; and at this moment, were a soldiery to be paid in certificates, they would part with them at as great a discount as ever. There is a disposition in soldiers generally to despise pecuniary considerations; if they want money, they will dispose of their property at an inconsiderate value to obtain it. But this remark does not extend to the industrious part of the public creditors, because they have carefully retained the evidences of their debt, and now will receive its value. But even of the army, it is not true that they will suffer the loss of the discount at which their certificates have been sold. Having an opportunity of being well acquainted with the circumstances of the army, I know that many of the officers lived upon their friends, who supported them from time to time, with such sums as they had occasion for, and when they retired from the army, they repaid their friends with the certificates which they had received. The best way for gentlemen to ascertain the amount of the public debt which has been transferred from necessity, is to mix in the world, and try, from the circle of their acquaintance, to learn what the actual transfers have been. I have done this, and am conscious within myself, that seven-eighths of all the alienated debt has not been disposed of by the original holder from necessity.

When the requisitions of Congress were rejected by the State Assemblies, some of the most wealthy persons of the community, and those most violently opposed to Continental measures, seemed to concur in the opinion, that the States would never raise a revenue for the purpose of paying the domestic debt. The people finding this a prevailing opinion, were impressed with a dread of its consequences, and sold this species of negotiable property at a rate dictated by their apprehensions. I should conceive it as a great evil, if the Government were now to restore to such persons what they lost for want of confidence. I think this circumstance will operate considerably against the gentleman's principle of equity; now, as to the practicability of the measure, those gentlemen who are acquainted with the history of the manner in which the public debt was contracted, will readily agree with me, that it is an insuperable objection. In the years 1776 and 1777, very few advances were made to those who procured supplies to the public; they purchased what they got generally upon credit, and they were obliged, before their accounts could be settled, and they could get their money from the Public Treasury, to get receipts for all the articles they had furnished, and then they received orders upon the loan-officers, who, not having money, paid them in certificates, which these people, in return, paid over to those who furnished them with supplies. So that the agent appears a creditor to a very considerable amount, when his personal claim is very trifling, and those who risked their property, without pay of any kind, and who are undoubtedly deserving of some credit, appeared to be no other than speculators in public securities. I cannot see, in this case, any possible mode of discrimination. There are a variety of other official transactions which would demonstrate the impracticability, if it was necessary to oppose the proposition on that ground.

WEDNESDAY, February 17.

Public Credit.

The House again went into a committee on the report of the Secretary of the Treasury, Mr. BALDWIN in the chair.

Mr. MADISON's proposition still under consideration.

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Mr. PAGE.—I do not wish to trouble the committee with a formal argument in favor of the motion offered by my colleague; but I wish to inquire of the gentlemen in opposition, whether they conceive the principles upon which it is grounded to be unjust? I observed, that their replies have generally gone against the practicability of the measure; but that does not prove to me that it is inequitable. If there is justice in the case, we must not consider the difficulty of the attempt. I trust, if it shall be found to stand on the foundation of immutable justice, that its practicability will be demonstrated. However, I shall not enter on that ground, but leave it to my colleague, who has so ably supported it on the other.

I would, however, beg gentlemen to answer these questions, and show to my mind the injustice of the United States complying with their engagements made to the first holders of certificates, as far as the case, and their abilities, will permit. Or where is the justice of doing more for the assignee than he, or his assignor, expected could or would be done? Where is the breach of faith in Government, if it pays its whole debt, with a justice, blended with mercy, resembling that of Heaven itself, making impartial retribution among the children of men, on the great day of accounts? Where is the propriety of branding a measure of this nature with epithets of infamy? or using such harsh expressions as have issued like a torrent from a gentleman on the other side of the House? So far am I from viewing the propositions through such a discolored medium, that I am induced to believe, if Congress adopt it, they may submit its rectitude, and stand the decision, of not only a superior order of beings, but of the Great Judge of the Universe, who is immutable truth itself.

What will the assignee lose by the measure? He will lose nothing, but the sanguine expectation lately raised in his mind.

Where is the interference in contracts, when the proposition is to comply sacredly, as far as the case will admit, with the contract between the State and its creditors? Is not the assignment of the certificates confirmed by the nation? Does it not give to the assignee the very thing stipulated between the assignor and assignee, that is, whatever sum the Government shall be pleased to pay for the certificate? And is not the sum now proposed, more than either the first or last assignee ever contemplated, till within a few days past, would ever be paid him?

The time is now arrived when justice ought to be done; it is looked for, with anxious expectation, by all classes of our fellow citizens; it will not avail us to say, it is impracticable, until experience has demonstrated it to be so. But the measure we contend for is termed an *ex post facto* law, and as such, is declared to be unconstitutional. Gentlemen torture every thing, in order to produce evidence against an act of justice. How can it be such an *ex post facto* law as is prescribed by the constitution, when that expression is conjunctive with a bill of attainder? It relates to that only, and can have no reference to the subject of the proposition before us. The same idea, which prevents us from an interference on the present occasion, will prevent us, as was observed by the gentleman from Georgia, from making a statute of limitation, or from correcting any frauds, which have been perpetrated on the unsuspecting soldiery. We must not contemplate the restoration of the starving soldier, with his humble wife and numerous and naked offspring, to a more eligible situation; we must not restore confidence to the man of honor who is buried in abject poverty, because it is addressing a language to the heart, which the haughtiness of the head disdains to hear; but, in doubtful cases of justice, the heart is the best director on this subject; happy will it be for us, if, as I think, they both concur to give their approbation to the present measure.

THURSDAY, February 18.

Public Credit.

The House again went into a committee on the Secretary of the Treasury's report, Mr. BALDWIN in the chair.

Mr. MADISON's proposition still under consideration.

Mr. STONE.—I shall not attempt to show the importance of the subject before us, as it relates to public credit; or as it will affect our character as a nation, at home and abroad. These have been explained; but it is proper for us to consider how far the amendment may operate to establish a precedent of Continental and State Legislation, the influence it may have on society, and the rules of civil conduct between man and man. Every community must experience that the conduct of the Government will influence the opinions of the individuals; and the spirit of the individual will transfuse itself into the Government. This action and reaction operates more powerfully in a Republican Government, founded on representation, than on any other.

Our situation is made more important, on the present occasion, by a disagreement on principles which ought to be fixed and plain; to me it seems that we differ on the principle of public justice. This may be unfortunate—let us endeavor to be reconciled. If the true distinction between natural and civil justice be accurately drawn, we may annihilate the point in contest. Agreeably to the principle of natural justice, no contract is perfect unless there be an equivalent; and that which we call a valuable consideration, on which to ground a contract, is founded on the idea of an equivalent, and presupposes it. And, I believe the idea of such a consideration being an equivalent, is the foundation of the validity of a contract, even in the English law; and is always carried into effect, wherever the execution is safe and certain; because I think, whenever it appears in any court of justice, that the consideration was not an equivalent, that then the contract is not carried into execution. The execution of the principle of natural justice then is safe; for instance, £99 19s. 11d. is not a consideration for £100, but a small sum may be a consideration for a valuable property; this does not arise from an infraction of the principle; but because the property may not have a determinate value in the society; and it would make judges arbitrary, legal proceedings extremely expensive, and contracts uncertain, if an extensive discretion as to the value was admitted. But whenever the consideration is so small and inadequate, as to appear so plainly and satisfactorily that the judge cannot be mistaken in determining it not to be an equivalent, there the contract is not valid.

Now, if we have received services from the soldier, and have given him paper, the question will

be, whether that was an equivalent, and the paper a proper payment; or whether it is only an evidence of the debt? I take it to be a granted point that it was not a payment, but an obligation to pay whenever the United States should be able. It appears to me, then, that it was the duty of the person who received the paper, to wait a reasonable time; and the duty of the nation to make actual payment as speedily as possible. If the person who had received this paper had wantonly parted with it for nothing, I agree we should have been under no more obligation to pay him the expressed sum, than if we had paid him money, and he had flung it away or wasted it; but if, on the contrary, there was a delay in the execution of the contract, on the part of the Government, which compelled him to part with it, a compensation is equitable.

The same rule will apply between the original holder, or person who rendered the service, and present possessor or assignee; for shortness we will distinguish them by the names of soldier and speculator. The speculator, when he dealt with the soldier, must, from the nature of the thing, have induced him to believe that he gave him an equivalent for his purchase; and it might have been an inducement to the soldier to sell, to think he had something more than an equivalent; the speculator thought he had more than an equivalent, throwing necessity on the one side, and fraud on the other, out of the question. Then the confidence was equal, perhaps not a penny between them: I can hardly conceive the exchange took place on any other terms. You never can allow the confidence of the speculator to be estimated very highly, perhaps at not more than one for ten. For if it is admitted, that the speculator had entire confidence, he was guilty of a palpable fraud, and a violation of the first principle of justice; it amounted to this, that he gave £10 in money for £100 bond, which he was certain would be paid. I believe, if the case stood exactly in this form, no man would hesitate in deciding its illegality. If a man takes £100 for £10, it is illegal; but suppose there was a risk, and this risk was considered by the speculator as little less than ten for one, has he not discovered his own mistake when he sees he gets an interest of sixty per cent. on his capital; and that capital tenfold? This contract then ought to be void on the principle of a mistake; and here you place the speculator between Scylla and Charybdis. If he really thought the certificates only worth one for ten, you can give him no credit for his confidence; and you will admit that he ought to be satisfied with a reasonable advance on his purchase. But if you give him entire credit for his confidence in Government, you must give him no credit for his honesty. If both parties had known of this event, the contract would never have taken place. If you pay the whole sum, the speculator ought to take no more than what he gave a fair equivalent for. Gentlemen who seem afraid of giving to the soldier a part of his original claim, lest they affront his nobleness of soul, make no scruple to offer the speculator ten times the sum he is entitled to, on the principle of natural justice, without any apprehension that his honor will receive a wound. If the claim of the soldier was extinguished by receiving two shillings in the pound of the speculator, upon what principle is it contended that the latter should receive more than distributive justice? Arguments, proving that the justice due to the first has been satisfied by what has been done, apply with greater force to the latter.

It has been doubted, and a question has been agitated, whether we shall exercise the power of reconsidering these contracts, and whether a modification is constitutionally in our power? I will not go into this subject, or any other which ought to be taken for granted. I shall take it, that we are authorized, and do mean to interfere; you must act. Do you mean to pay the principal and interest now due? I believe not. Will you shelter yourself under the plea of necessity? That is impossible. I dare say, if the United States were sold, they would at least be worth six hundred millions of dollars; and we have but eighty millions to provide for. Having, then, the means and power, I trust you mean to exercise them; and as you exercise them, you ought to exercise them as justly as possible; then, to do this, you will, it is said, personify the three parties concerned—the United States, the original holder, and the speculator. I do not clearly comprehend the idea of a personified State; perhaps it arises from my dulness of apprehension. Man, in his natural capacity, is sometimes obliged to do what is considered unjust; but a State, when it has power, is not obliged to do what is unjust. The State, then, in this respect, is doing what an honest man would do, if he had the power of conducting this business as he thought proper.

The speculator comes to you with his bond, and tells you it is due. The soldier tells you that he has done services to a considerable amount, for which he never has been paid; and that those evidences of the demand which you gave to him, were obtained from him, for one-tenth part of what they were declared to be worth. The State says to the speculator, you have made a great deal, and out of a man who has risked his life, and borne every burthen which human nature could bear, with the greatest fortitude which the most virtuous heart is capable of exerting, let him have a part back. The speculator answers no; here is your bond. Consider again, replies the State, that the veteran's services, at the expense of his health and property, at the risk of his life, has saved you and yours; and not only that, but he is obliged to pay of your demand, more than he has ever received. What is now his answer? Here is the bond, pay me my bond. Under these circumstances, supposing the State an individual, he might, without much infamy to his character, exercise the power which he has over his own bond, in order to do justice between the parties. He might say to the speculator, you had the soldier in your power; you did him injustice; we have you now in our power, we will do you complete justice, but no more. A private man could never be injured in his reputation by such conduct: indeed, according to the result of these circumstances, the hardships of war, and the breach of contract, have unfortunately inflicted upon the man, the most meritorious in this community, or perhaps in any other community, sufferings and miseries—a punishment sufficient to atone for the guilt of the greatest crimes. This, in the event, appears to be the situation of the saviors of America.

Mr. *Madison* said that the opponents of his proposition had imposed on its friends not only a heavy task, by the number of their objections, but a delicate one by the nature of some of them. It

had been arranged as an embarrassing measure which ought to be facilitated, and producing discussions which might end in disagreeable consequences. However painful it might be to contradict the wishes of gentlemen whom he respected, he could promise nothing more, in the present case, than his endeavors to disappoint their apprehensions. When his judgment could not yield to the propositions of others, the right to make and support his own, was a right which he could never suffer to be contested. In exercising it, he should study to maintain that moderation and liberality which were due to the greatness of the subject before the committee. He felt pleasure in acknowledging, that the like spirit had, in general, directed the arguments on the other side. Free discussions thus conducted are not only favorable to a right decision, but to a cheerful acquiescence of the mistaken opponents of it. They might have the further advantage of recommending the result to the public, by fully explaining the grounds of it. If the pretensions of a numerous and meritorious class of citizens be not well founded, or cannot be complied with, let them see that this is the case, and be soothed, under their disappointment, with the proof that they have not been overlooked by their country.

He would proceed now to review the grounds on which the proposition had been combated; which he should do without either following those who had wandered from the field of fair argument, or avoiding those who had kept within its limits.

It could not have escaped the committee, that the gentlemen to whom he was opposed, had reasoned on this momentous question as on an ordinary case in a court of law; that they had equally strained all the maxims that could favor the purchasing, or be adverse to the original holder; and that they dwelt with equal pleasure on every circumstance which could brighten the pretensions of the former, or discredit those of the latter. He had not himself attempted, nor did he mean to undervalue the pretensions of the actual holders. In stating them, he had even used as strong terms as they themselves could have dictated; but beyond a certain point he could not go. He must renounce every sentiment which he had hitherto cherished, before his complaisance could admit that America ought to erect the monuments of her gratitude, not to those who saved her liberties, but to those who had enriched themselves in her funds.

All that he wished was, that the claims of the original holders, not less than those of the actual holders, should be fairly examined and justly decided. They had been invalidated by nothing yet urged. A debt was fairly contracted; according to justice and good faith, it ought to have been paid in gold or silver; a piece of paper only was substituted. Was this paper equal in value to gold or silver? No. It was worth, in the market, which the argument for the purchasing holders makes the criterion, no more than one-eighth or one-seventh of that value. Was this depreciated paper freely accepted? No. The Government offered that or nothing. The relation of the individual to the Government, and the circumstances of the offer, rendered the acceptance a forced, not a free one. The same degree of constraint would vitiate a transaction between man and man, before any Court of Equity on the face of the earth. There are even cases where consent cannot be pretended; where the property of the planter or farmer had been taken at the point of the bayonet, and a certificate presented in the same manner. But why did the creditors part with their acknowledgment of the debt? In some instances, from necessity; in others, from a well-founded distrust of the public. Whether from the one, or the other, they had been injured; they had suffered loss, through the default of the debtor; and the debtor cannot, in justice or honor, take advantage of the default.

Here, then, was a debt acknowledged to have been once due, and which was never discharged; because the payment was forced and defective. The balance, consequently, is still due, and is of as sacred a nature as the claims of the purchasing holder can be; and if both are not to be paid in the whole, is equally entitled to payment in part.

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He begged gentlemen would not yield too readily to the artificial niceties of forensic reasoning; that they would consider not the form, but the substance—not the letter, but the equity—not the bark, but the pith of the business. It was a great and an extraordinary case; it ought to be decided on the great and fundamental principles of justice. He had been animadverted upon, for appealing to the heart as well as the head; he would be bold, nevertheless, to repeat, that, in great and unusual questions of morality, the heart is the best judge.

It had been said, by a member from Massachusetts, that the proposition was founded on a new principle in Congress. If the present Congress be meant, that is not strange, for Congress itself is new; if the former Congress be meant, it is not true, for the principle is found in an act which had been already cited. After the pay of the army had, during the war, been nominally and legally discharged in depreciated paper, the loss was made up to the sufferers.

It had been said, by a member from New York, that this case was not parallel, there being no third party like the present holders of certificates. This objection could not be valid. The Government paid ten dollars' worth in fact, but only one to the soldier. The soldier was then the original holder. The soldier assigned it to the citizen; the citizen then became the actual holder. What was the event? The loss of the original holder was repaired, after the actual holder had been settled with, according to the highest market value of his paper.

He did not mean, however, to decide on the whole merits of this last transaction; or to contend for a similitude, in all respects, between the two kinds of paper. One material difference was, that the bills of credit, by more frequent transfers, and by dividing the change of value among a greater number of hands, rendered the effect of less consequence to individuals, and less sensible to the public mind. But this difference, whatever force it might give to the claims of the purchasing holder of certificates, could diminish nothing from the claims of the original holders who assigned them.

It had been said, by another member from Massachusetts, that the old Government did every thing in its power. It made requisitions, used exhortations, and in every respect discharged its duty; but it was to be remembered, that the debt was not due from the Government, but the United States. An attorney, with full powers to form, without the means to fulfil engagements, could never, by his ineffectual, though honest efforts, exonerate his principal.

He had been repeatedly reminded of the address of Congress in 1783, which rejected a discrimination between original and purchasing holders. At that period, the certificates to the army, and citizens at large, had not been issued. The transfers were confined to loan-office certificates, were not numerous, and had been, in great part, made with little loss to the original creditor. At present, the transfers extend to a vast proportion of the whole debt, and the loss to the original holders has been immense. The injustice which has taken place has been enormous and flagrant, and makes redress a great national object. This change of circumstances destroys the argument from the act of Congress referred to; but if implicit regard is to be paid to the doctrines of that act, any modification of the interest of the debt will be as inadmissible as a modification of the principal.

It had been said, that if the losses of the original creditors are entitled to reparation, Congress ought to repair those suffered from paper money—from the ravages of the war, and from the act of barring claims not produced within a limited time. As to the paper money, either the case is applicable, or it is not: if not applicable, the argument fails; if applicable, either the depreciated certificates ought to be liquidated by a like scale, as was applied to the depreciated money; or the money, even if the whole mass of it was still in circulation, ought to be literally redeemed, like the certificates. Leaving the gentleman to make his own choice of these dilemmas, he would only add, himself, that if there were no other difference between the cases, the manifest impossibility of redressing the one, and the practicability of redressing the other, was a sufficient answer to the objection. With respect to the towns burnt, and other devastations of war, it was taught, by the writers on the law of nations, that they were to be numbered among the inevitable calamities of mankind. Still, however, a Government owed them every alleviation which it could conveniently afford; but no authority could be found that puts on the same footing with those calamities, such as proceed from a failure to fulfil the direct and express obligations of the public. The just claims barred by the act of limitation, were, in his opinion, clearly entitled to redress. That act was highly objectionable. The public, which was interested in shortening the term, undertook to decide, that no claim, however just, should be admitted, if not presented within nine months. The act made none of the exceptions usual in such acts, not even in favor of the most distant parts of the Union. In many instances, it had been absolutely impossible for the persons injured to know of the regulation. Some of these instances were within his own knowledge. To limit the duration of a law to a period, within which it could not possibly be promulgated, and then take advantage of the impossibility, would be imitating the Roman tyrant, who posted up his edicts so high that they could not be read, and then punished the people for not obeying them.

It has been said, that if the purchased certificates were funded at the rate proposed, they would fall in the market, and the holders be injured. It was pretty certain, that the greater part, at least, would be gainers. He believed that the highest market price, especially with the arrears of interest incorporated, well funded at six per cent, would prevent every loss that could justify complaint.

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But foreigners had become purchasers, and ought to be particularly respected. Foreigners, he remarked, had themselves made a difference between the value of the foreign and domestic debt; they would, therefore, the less complain of a difference made by Government here. It was his opinion that the term stated in the proposition would yield a greater profit to the foreign purchasers than they could have got for their money if advanced by them in any of the funds of Europe.

The proposition had been charged with robbing one set of men to pay another. If there were robbery in the case, it had been committed on the original creditors. But, to speak more accurately, as well as more moderately, the proposition would do no more than withhold a part from each of two creditors, where both were not to be paid the whole.

A member from New York has asked whether an original creditor, who had assigned his certificate, could, in conscience, accept a reimbursement in the manner proposed? He would not deny that assignments might have been made with such explanations, or under such circumstances, as would have that effect; but, in general, the assignments have been made with reference merely to the market value, and the uncertainty of the steps that might be taken by the Government. The bulk of the creditors had assigned under circumstances from which no scruples could arise. In all cases where a scruple existed, the benefit of the provision might be renounced. He would, in turn, ask the gentleman, whether there was not more room to apprehend that the present holder, who had got his certificate of a distressed and meritorious fellow-citizen for one-eighth or one-tenth its ultimate value, might not feel some remorse in retaining so unconscionable an advantage?

Similar propositions, it was said, had been made and rejected in the State Legislatures. This was not a fact. The propositions made in the State Legislatures were not intended to do justice to the injured, but to seize a profit to the public.

But no petitions for redress had come from the sufferers. Was merit, then, to be the less regarded, because it was modest? Perhaps, however, another explanation ought to be given. Many of the sufferers were poor and uninformed. Those of another description were so dispersed, that their interests and efforts could not be brought forward. The case of the

purchasing holders was very different.

The constitutionality of the proposition had been drawn into question. He asked whether words could be devised that would place the new Government more precisely in the same relation to the real creditors with the old? The power was the same; the obligation was the same. The means only were varied.

An objection had been drawn from the article prohibiting *ex post facto* laws. But as *ex post facto* laws relate to criminal, not civil cases, the constitution itself requires this definition, by adding to a like restriction on the States an express one against retrospective laws of a civil nature.

It had been said, that foreigners had been led to purchase, by their faith in the article of the constitution relating to the public debts. He would answer this objection by a single fact: Foreigners had shown, by the market price in Europe, that they trusted the nature of foreign debt more under the old Government, than the nature of the domestic debt under the new Government.

Objections to the measure had been drawn from its supposed tendency to impede public credit. He thought it, on the contrary, perfectly consistent with the establishment of public credit. It was in vain to say, that Government ought never to revise measures once decided. Great caution on this head ought, no doubt, to be observed; but there were situations in which, without some legislative interposition, the first principles of justice, and the very ends of civil society, would be frustrated. The gentlemen themselves had been compelled to make exceptions to the general doctrine; they would probably make more before the business was at an end.

It had been urged, that if Government should interpose in the present case, as interposition would be authorized in any case whatever where the stock might fluctuate, the principle would apply as well to a fall of sixty or seventy per cent. as to a fall of six hundred or seven hundred per cent. He could not admit this inference. A distinction was essential between an extreme case, and a case short of it. The line was difficult to be drawn; but it was no more incumbent on him than on his opponents to draw it. They themselves could not deny that a certain extremity of the evil would have justified the interposition. Suppose that the distress of the alienating creditors had been ten times as great as it was; that instead of two, three, and four shillings in the pound, they had received a farthing only in the pound; and that the certificates lay now in the hands of the purchasers in that state, or even at a less value, was there a member who would rise up and say, that the purchasers ought to be paid the entire nominal sum, and the original sufferer be entitled to no indemnification whatever?

Gentlemen had triumphed in the want of a precedent to the measure. No government, it was said, had interposed to redress fluctuations in its public paper. But where was the government that had funded its debts under the circumstances of the American debt? If no government had done so, there could be no precedent either for or against the measure, because the occasion itself was unprecedented. And if no similar occasion had before existed in any country, the precedent to be set would at least be harmless, because no similar occasion would be likely to happen in this.

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If gentlemen persisted, however, in demanding precedents, he was happy in being able to gratify them with two, which, though not exactly parallel, were, on that account, of the greater force, since the interposition of Government had taken place where the emergency could less require them.

The first was the case of the Canada bills. During the war which ended in 1763, and which was attended with a revolution of the Government in Canada, the supplies obtained for the French army in that province were paid for in bills of exchange and certificates. This paper depreciated, and was bought up chiefly by British merchants. The sum and the depreciation were so considerable as to become a subject of negotiation between France and Great Britain at the peace. The negotiations produced a particular article, by which it was agreed by France that the paper ought to be redeemed, and admitted by Great Britain that it should be redeemed at a liquidated value. In the year 1766 this article was accordingly carried into effect by ministers from the two courts, which reduced the paper in the hands of the British holders, in some instances, as much as seventy-five per cent. below its nominal value. It was stated, indeed, by the reporter of the case, that the holders of the paper had themselves concurred in the liquidation; but it was not probable that the concurrence was voluntary. If it was voluntary, it shows that they themselves were sensible of the equity of the sacrifice.

The other case was of still greater weight, as it had no relation to war or treaty, and took place in the nation which has been held up as a model with respect to public credit. In the year 1713, the civil list of Great Britain had fallen into arrears to the amount of £500,000. The creditors who had furnished supplies to the Government had, instead of money, received debentures only from the respective officers. These had depreciated. In that state, they were assigned in some instances; in others, covenanted to be assigned. When the Parliament appropriated funds for satisfying these arrears, they inserted an express provision in the act, that the creditors who had been obliged, by the default of Government, to dispose of their paper at a loss, might redeem it from the assignees by repaying the actual price, with an interest of six per cent., and that all agreements and covenants to assign should be absolutely void. Here then was an interposition on the very principle, that a Government ought to redress the wrongs sustained by its default, and on an occasion trivial when compared to that under consideration; yet it does not appear that the public credit of the nation was injured by it.

The best source of confidence in Government was the apparent honesty of its views. The

proposition could not possibly be ascribed to any other motive than this, because the public was not to gain a farthing by it. The next source was an experienced punctuality in the payments due from the Government. For this support to public credit, he relied on what had been experienced by a part of the foreign creditors; on the provision to be made for the residue; and on the punctuality which, he flattered himself, would be observed in all future payments of the domestic creditors. He was more apprehensive of injury to public credit from such modifications of the interest of the public debt as some gentlemen seemed to have in view. In these the public would be the gainer, and the plea of inability the more alarming, because it was so easy to set up, so difficult to be disproved, and for which, consequently, the temptations would be so alluring.

Mr. SENEY rose and observed, that it was with reluctance he attempted to express to the committee his ideas upon a question which had been so fully and ably discussed. However, as it had been expected that gentlemen would not, in a case of such magnitude, be content with merely a silent vote, he rose to declare the reasons upon which his decision was founded. In doing this, he hoped that he should not use epithets which might be deemed harsh, or language which would be offensive; that although the sentiments of other members should differ from his, he wished so far to respect those sentiments as to treat them with decency.

He considered the proposition of the gentleman from Virginia (Mr. MADISON) was designed to effect two purposes: the one, a compensation to the original creditors, who, during the late war, in times of distress, had loaned money, furnished supplies, and rendered military services; and who had only received satisfaction therefor in paper of inconsiderable value, forced on them by the public, and depreciated by their acts. This class of citizens, he conceived, had a just and equitable claim for the full difference in value between that paper, when paid, and specie. The other object of the proposition alluded to, was, he said, to compensate those creditors who now hold alienated certificates. Each description of those creditors had, in his opinion, claims on the public. The first was founded on an original contract between them and the Government, part of which only had been complied with, and the residue still remained undischarged. The other was grounded on having possession of the paper which contained the promise to pay.

It has been contended that the United States have not ability to pay both. In this case a question arises: What is, upon the whole, most just and expedient? Some gentlemen contend, that it is incumbent on us to make full provision for those who hold the assigned certificates, without any for the original creditors who have alienated them. Others think, that the misfortune of Government, in this respect, should not be felt by either class solely, but be borne by both. That it is more just to adopt a mode of composition, by which those creditors should mutually share in this misfortune, and be mutually benefited by a provision within our power to make; with those his sentiments accorded. He could not be impressed with the justice or reason of a measure calculated to make a total sacrifice of one class of creditors, and full payment to the other class. Such a step could not, in his opinion, be justified in any distinction or precedence which existed in their claims. When it was considered that the original creditors furnished money and supplies, and rendered services essential to the preservation of their country, and at a time when its liberties were invaded, and every thing which can be dear to freemen was in jeopardy and at stake, he could not apprehend that their claims would be deemed inferior to those of their rivals. In his opinion, these circumstances entitled them to superior notice. Believing, however, that the amendment under consideration would, upon the whole, effect more substantial justice than any other practicable scheme that had been proposed to the committee, or which he had heard of, his assent would, therefore, be given to it.

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TUESDAY, February 19.

Public Credit.

The House again went into a committee on the report of the Secretary of the Treasury, Mr. BALDWIN in the chair.

Mr. MADISON's proposition still under consideration.

Mr. LIVERMORE said he was against any discrimination between the soldier and other public creditor, who held a public security, made payable to bearer, and consequently transferable, with intent that they might be sold, if convenience or necessity should require it. This had been understood by all parties, as well in America as in foreign countries, and they had been sold accordingly. The advocates for discrimination have not denied this; they have only alleged that the low rate at which the poor soldier or other public creditor had sold his securities was a sufficient reason for Congress to interfere and set aside the sale. In opposition to this, he observed, that persons had a right to buy and sell at such prices as they could mutually agree upon, provided there was no fraud.

A diamond, a horse, or a lot of ground, might be sold too cheap, or too dear, and so might any other property; but Government could not interfere without destroying the general system of law and justice. Esau had sold his birthright for a mess of pottage, and heaven and earth had confirmed the sale. The distresses of the army, both officers and soldiers, at the time they received and sold their securities, had been painted in too strong colors. They were not so emaciated by sickness and famine as had been represented. They were crowned with victory, and received with applause by their fellow-citizens; and although they had been paid in paper, their loss had been made up by large bounties, and in other emoluments; so that, in point of property, they were equal to their fellow-citizens who had borne the burden of taxes under which many are laboring to this day. Let them be called brave soldiers, patriotic soldiers, but not poor soldiers.

They ought to be governed by the same system of justice that governs others; but their contracts ought not to be set aside out of partiality to them. The case quoted from the statute of Queen Anne is not applicable to this case, inasmuch as Government had not originally made the debentures therein mentioned transferable. Neither did the case of the Canada bills apply; for, as he understood, those bills were paid to British merchants and to others who had purchased them.

Mr. MADISON.—If paper, or the honor of statues or medals can discharge the debts of justice, payable in gold or silver, we can not only exonerate ourselves from those due to the original holders, but from those of the assignees. So far as paper goes, the latter have received the compensation. If honor can discharge the debt, they have received civil honors; look around to the officers of every Government in the Union, and you find them sharing equal honors with those bestowed on the original creditors. But, sir, the debt due in gold and silver is not payable either in honor, appointments, or in paper.

Gentlemen say it will work injustice; but are we not as much bound to repair the injustice done by the United States? Yet I do not believe the assertion has been established by any thing that has been urged in its support. The gentleman from Maryland (Mr. STONE) acknowledges that there is a moral obligation to compensate the original holders; how will they get what he admits is their due? He is willing to make an effort, by applying the resources of the country to that purpose; but if we are to judge by the sentiments of other gentlemen who have spoken on this occasion, we have little to expect from that quarter. Suppose the debt had depreciated to a mere trifle, and suppose the sale of the Western Territory had extinguished the certificates, let me ask, whether, if the United States had thus exonerated themselves from the obligation to the assignee, whether the claim of the original holder would not still remain in its full force in a moral view? But believing the point of justice to be exhausted, I will just add one remark upon the practicability. The transferred certificates, generally, will show the names of the original holders, and here there is no difficulty. With respect to those granted to the heads of either of the five great departments, the books of the Treasurer of Loans, as well as the accounts of those departments now in the Treasury, will designate, with a great degree of accuracy, and this may be followed up by the usual mode of obtaining evidence; and I believe every security may be provided against fraud in this case that was provided in the case of the commissioners who were sent into the respective States for ascertaining and liquidating the claims of individuals. That there will be some difficulty I admit, but it is enough for me that it is not insuperable; and I trust, with the assistance which the cause of equity and justice will ever obtain from the members of the National Legislature, they will easily be surmounted.

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MONDAY, February 22.

Public Credit.

The House then resolved itself into a committee on the Report of the Secretary of the Treasury, Mr. BALDWIN in the chair.

Mr. MADISON's proposition still under consideration.

Mr. PAGE.—As the worthy and eloquent member who replied to me did not answer the questions I put to the committee, I suppose, he either did not hear them, did not understand me, or could not answer them. I hope, before the committee decide, they will attempt at least to resolve them. I asked, where is the injustice of the State's complying with its engagements made to the first holders of certificates as far as the case admits? Where is the justice of doing more for the assignee than he or his assignor expected could or would be done? Where is the breach of faith in Government, if it paid its whole debt with justice, blended with mercy? Where is the interference in contracts, when the proposition is to comply sacredly, as far as the case will admit, with the contracts between a State and its creditors? I asked, is not the assignment of certificates confirmed by the motion? Does it not give to the assignee the very thing stipulated to be given, that is, whatever sum Government shall be pleased to pay for the certificates, for that was the condition of the assignment? And is not the sum now proposed more than either the first or last holder, till within these few days, supposed would be paid him? I asked also, ought not an honest assignee to be pleased that Government intends to do that justice to his assignor which he ought to do himself, were the whole payment made to him? I asked, of what is the assignee deprived but of his late sanguine expectations? I asked, whether the proposition before us does not rather establish confidence in Government than the contrary? For, sir, to make use of the comparison which has been often made here between the State and an obligor on a bond, what could give more credit to any man's bonds than to find that, though they had depreciated to half a crown in the pound, he paid the whole twenty shillings; ten shillings to the assignee, who had given but two shillings and sixpence, and ten to the obligee who had sold at so great a loss?

It is true Congress may, consistently with the rules of common law courts, pay the bearer and take no notice of the creditors; but were a Court of Equity instituted to decide on the case of certain speculators, how would they decide? Government, in the most solemn manner, pledged itself to make compensation to the soldiers, have they done it? Instead of doing this, certain persons, who took advantage of their ignorance and their poverty, bought up the evidence of their debt at one-eighth of the nominal value; and in some States these very men had drawn what constituted the principal of the purchase with six per cent. interest in three years.

In what does the case differ between the depreciated paper and the certificates? Paper money was redeemed at forty for one, as well to the last as the first holder; the same principle would lead to give the last holder of the certificate the depreciated value at which he bought it. But we

propose to work no injustice, we give the first holder, if he is the holder still, the full value stipulated. It would not be injustice to consider the assignee, as having paid what he advanced, in consequence of his confidence in Government, on account of that Government; and that the Government ought to repay him what he so advanced; having repaid that sum, the balance ought to go to the credit of the assignee. I am willing, on this consideration, to call the speculator the friend and supporter of the Government, who kindly lent us when in need, two shillings and sixpence in every pound, to advance to the poor soldier. If certificates are the evidence of the debt, it proves, sir, that the balance is due to him in whose name it issued. This is the day of payment, and we must pay accordingly; and here permit me to remark, in reply to the observation of the gentleman from New Hampshire, (Mr. LIVERMORE,) that *Jacob* was punished for his fraud, but for his faith enjoyed the promise; even so let us regard those who had so much confidence in us as to advance two shillings and sixpence to the distressed soldier.

Mr. HEISTER was in hopes this question would be postponed for the present, in order to go into a consideration of the ways and means: when, if it appeared that the United States were incapable of making full provision, it might be considered, whether one deviation would not authorize the other? If any gentleman would make a motion to that effect, he would second him.

The question was now taken on Mr. MADISON's proposition for a composition, and it passed in the negative; yeas 13, nays 36.^[35]

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WEDNESDAY, March 17.

On Slavery.

The House again resolved itself into a Committee of the Whole on the Report of the committee, to whom was referred the memorial of the people called Quakers, &c., Mr. BENSON in the chair.

The question of order was put, when it was determined that Mr. TUCKER's last amendment was not in order.

The report was then taken up by paragraphs. The first proposition being read,

Mr. WHITE moved that it be struck out. He did this, he said, because he was against entering into a consideration at this time of the powers of Congress. He thought it would be time enough for this when the powers are called in question. He then read the next, which he said was entirely unnecessary, as it contains nothing more than what is contained in express terms in the constitution. He passed on to the third, which he said was equally unnecessary; and to the fourth, which was provided for by the constitution. He said, that he should agree to the fifth and sixth, with certain modifications. Agreeable to this idea, he offered those two in a different form. He disagreed to the seventh proposition, as unnecessary and improper. He concluded by observing, that his wish was to promote the happiness of mankind—and among the rest those who are the objects of the present consideration—but this he wished to do in conformity to the principles of justice and with a due regard to the peace and happiness of others; he would contribute all in his power to their comfort and well-being while in a state of slavery; but he was fully of opinion that Congress has no right to interfere in the business, any further than he proposed by the two propositions as modified. He did not, however, anticipate the difficulties from a total prohibition which some gentlemen seem to apprehend—and if Congress had it in their power to interdict this business at the present moment, he did not think the essential interests of the Southern States would suffer. Twenty years ago, he supposed the idea he now suggested would have caused universal alarm. Virginia, however, about twelve years since, prohibited the importation of negroes from Africa, and the consequences apprehended never were realized; on the contrary, the agriculture of that State was never in a more flourishing situation.

Mr. HARTLEY.—I have the honor to be one of the committee on the memorials, and will, with the leave of this committee, mention some particulars which took place in the course of the investigation of the business. He premised that he was sorry that the question of right had been brought forward yesterday—and was not a little surprised to hear the cause of slavery advocated in that House, and language held towards the petitioners which his experience had never shown to be Parliamentary—he read some memorandums taken in committee, and had particular reference to a law passed in Grenada, which he applauded for its humanity, and truly benevolent spirit. He reprobated the illiberal treatment which the memorialists had received, and asserted that they were friends to the constitution, and that on the present occasion they came forward from the most laudable motives, from a wish to promote the happiness of mankind; that their conduct, so far from meriting censure, deserved, and would receive, the applause of the civilized world.

Mr. BROWN, in a considerable speech, advocated the motion of Mr. WHITE. He enlarged on the pernicious consequences that may be expected to flow from the interference of Congress; he pointed out the effects which had resulted from the interposition of the Quakers, by which the prospects of the Southern States in slaves had been rendered very precarious—and if Congress should adopt the report as it stands, the consequences would be pernicious in the highest degree. The negro property will be annihilated. The emancipation of slaves will be effected in time, it ought to be a gradual business; but he hoped that Congress would not, to gratify people who never had been friendly to the independence of America, precipitate the business to the great injury of the Southern States.

Mr. BURKE entered into a very extensive consideration of the subject. He gave an account of the humane treatment which the slaves of the Southern States received, their habitations, families,

children, privileges, &c. He then showed that their emancipation would tend to make them wretched in the highest degree. He animadverted with great freedom on the past and present conduct of the Quakers. He denied that they were the friends of freedom; he said, that during the late war, they were for bringing this country under a foreign yoke; they descended to the character of spies; they supplied the enemy with provisions; they were guides and conductors to their armies; and whenever the American army came into their neighborhood, they found themselves in an enemy's country. Mr. BURKE was proceeding in this strain, when he was interrupted by being called to order. A warm altercation ensued, and in the midst of it, a motion was made that the committee rise. This motion was negatived, and Mr. BURKE added a few more observations on the injustice of the measure of interference, as it respected the property of the Southern States.

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Mr. SMITH (of South Carolina) said he lamented much that this subject had been brought before the House; that he had deprecated it from the beginning, because he foresaw that it would produce a very unpleasant discussion; that it was a subject of a nature to excite the alarms of the Southern members, who could not view, without anxiety, any interference in it on the part of Congress. He remarked, that as they were resolved into a Committee of the Whole on the powers of Congress respecting slavery and the slave trade, in consequence of certain memorials from the people called Quakers and the Pennsylvania Society for the abolition of slavery, the whole subject, as well as the contents of these memorials, was under consideration. He should therefore enter into the business at large, and offer some comments on the contents of the memorial.

The memorial from the Quakers contained, in his opinion, a very indecent attack on the character of those States which possess slaves. It reprobates slavery as bringing down reproach on the Southern States, and expatiates on the detestation due to the licentious wickedness of the African trade, and the inhuman tyranny and bloodguiltiness inseparable from it. He could not but consider it as calculated to fix a stigma of the blackest nature on the State he had the honor to represent, and to hold its citizens up to public view as men divested of every principle of honor and humanity. Considering it in that light, he felt it incumbent on him not only to refute those atrocious calumnies, but to resent the improper language made use of by the memorialists. Before he entered into the discussion, he begged to observe, that when any class of men deviated from their own religious principles, and officiously came forward in a business with which they had no concern, and attempted to dictate to Congress, he could not ascribe their conduct to any other cause but to an intolerant spirit of persecution. This application came with the worst grace possible from the Quakers, who professed never to intermeddle in politics, but to submit quietly to the laws of the country.

He had met with a publication which came out in the year 1775, (at a period when the affairs of America were in a very desponding situation,) entitled "The ancient Testimony and Principles of the Quakers." It set forth that their religious principles restrained them from having any hand or connivance in setting up and putting down kings and governments; that this was God's peculiar prerogative for causes best known to himself; that it was not their business to be busybodies above their stations, but only to pray for the King and safety of their nation, that they might live a quiet and peaceable life, under the Government which God was pleased to set over them. If these were really their sentiments, why did they not abide by them? Why did they not leave that, which they call God's work, to be managed by himself? Those principles should instruct them to wait with patience and humility for the event of all public measures, and to receive that event as the Divine will. Their conduct on this occasion proved that they did not believe what they professed, or that they had not virtue enough to practise what they believed. Did they mean to rob the Almighty of what they call his prerogative? And were they not partial ministers of their own acknowledged principles? It was difficult to credit their pretended scruples; because, while they were exclaiming against the Mammon of this world, they are hunting after it with a step steady as time, and an appetite keen as the grave.

The memorial from the Pennsylvania Society applied, in express terms, for an emancipation of slaves, and the report of the committee appeared to hold out the idea that Congress might exercise the power of emancipating after the year 1808; for it is said that Congress could not emancipate slaves prior to that period. He remarked, that either the power of manumission still remained with the several States, or it was exclusively vested in Congress; for no one would contend that such a power would be concurrent in the several States and the United States. He then showed that the State Governments clearly retained all the rights of sovereignty which they had before the establishment of the constitution, unless they were exclusively delegated to the United States; and this could only exist where the Constitution granted, in express terms, an exclusive authority to the Union, or where it granted in one instance an authority to the Union, and in another prohibited the States from exercising the like authority, or where it granted an authority to the Union, to which a similar authority in the States would be repugnant.

He applied these principles to the case in question; and asked, whether the constitution had, in express terms, vested the Congress with the power of manumission? Or whether it restrained the States from exercising that power? Or whether there was any authority given to the Union, with which the exercise of this right by any State would be inconsistent? If these questions were answered in the negative, it followed that Congress had not an exclusive right to the power of manumission. Had it a concurrent right with the States? No gentleman would assert it, because the absurdity was obvious. For a State regulation on the subject might differ from a Federal regulation; in which case one or the other must give way. As the laws of the United States were paramount to those of the individual States, the Federal regulations would abrogate those of the States, consequently the States would thus be divested of a power which it was evident they now

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had, and might exercise whenever they thought proper. But admitting that Congress had authority to manumit the slaves in America, and were disposed to exercise it, would the Southern States acquiesce in such a measure without a struggle? Would the citizens of that country tamely suffer their property to be torn from them? Would even the citizens of the other States, which did not possess this property, desire to have all the slaves let loose upon them? Would not such a step be injurious even to the slaves themselves? It was well known that they were an indolent people, improvident, averse to labor: when emancipated, they would either starve or plunder. Nothing was a stronger proof of the absurdity of emancipation than the fanciful schemes which the friends to the measure had suggested; one was, to ship them out of the country, and colonize them in some foreign region. This plan admitted that it would be dangerous to retain them within the United States after they were manumitted: but surely it would be inconsistent with humanity to banish these people to a remote country, and to expel them from their native soil, and from places to which they had a local attachment. It would be no less repugnant to the principles of freedom, not to allow them to remain here, if they desired it. How could they be called freemen, if they were, against their consent, to be expelled from the country? Thus did the advocates for emancipation acknowledge that the blacks, when liberated, ought not to remain here to stain the blood of the whites by a mixture of the races.

Another plan was to liberate all those who should be born after a certain limited period. Such a scheme would produce this very extraordinary phenomenon, that the mother would be a slave and her child would be free. These young emancipated negroes, by associating with their enslaved parents, would participate in all the debasements which slavery is said to occasion. But allowing that a practicable scheme of general emancipation could be devised, there can be no doubt that the two races would still remain distinct. It is known, from experience, that the whites had such an idea of their superiority over the blacks, that they never even associated with them; even the warmest friends to the blacks kept them at a distance, and rejected all intercourse with them. Could any instance be quoted of their intermarrying; the Quakers asserted that nature made all men equal, and that the difference of color should not place negroes on a worse footing in society than the whites; but had any of them ever married a negro, or would any of them suffer their children to mix their blood with that of a black? They would view with abhorrence such an alliance.

Mr. S. then read some extracts from Mr. Jefferson's Notes on Virginia, proving that negroes were by nature an inferior race of beings; and that the whites would always feel a repugnance at mixing their blood with that of the blacks. Thus, he proceeded, that respectable author, who was desirous of countenancing emancipation, was, on a consideration of the subject, induced candidly to avow that the difficulties appeared insurmountable. The friends to manumission had said, that by prohibiting the further importation of slaves, and by liberating those born after a certain period, a gradual emancipation might take place, and that in process of time the very color would be extinct, and there would be none but whites. He was at a loss to learn how that consequence would result. If the blacks did not intermarry with the whites, they would remain black to the end of time; for it was not contended that liberating them would whitewash them; if they would intermarry with the whites, then the white race would be extinct, and the American people would be all of the mulatto breed. In whatever light, therefore, the subject was viewed, the folly of emancipation was manifest. He trusted these considerations would prevent any further application to Congress on this point, and would so far have weight with the committee as to reject the clause altogether, or at least to declare, in plain terms, that Congress has no right whatever to manumit the slaves of this country.

Various objections, said he, had at different times been alleged against the abominable practice, as it had been called, of one man exercising dominion over another; but slavery was no new thing in the world. The Romans, the Greeks, and other nations of antiquity, held slaves at the time Christianity first dawned on society, and the professors of its mild doctrines never preached against it. [Here Mr. S. read a quotation from the Roman and Grecian History, and from some accounts of the government and manners of the people of Africa, before they had any knowledge of the African traders, from which it appeared that slavery was not disapproved of by the Apostles when they went about diffusing the principles of Christianity; and that it was not owing to the African trade, as had been alleged, that the people of Africa made war on each other.]

Another objection against slavery was, that the number of slaves in the Southern States weakened that part of the Union, and in case of invasion would require a greater force to protect it. Negroes, it was said, would not fight; but he would ask whether it was owing to their being black or to their being slaves? if to their being black, then unquestionably emancipating them would not remedy the evil, for they would still remain black; if it was owing to their being slaves, he denied the position: for it was an undeniable truth, that in many countries slaves made excellent soldiers. In Russia, Hungary, Poland, peasants were slaves, and yet were brave troops. In Scotland, not many years ago, the Highland peasants were absolute slaves to their lairds, and they were renowned for their bravery. The Turks were as much enslaved as the negroes—their property and lives were at the absolute disposal of the Sultan, yet they fought with undaunted courage. Many other instances might be quoted, but those would suffice to refute the fact. Had experience proved that the negroes would not make good soldiers? He did not assert that they would, but they had never been tried; discipline was every thing; white militia made but indifferent soldiers before they were disciplined. It was well known that according to the present art of war, a soldier was a mere machine, and he did not see why a black machine was not as good as a white one; in one respect the black troops would have the advantage in appearing more horrible in the eyes of the enemy. But admitting that they would not fight, to what would the argument lead? Undoubtedly to show that the Quakers, Moravians, and all the non-resisting and

non-fighting sects, constitute the weakness of the country. Did they contribute to strengthen the country against invasion by staying at home and joining the invader as soon as he was successful? But they furnished money, he should be told, and paid substitutes; and did not the slaves, by increasing the agriculture of the country, add to its wealth, and thereby increase its strength? Did they not moreover perform many laborious services in the camp and in the field, assist in transporting baggage, conveying artillery, throwing up fortifications, and thus increase the numbers in the ranks by supplying their places in these services? Nor was it necessary that every part of the empire should furnish fighting men; one part supplied men, another money; one part was strong in population, another in valuable exports, which added to the opulence of the whole. Great Britain obtained no soldiers from her East and West India settlements, were they therefore useless? She was obliged to send troops to protect them, but their valuable trade furnished her with means of paying those troops.

Another objection was that the public opinion was against slavery. How did that appear? Were there any petitions on the subject excepting that from the Pennsylvania Society and a few Quakers? And were they to judge for the whole Continent? Were the citizens of the Northern and Eastern States to dictate to Congress on a measure in which the Southern States were so deeply interested? There were no petitions against slavery from the Southern States, and they were the only proper judges of what was for their interest. The toleration of slavery in the several States was a matter of internal regulation and policy, in which each State had a right to do as she pleased, and no other State had any right to intermeddle with her policy or laws. If the citizens of the Northern States were displeased with the toleration of slavery in the Southern States, the latter were equally disgusted with some things tolerated in the former.

He had mentioned on a former occasion the dangerous tenets and pernicious practices of the sect of Shaking Quakers, who preached against matrimony, and whose doctrine and example, if they prevailed, would either depopulate the United States, or people it with a spurious race. However the people of South Carolina reprobated the gross and immoral conduct of these Shakers, they had not petitioned Congress to expel them from the Continent, though they thought such a measure would be serviceable to the United States.

The Legislature of South Carolina had prohibited theatrical representations, deeming them improper; but they did not trouble Congress with an application to abolish them in New York and Philadelphia. The Southern citizens might also consider the toleration of Quakers as an injury to the community, because in time of war they would not defend their country from the enemy, and in time of peace they were interfering in the concerns of others, and doing every thing in their power to excite the slaves in the Southern States to insurrection; notwithstanding which, the people of those States had not required the assistance of Congress to exterminate the Quakers.

But he could not help observing, that this squeamishness was very extraordinary at this time. The Northern States knew that the Southern States had slaves before they confederated with them. If they had such an abhorrence for slavery, why, said Mr. S., did they not cast us off and reject our alliance? The truth was, that the best informed part of the citizens of the Northern States knew that slavery was so ingrafted into the policy of the Southern States, that it could not be eradicated without tearing up by the roots their happiness, tranquillity, and prosperity; that if it were an evil, it was one for which there was no remedy, and therefore, like wise men, they acquiesced in it. We, on the other hand, knew that the Quaker doctrines had taken such deep root in some of the States, that all resistance to them must be useless; we therefore made a compromise on both sides—we took each other, with our mutual bad habits and respective evils, for better, for worse; the Northern States adopted us with our slaves, and we adopted them with their Quakers. There was then an implied compact between the Northern and Southern people that no step should be taken to injure the property of the latter, or to disturb their tranquillity. It was therefore with great pain that he viewed the anxiety of some of the members to pay such uncommon respect to the memorialists, as even to set aside the common rules of proceeding, and attempt to commit the memorials the very day they were presented, though the Southern members had solicited one day's delay. Such proceedings had justly raised an alarm in the minds of himself and his Southern colleagues; and feeling that alarm, they would have acted a dishonorable part to their constituents had they not expressed themselves with that warmth and solicitude which some gentlemen had disapproved.

A proper consideration of this business must convince every candid mind that emancipation would be attended with one or other of these consequences: either that a mixture of the races would degenerate the whites, without improving the blacks, or that it would create two separate classes of people in the community, involved in inveterate hostility, which would terminate in the massacre and extirpation of one or the other, as the Moors were expelled from Spain, and the Danes from England. The negroes would not be benefited by it; free negroes never improve in talents, never grow rich, and continue to associate with the people of their own color. This is owing either to the natural aversion the whites entertain towards them, and an opinion of the superiority of their race, or to the natural attachment the blacks have to those of their own color; in either case it proves that they will, after manumission, continue a distinct people, and have separate interests. The author already quoted has proved that they are an inferior race even to the Indians.

After the last war, a number of negroes which had been stolen from the Southern States, and carried to England, either quitted the persons who had carried them there, or were abandoned by them. Unable to provide for themselves, and rejected from the society of the common people of England, they were begging about the streets of London in great numbers; they supplicated captains of vessels to carry them back to their owners in America, preferring slavery there to

freedom in England. Many of them were shipped to Africa by the humanity of the English, and were either butchered or made slaves of by their savage countrymen, or reshipped for sale to the plantations.

But some persons have been of opinion, that if the further importation of slaves could be prohibited, there would be a gradual extinction of the species. Having shown the absurdity of liberating the *postnati* without extending it to all the slaves old and young, and the great absurdity and even impracticability of extending it to all, I shall say a few words with regard to the extinction. That would be impossible, because they increase; to occasion an extinction, Congress must prohibit all intercourse between the sexes; this would be an act of humanity they would not thank us for, nor would they be persuaded that it was for their own good; or Congress must, like Herod, order all the children to be put to death as soon as born. If, then, nothing but evil would result from emancipation, under the existing circumstances of the country, why should Congress stir at all in the business, or give any countenance to such dangerous applications? We have been told that the Government ought to manifest a disposition inimical to this practice which the people reprobate. If some citizens, from misinformation and ignorance, have imbibed prejudices against the Southern States, if ill-intentioned authors have related false facts, and gross misrepresentations tending to traduce the character of a whole State, and to mislead the citizens of other States, is that a sufficient reason why a large territory is to be depopulated, merely to gratify the wish of some misinformed individuals? But what have the citizens of the other States to do with our slaves? Have they any right to interfere with our internal policy?

This is not an object of general concern, for I have already proved that it does not weaken the Union; but admit that it did, will the abolition of slavery strengthen South Carolina? It can only be cultivated by slaves; the climate, the nature of the soil, ancient habits, forbid the whites from performing the labor. Experience convinces us of the truth of this. Great Britain made every attempt to settle Georgia by whites alone, and failed, and was compelled at length to introduce slaves; after which that State increased very rapidly in opulence and importance. If the slaves are emancipated, they will not remain in that country; remove the cultivators of the soil, and the whole of the low country, all the fertile rice and indigo swamps will be deserted, and become a wilderness. What, then, becomes of its strength? Will such a scheme increase it? Instead of increasing the population of the whites, there will be no whites at all. If the low country is deserted, where will be the commerce, the valuable exports of that country, the large revenue raised from its imports and from the consumption of the rich planters? In a short time, the Northern and Eastern States will supply us with their manufactures; if you depopulate the rich low country of South Carolina and Georgia, you will give us a blow which will immediately recoil on yourselves. Suppose there are one hundred and forty thousand slaves in those States, which require annually five yards of cloth each, making seven hundred thousand yards at half a dollar a yard, this makes three hundred and fifty thousand dollars, besides the articles of linen, flannel, Osnaburgh, blankets, molasses, sugar, and rum, for the use of the negroes; now, either the Eastern and Middle States will supply us with all these articles, or they will receive the benefit of the impost on them if they are imported from foreign countries. Without the rice swamps of Carolina, Charleston would decay, so would the commerce of that city; this would injure the back country. If you injure the Southern States, the injury would reach our Northern and Eastern brethren; for the States are links of one chain; if we break one, the whole must fall to pieces. Thus it is manifest, that in proportion to the increase of our agriculture will our wealth be increased; the increase of which will augment that of our sister States, which will either supply us with their commodities, or raise a large revenue upon us, or be the carriers of our produce to foreign markets.

It has been said, that the toleration of slavery brings down reproach on America. It only brings reproach on those who tolerate it, and we are ready to bear our share. We know that none but prejudiced and uncandid persons, who have hastily considered the subject, and are ignorant of the real situation of the Southern States, throw out these insinuations. We found slavery ingrafted in the very policy of the country when we were born, and we are persuaded of the impolicy of removing it; if it be a moral evil, it is like many others which exist in all civilized countries, and which the world quietly submit to. Humanity has been a topic of declamation on this subject: that sentiment has different operations on different individuals, and he had it in his power to show, that humanity first gave origin to the transportation of slaves from Africa into America. *Bartholomew de las Casas*, Bishop of Chiapa, a Spaniard renowned for his humanity and virtues, in order to save the Indians in South America from slavery, prevailed on his monarch to substitute Africans, which were accordingly purchased on the coast of Africa, and shipped to the Spanish colonies to work in the mines: this appears in *Robertson's History of America*, which Mr. S. quoted. At this day, the Spaniards give considerable encouragement to the transportation of slaves into their islands. Mr. S. read the edict for that purpose.

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Another objection is, that slavery vitiates and debases the mind of the owner of this sort of property. Where, he asked, is the proof of this allegation? Do the citizens of the Southern States exhibit more ferociousness in their manners, more barbarity in their dispositions, than those of the other States? Are crimes more frequently committed there? A proof of the absurdity of this charge may be found in the writings of those who wish to disseminate this mischievous idea, and yet, in their relations of facts, they themselves contradict it. They lay down general principles, which they take upon credit from others, or which they publish with sinister views, and when they enter into a detail of the history of those States, they overset their own doctrines. Thus, one writer tells us, that the Southern citizen, who is educated in principles of superiority to the slaves which surround him, has no idea of government, obedience, and good order, till he mingles with the hardy and free-spirited yeomanry of the North, and that after mixing with them, he will

return home with his mind more enlarged, his views more liberalized, and his affections rectified, and he becomes a more generous friend to the rights of human nature. But hear what the Eastern traveller is to learn by visiting the enslaved regions of the South. He will see, says the same writer, immediately after, industry crowned with affluence, independence, hospitality, liberality of manners; and, notwithstanding the prevalence of domestic slavery, he will find the noblest sentiments of freedom and independence to predominate; he will extol their enterprise, art, and ingenuity, and will reflect that nature is wise, and that Providence in the distribution of its favors is not capricious. Take another striking instance of this contradiction from Morse's Geography. He says, that there are more slaves than free persons in South Carolina, and mentions the mischievous influence of slavery on their manners, which, he observes, by exempting them from the necessity of labor, leads to luxury, dissipation, and extravagance, and savors too much of a haughty, supercilious behavior; that the inhabitants want that enterprise and perseverance which are necessary for the attainment of the arts and sciences; that they have few motives to enterprise, and too generally rest contented with barely knowledge enough to transact the common affairs of life. Now, for the author's proofs: they are contained in these words:

"Many of the inhabitants spare no pains nor expense in giving the highest polish of education to their children; literature has begun to flourish since the peace; several flourishing academies and colleges have been established; the ladies have an engaging softness and delicacy in their manners; theatrical exhibitions have been prohibited by law; gaming of all kinds is more discountenanced than in any of the Southern States; all denominations of religion are on an equal footing; commerce is flourishing; economy is becoming more fashionable, and science begins to spread her salutary influence among the citizens."

But was South Carolina, at the commencement of the war, with all her slaves, backward in her resistance to Great Britain? View the conduct of her citizens, their zeal and ardor in the cause of liberty; their labor at Fort Sullivan. Are crimes more frequent in that country than in the other States? Are there more executions? I believe there have been as few as in any part of the Continent, and those which have taken place have been generally of emigrant convicts, or fugitive wheel-barrow men; he would be bold to assert that in no State on the Continent is there more order, sobriety, and obedience to good government; more industry and frugality; nor is there any trace of the influence of slavery on the character of her citizens.

The French, so far from curbing and cramping the African trade with needless regulations, give large premiums upon every negro landed on their islands; in some instances as much as two hundred livres per head. Is that nation more debased than others? Are they not a polished people, sensible of the rights of mankind, and actuated by proper sentiments of humanity? The Spaniards encourage slavery; they are people of the nicest honor, proverbially so. The Romans and Greeks had slaves, and are not their glorious achievements held up as excitements to great and magnanimous actions? Sparta teemed with slaves at the time of her greatest fame as a valiant Republic. The absolute power of the Lacedæmonians over the Helotes is frequently spoken of by the ancient writers; they were not only the slaves of the Commonwealth, but of every individual; they could not be set at liberty, neither could they be sold; hence arose a saying, that a free man at Sparta was most a free man, and a slave most a slave.

The system of the Roman policy with regard to slavery was still more severe. Slaves were not even under the protection of the laws; they were considered as things, *inter res*. A master, merely from caprice, might torture, dismember, and even murder his slave. If a slave did any damage exceeding his value, he was delivered to the person injured, who did with him what he pleased. Yet these slaves were of the same color as their masters, and equal to them in mental faculties; many of them were men of great learning, philosophers, poets, &c. Much had been said of the cruel treatment of slaves in the West Indies and the Southern States; with respect to the latter, he denied the fact from experience, and accurate information, and believed in his conscience that the slaves in South Carolina were a happier people than the lower order of whites in many countries he had visited. With regard to the West Indies, *Lord Rodney* and *Admiral Barrington* had both declared, that they had spent some time in the West Indies, and that they had never heard of a negro being cruelly treated; that they had often spoken of their happiness in high terms, declaring that they should rejoice exceedingly if the English day laborer was half as happy. Some have said that slavery is unnecessary; so far from it, that several essential manufactures depended on it. Indigo, cochineal, and various other dyeing materials, which are the produce of the West Indies, could only be raised by slaves; the great staple commodities of the South would be annihilated without the labor of slaves. It is well known that when the African slaves were brought to the coast for sale, it was customary to put to death all those who were not sold; the abolition of the slave trade would therefore cause the massacre of the people.

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The cruel mode of transportation was another motive to this abolition; but was it to be presumed that the merchants would so far attend to their own interests as to preserve the lives and the health of the slaves on the passage. All voyages must be attended with inconveniencies, and those from Africa to America not more than others. As to their confinement on board, it was no more than necessary; as to the smallness of space allotted them, it was more than was allotted to soldiers in a camp; for the measurement of cubical air breathed by the Africans, compared with that of soldiers in a camp, was in favor of the former as thirty to seventeen; it was full as much as was allotted in ships of war to seamen, who, by the laws of England, were frequently on their return to their families, after a long and dangerous voyage, seized by violence, hurried away by a press-gang, and forced on another voyage more tedious and perilous than the first, to a hot and sickly climate, where several hundreds of them were stowed away in the hold of a vessel. In cases of disobedience, the captain had a right, for slight offences, to inflict on them corporal

punishment without the intervention of a court-martial, and in other cases they are punishable by very severe laws, executed by martial courts, established for that purpose. The same may be observed of the soldiers, who were frequently flogged severely for trifling offences; instances have been known of their being put under the care of a surgeon, after receiving a small part of the intended flagellation, to refit them for the residue.

Having thus removed the force of the observations which have been advanced against the toleration of slavery, by a misguided and misinformed humanity, I shall only add, that I disapprove of the whole of the report; because it either states some power sufficiently expressed in the constitution, which is unnecessary, or it sets forth some power which I am clear Congress do not possess. The concluding paragraph is an extraordinary one. In what mode are the memorialists to be informed of our humane dispositions? Are we to send a special committee to inform them? Or is the Speaker to write them a letter, or the Sergeant-at-Arms with the mace to wait on them? In short, Mr. Chairman, the whole of this business has been wrong from beginning to end, and as one false step generally leads to others, so has the hasty commitment of these memorials involved us in all this confusion and embarrassment. I hope, therefore, if any kind of report is agreed to, it will be something like that proposed by my colleague.

The committee rose, and reported progress.

FRIDAY, March 19.

HUGH WILLIAMSON, a member from North Carolina, appeared and took his seat.

MONDAY, March 22.

Subject of Slavery.

Mr. BOUDINOT said, although he most heartily approved of many of the arguments and doctrines of his friend from Pennsylvania, yet he could not go all lengths with him. He thought with him, that our time had been taken up, and great labor had been used in arguments that nowise related to the merits of the question before the committee, but he could not agree that the clause in the constitution relating to the want of power in Congress "to prohibit the importation of such persons, as any of the States *now existing* shall think proper to admit, prior to the year 1808, and authorizing a tax or duty on such importation, not exceeding ten dollars for each person," did not extend to negro slaves. Candor required that he should acknowledge, that this was the express design of the constitution, and, therefore, Congress could not interfere in prohibiting the importation, or promoting the emancipation of them, prior to that period. He said he was well informed that the tax or duty of ten dollars was provided instead of the five per cent. *ad valorem*, and was so expressly understood by all parties in the Convention. That therefore it was the interest and duty of Congress to impose this tax, or it would not be doing justice to the States, or equalizing the duties throughout the Union. If this was not done, merchants might bring their whole capitals into this branch of trade, and save paying any duties whatever. Mr. B. had hoped that the great lengths to which the gentleman from Pennsylvania had carried the argument, would have convinced gentlemen in the opposition of the propriety, if not the necessity of the resolutions on the table. Is it not prudent now, while the design of the framers of the constitution is well known, and while the best information can be obtained, for Congress to declare their sense of it, on points which the gentlemen say, involve their great and essential interests, especially when the gentleman from Pennsylvania gives so different a construction to it from what the gentleman from the Southward thinks right? Is it not advantageous to the Southern States to have an explicit declaration calming their fears and preventing unnecessary jealousies on this subject? Can there be any foundation for alarm, when Congress expressly declare, that they have no power of interference prior to the year 1808? But gentlemen say they have been charged with impropriety of conduct, in discovering so much warmth and earnestness, on a subject with which their dearest interests are so intimately connected—that all men are led by interest, and they are justified in pursuing the same line of conduct.

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Mr. B. declared, for his own part, he never blamed them for standing forth for what they conceived the true interests of their constituents; but it was the manner in which this had been done, that he complained of. On resolutions declaring that Congress had not power to prohibit the importation of slaves into any State, or interfering in their emancipation or internal government, long arguments had been used, and much precious time had been spent, to prove the lawfulness of the African trade in slaves; this, indeed, was an arduous task, in this day of light and knowledge. An author, said to be of reputation, was brought forward to prove the state of that unhappy country, but it turned out to be in the fifteenth century; this could be of little avail. An hour was taken up in reading the labors of a newspaper writer in the island of Jamaica. This writer appeared wholly uninformed as to historic facts relating to the miserable Africans, and as ignorant of the principal arguments against the slave trade. It was necessary for him to deny the authority of *Anthony Benezet*, who had published some pointed facts on the subject. Mr. *Benezet* was a man of the strictest integrity, and of the best information—a man that was an honor to his country, and an ornament to society. Mr. B. had been well acquainted with him, and spoke from personal knowledge; he had examined into the facts from captains of Guineamen, and a person who had lived twelve years in that country, and he could say, with confidence, that *Mr. Benezet's* account had been generally confirmed. Not only the practice of ancient nations, and that of all modern Europe, had been brought into view, but even the sacred Scriptures had been quoted, to justify this iniquitous traffic. It is true, that the Egyptians held the Israelites in bondage for four

hundred years, and Mr. B. doubted not, but much the same arguments as had been used on the present occasion, had been urged with great violence by the King of Egypt, whose heart, it is expressly said, had been extremely hardened, to show why he should not consent to let the children of Israel go, who had now become absolutely necessary to him; but, said he, gentlemen cannot forget the consequences that followed; they were delivered by a strong hand and stretched-out arm, and it ought to be remembered that the Almighty Power that accomplished their deliverance is the same yesterday, to-day, and for ever. The New Testament has afforded a number of texts to countenance this doctrine, in the gentleman's opinion. One would have imagined that the uniform tenor of the Gospel, that breathes a spirit of love and universal philanthropy to our fellow-creatures—that commands our love to our neighbor to be measured by our love to ourselves—that teaches us that whatsoever we would that men should do to us to do so to them, would have prevented this misapplication. Surely the gentleman overlooked the prophecy of St. Peter, where he foretells, that, among other damnable heresies, "through covetousness shall they, with feigned words, make merchandise of you."

A quotation from a modern author, of great note in the philosophical world, has been most ungenerously made use of by the newspaper writer before referred to—I mean from the works of the famous *Mr. Paley*, whose treatise on Moral Philosophy does him the greatest credit—a single sentence or two is taken from this work, without regard to the connection, to brand him with the charge of countenancing slavery. Mr. B. then produced the book and read the passage, wherein it appeared that *Mr. Paley* laid down "the obligation of slavery to arise from crimes, captivity, and debt;" that the slave trade on the coast of Africa is not excused by these principles; that no questions are there asked relative to the justice of the vender's title, but this is the least crime with which this traffic is chargeable; the natives are excited to war, with this the wickedness begins; the slaves torn away from parents, wives, children, from their friends and companions, their fields and flocks, their home and country, are transported to the European settlements in America, with no other accommodation on ship-board than what is provided for brutes. This is the second stage of cruelty from which they are delivered, only to be placed, and that for life, in subjection to a dominion and system of laws the most tyrannical that ever were tolerated upon the face of the earth. But necessity is pretended, and after all it has never been proved that it exists. *Mr. Paley* then refers to the present situation of the United States. "The great revolution in the Western World," says he, "may probably conduce (and who knows but that it was designed) to accelerate the fall of this abominable tyranny; and now it is a season for reflecting whether a Legislature, which had so long lent its assistance to the support of an institution replete with human misery, was fit to be trusted with an empire the most extensive that ever obtained in any age or quarter of the world." He then shows that slavery was a part of the civil constitution of most countries when Christianity appeared; and the reason that its precepts did not expressly condemn or prohibit slavery was, because, soliciting admission into all nations, it abstained from meddling with the civil institutions of any. Then follows the passage quoted by the newspaper writer—"That the discharging of slaves from all obligation to their masters, which is the consequence of pronouncing slavery unlawful, would have no better effect than to let loose one-half of mankind on the other. Slaves would have been tempted to embrace a religion which asserted their right to freedom; masters would hardly have been persuaded to consent to claims founded on such authority; the most calamitous of all contests, a *bellum servile*, might probably have ensued, to the reproach, if not the extinction of the Christian name." He then asserts, that emancipation should be gradual, and by the provisions of laws, and under the protection of civil government. "Christianity can only operate as an alterative. By the mild diffusion of its light and influence, the minds of men are insensibly prepared to perceive and correct the enormities, which folly, wickedness, or accident, have introduced into their public establishments." Thus, proceeded Mr. B., justice is done to this worthy philosopher and my own sentiments are more concisely and explicitly set forth than I could have done without it.

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But when gentlemen attempt to justify this unnatural traffic, or to prove the lawfulness of slavery, they should advert to the genius of our Government, and the principles of the Revolution. By the declaration of Congress, in 1775, setting forth the causes and necessity of taking up arms, they say: "If it was possible for men who exercise their reason, to believe that the Divine author of our existence intended a part of the human race to hold an absolute property in, and an unbounded power over others, marked out by His infinite goodness and wisdom, as the objects of a legal domination never rightfully resistible, however severe and oppressive, the inhabitants of these colonies might at least require from the Parliament of Great Britain some evidence that this dreadful authority over them had been granted to that body." And by the Declaration of Independence, in 1776, Congress declare: "We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness."

This, then, is the language of America in the day of distress. Mr. Chairman, I would not be understood, to contend the right of Congress at this time to prohibit the importation of slaves, whatever might have been the principles of the Revolution or the genius of the Government; by the present constitution we are clearly and positively restrained till the year 1808, and I am sure that no gentleman in this committee would have the most distant wish to wound this instrument of our connection.

But there is a wide difference between justifying this ungenerous traffic, and supporting a claim to property, vested at the time of the constitution, and guarantied thereby. Besides, it would be inhumanity itself to turn these unhappy people loose to murder each other, or to perish for the want of the necessaries of life. I never was an advocate for so extravagant a conduct.

Many arguments were pointed against the danger of our emancipating these slaves, or even holding up an idea that we had a power so to do, and much time has been taken up to disprove this right in Congress. As no claim of this kind is contended for, and the resolutions already passed expressly contradict it, I shall make no further observations on them.

But the characters of the signers of these memorials are called in question, as an argument against the adoption of the resolution on the table. One of these memorials was signed by the Society of people called Quakers: the other by Dr. Franklin, as President of a private Society in Philadelphia. The indiscriminate abuse that has been thrown out against Quakers, without distinction, has not comported with the honor or dignity of this House. Not only their characters, but their very names have been called upon, and private anecdotes, relating to individuals, been mentioned on the floor. Many of the Quakers I have long lived in the habits of friendship with, and can testify to the respectability of their characters and the regularity of their lives. Their conduct in the late war has been arraigned, and they have been condemned in the lump. I have known many of them during the war, and impartial justice requires it from me, to give the committee some official information on the subject. I had the honor of serving the United States at the commencement of the war, as Commissary General of prisoners. Congress not being able to afford them supplies, those unhappy men in this town were reduced to the very depths of distress, without food or raiment, without blankets or firing, they suffered every thing that human nature could bear. In this situation many of the Quakers of this city exercised such humanity towards them as did honor to human nature. The miserable prisoner not only felt the happy effects of their exertions in his favor, but participated in their money, their food, and clothing. Nay, such were the jealousies created by this conduct, in the British army here, that an armed force entered the house of one of them, seized his books, and though a man of great property, and large commercial dealings, on finding that he had loaned large sums of money to our distressed prisoners, he was turned out of their lines, and with his family was a refugee during the whole of the war afterwards, separated from his business and property.

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To whom was the care of our prisoners in Philadelphia committed? To a Quaker: and I have been witness to the just tribute of gratitude and thankfulness paid by great numbers of our unhappy fellow-citizens to that gentleman for his kindness and humanity. And is this indiscriminate charge, without the least respect to characters, a decent or a just return for a conduct like this? Where is the denomination amongst us, that did not furnish opposers to our glorious Revolution? Were not hundreds of Presbyterians, Episcopalians, and almost of every other denomination, among our enemies? What denominations formed the thousands of new levies, that endeavored to deluge our country in blood? On the other hand, were not a Greene and a Mifflin furnished from the Society of the Quakers?

In short, I rejoice to say, that our cause was not carried on by fanaticism or religious zeal, but a general struggle for the rights of human nature. Then why all this abuse of this particular sect, without discrimination? Can any solid argument against the resolution on the table arise from a conduct of this kind? I am at a loss to know what other argument has been used to show the impropriety of the resolution before you. It goes to declare the power of Congress to prohibit foreigners from fitting out vessels in our ports, to supply foreigners with slaves from Africa. For my part, I think it a prudent, a humane, and a constitutional resolution. It will render further interference on this subject, perhaps, unnecessary, when it is known that the power of Congress extends to remedy the evil. They will hardly venture to risk a voyage that may be ruined before its being finished.

The gentleman last up (Mr. SMITH) said, that it was now acknowledged, that one of the memorials had asked something contrary to the constitution. I have never acknowledged this. The language is, that Congress would go to "the very verge of the constitution," to accomplish the business; but there is no request to exceed it.

The character of the celebrated signer of the last memorial, Dr. Franklin, has been touched upon. The firmness of his mind has been suspected. An ingenious parable of his has been read to the committee, but its application totally mistaken. If the Supreme Being has borne with the unhappy subjects of our consideration, not for one hundred, but for thousands of years, in their own native land; has provided them with climate, soil, and social comforts, in which they rejoice; must we be discontented, and suppose, by adding to their misery, we can add to their happiness?

TUESDAY, March 23.

Subject of Slavery.

It was then moved, that the House should take up the report of the Committee of the Whole on the report of the committee to whom were referred the memorials of the people called Quakers, and of the Pennsylvania Society for promoting the abolition of slavery.

This motion was opposed by Mr. JACKSON, Mr. SMITH, Mr. BURKE, and Mr. BLAND; they severally observed, that the discussion of the subject has already excited a spirit of dissension among the members of the House, and that every principle of policy and concern for the dignity of the House, and the peace and tranquillity of the United States, concur to show the propriety of dropping the subject, and letting it sleep where it is. On the other hand, Mr. VINING, Mr. HARTLEY, and Mr. PAGE, observed, that there was the same propriety in taking up the subject at the present moment, and bringing it to a conclusion, as there was for first taking it up; that it has been so fully discussed it cannot be supposed gentlemen will go over the same ground again; it may soon be determined; to pass it over will be unprecedented, and will leave the public mind in the same

state of uncertainty from which so much danger is apprehended. The motion for taking up the report was warmly contested in a lengthy debate, and finally passed in the affirmative, by a majority of one. Whereupon, on motion, that the said report of the committee, and also the report of the Committee of the whole House, of amendments to said report, be inserted on the Journal, it was resolved in the affirmative, 29 votes to 25. The yeas and nays were as follows:

Those who voted in the affirmative, were,

Messrs. Boudinot, Brown, Cadwalader, Contee, Floyd, Foster, Gerry, Gilman, Goodhue, Griffin, Hartley, Hathorn, Heister, Huntington, Lawrence, Lee, Leonard, Madison, Muhlenberg, Parker, Partridge, Schureman, Scott, Sedgwick, Sherman, Sylvester, Sinnickson, Vining, and Wynkoop.

Those who voted in the negative, were,

Messrs. Ames, Baldwin, Benson, Bland, Burke, Carroll, Coles, Gale, Grout, Jackson, Livermore, Mathews, Moore, Page, Van Rensselaer, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Sturges, Sumter, Thatcher, Trumbull, Tucker, White, and Williamson.

The said reports are as follow:

Report of the Special Committee.

The committee to whom were referred sundry memorials from the people called Quakers, and also, a memorial from the Pennsylvania Society for promoting the Abolition of Slavery, submit the following report:

That from the nature of the matters contained in these memorials, they were induced to examine the powers vested in Congress, under the present constitution, relating to the Abolition of Slavery, and are clearly of opinion,

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First. That the General Government is expressly restrained from prohibiting the importation of such persons "as any of the States now existing shall think proper to admit, until the year one thousand eight hundred and eight."

Secondly. That Congress, by a fair construction of the constitution, are equally restrained from interfering in the emancipation of slaves, who already are, or who may, within the period mentioned, be imported into, or born within, any of the said States.

Thirdly. That Congress have no authority to interfere in the internal regulations of particular States, relative to the instructions of slaves in the principles of morality and religion; to their comfortable clothing, accommodations, and subsistence; to the regulation of their marriages, and the prevention of the violation of the rights thereof, or to the separation of children from their parents; to a comfortable provision in cases of sickness, age, or infirmity; or to the seizure, transportation, or sale of free negroes; but have the fullest confidence in the wisdom and humanity of the Legislatures of the several States, that they will revise their laws from time to time, when necessary, and promote the objects mentioned in the memorials, and every other measure that may tend to the happiness of slaves.

Fourthly. That, nevertheless, Congress have authority, if they shall think it necessary, to lay at any time a tax or duty, not exceeding ten dollars for each person of any description, the importation of whom shall be by any of the States admitted as aforesaid.

Fifthly. That Congress have authority to interdict, or (so far as it is or may be carried on by citizens of the United States, for supplying foreigners) to regulate the African trade, and to make provision for the humane treatment of slaves, in all cases while on their passage to the United States, or to foreign ports, so far as respects the citizens of the United States.

Sixthly. That Congress have also authority to prohibit foreigners from fitting out vessels in any port of the United States, for transporting persons from Africa to any foreign port.

Seventhly. That the memorialists be informed, that in all cases to which the authority of Congress extends, they will exercise it for the humane objects of the memorialists, so far as they can be promoted on the principles of justice, humanity, and good policy.

Report of the Committee of the whole House.

The Committee of the whole House, to whom was committed the report of the committee on memorials of the people called Quakers, and of the Pennsylvania Society for promoting the Abolition of Slavery, report the following amendments:

Strike out the first clause, together with the recital thereto, and in lieu thereof insert, "That the migration or importation of such persons as any of the States now existing shall think proper to admit, cannot be prohibited by Congress, prior to the year one thousand eight hundred and eight."

Strike out the second and third clauses, and in lieu thereof insert, "That Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them within any of the States; it remaining with the several States alone to provide any regulations therein, which humanity and true policy may require."

Strike out the fourth and fifth clauses, and in lieu thereof insert, "That Congress have authority to restrain the citizens of the United States from carrying on the African trade, for the purpose of supplying foreigners with slaves, and of providing, by proper regulations, for the humane treatment, during their passage, of slaves imported by the said citizens into the States admitting such importation."

Strike out the seventh clause.^[36]

WEDNESDAY, March 24.

JOHN BAPTIST ASHE, another member from North Carolina, appeared and took his seat.

THURSDAY, April 22.

Benjamin Franklin.

Mr. MADISON rose and addressed the House as follows:

Mr. SPEAKER: AS we have been informed, not only through the channel of the newspapers, but by a more direct communication, of the decease of an illustrious character, whose native genius has rendered distinguished services to the cause of science and of mankind in general; and whose patriotic exertions have contributed in a high degree to the independence and prosperity of this country in particular; the occasion seems to call upon us to pay some tribute to his memory expressive of the tender veneration his country feels for such distinguished merit. I therefore move the following resolution:

"The House being informed of the decease of BENJAMIN FRANKLIN, a citizen whose native genius was not more an ornament to human nature than his various exertions of it have been precious to science, to freedom, and to his country, do resolve, as a mark of the veneration due to his memory, that the members wear the customary badge of mourning for one month."

Which was agreed to.

THURSDAY, June 24.

Officers of the Navy.

On motion of Mr. HARTLEY, the report of the committee on the memorial of the Officers of the Navy was taken into consideration by the committee of the Whole: the report is as follows:

The committee report, that they do not find any reason sufficient to justify the difference that has been made in the compensation of the officers of the army and of the navy of the United States, and are, therefore, of opinion, that a law ought to pass for granting five years' pay, equal to the commutation of half-pay, and also a bounty of land, to the officers of the navy, upon the same principles, and in the same manner, as has been granted to the officers of the army of the United States.

Mr. SHERMAN observed, that, by the memorial and the report, it appears that the memorialists do not pretend to have any claim on the public by virtue of any existing resolutions of Congress. The subject is very fully before the committee; it lies with Congress, therefore, to determine what is proper to be done under such circumstances. The application stands entirely on the basis of its own merits, and he could conceive of no difficulty in deciding on it.

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Mr. STONE observed, that it is true there is no claim by virtue of any antecedent contract or promise; nor was commutation, he believed, promised to the officers of the army. In this view, the officers of the navy stand exactly upon the same footing with those of the army. He then entered into a consideration of the merits, services, and sufferings, of the officers of the navy; and from these and other considerations, urged the justice of their claims, as he could see no reason for the difference that had been made.

Mr. HUNTINGTON said, but a little consideration was necessary to recollect the reason of the difference between the officers of the navy and army. The officers of the army were first in the public service; the navy was not formed until some time after hostilities commenced. The officers of the navy were put on the same footing, in respect to pay, as the army; the former had some advantages in point of rank, and they were entitled to a part of their captures. He then gave an account of the origin of commutation—which was granted on account of the peculiar exigencies of affairs at that time. During the time this business was in agitation there were very few navy officers in the public service, and no application was made by them for half-pay or commutation. They were ashore, and many of them had retired to civil life. The reason, therefore, why they are not included in the commutation was, there did not appear at the time any necessity for the measure, as the United States did not then want a navy; whereas the public exigencies with respect to the army were such as rendered the resolution for the commutation to them absolutely necessary. He, however, thought the claim of the navy officers founded on justice; and justice,

said he, is the strongest plea that can be urged in support of any demand whatever.

Mr. HARTLEY supported the memorial. He gave the officers great credit for their bravery, services, and attachment to the cause of their country. He dilated on the hardships and sufferings they endured; he adverted to the advantages they derived from captures, which he stated to be very inconsiderable. Their claims, said he, appear to me to be founded on the the strictest and most impartial justice; he hoped, therefore, that the report would be accepted, and a committee appointed to bring in a bill accordingly.

Mr. BALDWIN, who was one of the select committee which made the report, stated some of the reasons which influenced the committee; also the considerations which were supposed to have led to the distinction between the navy and army, in respect to commutation—one of which was, that the officers of the navy were in the line of their particular calling, and which they were enabled to pursue with perhaps greater advantages than they ever did before. Other circumstances were mentioned by him, tending to invalidate their claim.

Mr. SHERMAN observed, that if this report is adopted, it will open a very wide door indeed to applications for half pay or commutation. He then gave a history of the origin of commutation or half pay, which, he said, was considered at the time as a measure of necessity, and not of justice; and has been very much complained of by several of the States. The above necessity did not exist with respect to the officers of the navy, as, at the time, there were but two or three ships in service. From this state of facts, he inferred that no precedent could be drawn in favor of extending the commutation to the officers of the navy. He thought that their case was entitled to the consideration of the Legislature, on the principles of equity; he should, therefore, be for the committee's making full inquiry into the circumstances of the whole business, and making such provision as justice should point out; but he was against the report in its present latitude.

Mr. BURKE replied to the observations of Mr. BALDWIN, respecting the officers of the navy being in the way of their profession; and, from the nature of the service, he showed that there was little weight in the observation. Their circumstances were very much altered for the worse, and they were now left in a very destitute situation; whereas the officers of the army are enjoying posts and places of honor and profit. Their silence on the subject has been mentioned. He observed that their dispersed situation had been the principal reason of their not coming forward with their petition before. Mr. B. observed, that the officers of the navy were not treated like other prisoners when they were taken; they suffered peculiarly, not as prisoners of war, but were treated like rebels, whose crimes were of the blackest nature.

Mr. SENEY said he was, and always had been an advocate for the claims of the officers of the navy: he thought their memorial founded on the strictest justice. He introduced the representation to Congress of the "illustrious" Commander-in-chief of the late army, on the subject of half pay and pensions, which he read. He then entered into a comparative view of the relative merits of the army and navy; and said it was well known that many of them made as great sacrifices as the other description of officers. With respect to prize money, he doubted whether they had ever been benefited by it. In some instances, where they had expected the most, they had, through the failure of agents, received only a certificate, worth about five shillings in the pound; and that received only for a part of what was due. He replied to the several objections which had been offered, and concluded by saying it would be unjust and impolitic not to grant their claims.

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Mr. SEDGWICK observed, that no gentleman in the committee had deeper impressions made upon him, by the grateful recollection of the merits and services of those brave men to whom America owed its freedom, than himself. Yet, under the present circumstances of the country, he thought it a duty he owed the people who had confided their interest to his management, to examine, on principle, the demands which were made upon the Government for pecuniary grants. The applicants in the present instance, did not place their demand on the ground of contract. For the contract, under which the services had been rendered, had been complied with according to the specified terms, and performed to the extent of the powers of the Government, in the same manner as other claims of a similar nature had been satisfied. It was further, he said, to be noticed, that during the time those services were performing, no dissatisfaction had been manifested by the present memorialists. From these observations, then, it clearly followed, that, in point of contract, the claims of the officers of the navy were in all respects similar to those of every other individual in the community, who had received satisfaction by the same means. It would then become gentlemen to reflect on the consequences which would result from the establishment of a precedent, which would go to the invalidation of all the final settlements which had been made.

Mr. SEDGWICK said, gentlemen had supported the claim of the applicants from a supposed analogy of their circumstances to those of the gentlemen of the army. He said there was the difference which arose from the circumstance already mentioned. The commutation was founded in contract; the present claim was destitute of that support. There were also other material circumstances which very widely differed in the two cases. The officers of the army were called from pursuits by which they were enabled to support and provide for their families, and to abandon their prospects of establishment by the business to which they had been educated. On the other hand, the gentlemen of the navy were promised handsome wages for continuing in that business to which they had been educated, and for which they were best, if not only qualified; and this, too, at a time when, by the destruction of our commerce, many of them otherwise must have wanted employment. They had likewise additional encouragement from a participation in the avails of prizes, while the army derived no emolument from any such source. That the report of the Select Committee being unsupported either on the ground of contract, or the principles on which the grant to the officers of the army was made, the application was merely to the

generosity of the Government. He said it was a principle, from which he professed himself determined never to depart, not to dissipate that property in idle or visionary projects of generosity, which is necessary to the performance of justice. That the arduous scenes in which we had been engaged, had imposed the necessity of practising a rigid economy. That the conduct which we might, under present embarrassments, pursue, it would be improper hereafter to consider as a precedent. That it would, indeed, be a noble and generous sentiment to compensate all those losses which our friends had sustained by the war. But he asked, if such would not be a vain attempt? Can we compensate all the desolation of fire and wanton depredation, provoked from the enemy by the patriotism of particular districts in this country? Can we retribute the sufferings which have been caused by the depreciation of our currency? Or the ruin of thousands and thousands by our delays of payment, and the consequent depreciation of our securities? Can we administer to the relief of the vast number of widows and orphans, who, from those circumstances, have been reduced from affluence to want and beggary? Remember, too, he said, the sages, who, in the hour of danger, watched over your security; and who, in their best days, abstracted themselves from every lucrative pursuit, and devoted all their time and talents to the service of their country. These patriots, now in the evening of life, are the most meritorious objects of the generosity of the Government, yet they would nobly disdain to ask, or to receive the aid of the Government, however necessary to them, until efficient provision was made for the performance of those contracts, which we are under the most solemn obligation, if in our power, to fulfil. And he concluded by observing, that when the improving resources of our country should enable the Government generously to compensate the sufferings of those several descriptions of persons, then, and not till then, might we extend to the memorialists the relief which they now sought for.

Mr. JACKSON supported the claim of the officers. He observed, that if the country had not derived so extensive advantages from the exertions of the navy, it must be imputed to peculiar circumstances, and not to any deficiency in the officers and sailors; so far as their abilities could be exerted, no men distinguished themselves more. Had ours been a maritime instead of an agricultural country, the importance of a navy would have struck us more forcibly. Their claims he considered as founded in the strictest justice, and he had no doubt that if they had applied to the old Congress they would have granted their request; but restrained by a consideration of the embarrassments of the United States, they did not obtrude their petitions upon them; and now this very circumstance is urged as a reason for not granting their petition. In his opinion, this did them great honor; since that time, they have been scattered through all parts of the Union. This and other circumstances have delayed their application to this time, but have not lessened the equity of it. He added many other observations, and concluded by saying that he was fully in favor of the report.

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FRIDAY, June 25.

Foreign Intercourse.

The House proceeded to consider the amendments last proposed on the part of the Senate to the bill providing the means of intercourse between the United States and foreign nations. The first amendment was to strike out thirty thousand, and to insert forty thousand dollars.

It was moved that the House should agree to this amendment; this motion was opposed.

It was said that the committee had exceeded their commission in proposing this alteration in the bill, as both Houses had agreed in the sum of thirty thousand dollars. It was further said that more than one Minister Plenipotentiary was unnecessary; that the Court of Great Britain had sent only a Consul to this country; and that, from the present appearances, no advantages could be expected to arise from sending a Minister, equivalent to the expense; the necessity contended for is merely conjectural; and by that rule, the Ministers Plenipotentiary may be increased, and one sent to Spain and another to Portugal. If only one Minister is sent to Europe, the first sum will be sufficient; with respect to the Court of London, a Chargé des Affaires will answer every purpose.

In support of the motion, it was urged that the President of the United States is, by the constitution, vested with the power of appointing such foreign officers as he may think necessary, and it must devolve upon the Legislature to make provision for defraying the expense. The Committee of Conference did not rely on their own judgment, they consulted the Secretary of Foreign Affairs. His opinion was, that in the present situation of this country with respect to foreign nations, two Ministers and two Chargés des Affaires were necessary; a Minister at the Court of Versailles is generally conceded to be requisite. The peculiar situation of this country with respect to the posts, the Northern and Eastern frontiers, and the state of our commerce in respect to Great Britain, can scarcely leave a doubt of the necessity and importance of sending a Minister to that country. This being the state of affairs, a less sum than that proposed, it is demonstrably evident, will not be found adequate.

The question on concurring in this amendment was carried in the affirmative.

The other amendments were agreed to, with amendments.

TUESDAY, July 6.

Seat of Government.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate for establishing the temporary and permanent seat of the Government of the United States, Mr. BOUDINOT in the chair.

Mr. SHERMAN.—As this bill respects the permanent residence of the Government, which is an important subject, it ought to be a matter of inquiry, whether the place proposed is the real centre of population and territory or not? He thought it too far southward. He moved, therefore, that the Potomac should be struck out, and a district to include the town of Baltimore be inserted.

Mr. BURKE seconded this motion.

Mr. LEE desired the gentleman to inform the committee where he meant the temporary residence should be, provided this motion should be carried.

Mr. SHERMAN said, he had no objection to making Philadelphia the temporary residence, as soon as it was convenient. He then mentioned several particulars which would render it inconvenient to go there at present.

Mr. HUNTINGTON said, that the only reason for removing, which he had ever heard was, that this place is not so central. If there is any force in the reasoning, he wished not to go to a place less central. He adverted to the mode of conveyance to this place, generally adopted by members to get to the seat of Government. He supposed that the present centre was somewhere between Philadelphia and Baltimore; but the place contemplated is very much removed from the centre, more than three hundred miles west. With respect to centrality, he said that it is not an idea which predominates in regard to any other country of which he knew any thing respecting the geography; other and various important considerations operated in fixing the seat of Government.

Mr. WHITE observed, that if this House was alone to be consulted, on the principle of accommodation, Baltimore might answer; but when it is considered that this bill originated in the other House, who have an equal voice with us in determining the question, and in which this place has been repeatedly rejected, it is evident, that, if the clause is struck out the bill will be lost. He then controverted the calculations of the gentleman last speaking, and stated the difference of travel between the Southern and Northern distances, which is made to be as four and one-half to one; but he said, that so far as respected himself, he should make no difficulty on that account; but the accommodation of the citizens who may have business at the seat of Government is a consideration of very great importance. With respect to the uncentral situation of the seat of Government in other countries, this arose from the mere whims of the sovereigns of those kingdoms; but modern policy has obliged the people of European countries, (I refer particularly to Great Britain,) to fix the seat of Government near the centre of trade. It is the commercial importance of the city of London which makes it the seat of Government; and what is the consequence? London and Westminster, though they united send only six members to Parliament, have a greater influence on the measures of Government than the whole empire besides. This is a situation in which we never wish to see this country placed. He concluded by observing, that if this amendment is agreed to, the bill will be lost, and we shall be without either a temporary or permanent residence.

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Mr. LEE, after a few introductory observations, entered into a consideration of the relative interests of the Southern, Middle, and Northern States. He interspersed a variety of reflections, tending to conciliate and blend those different interests—and to disseminate the sentiments of union and concord. He alluded particularly to the great object of funding the debts of the United States; the seat of Government will concentrate the public paper. Hence he inferred the necessity of a situation from whence all parts of the Union may be equally benefited. From these considerations, he deduced the necessity of placing the Government in a central situation. He observed, that while the present position continued to be the seat of Government, the agriculture of the States to the eastward is invigorated and encouraged, while that to the southward is languishing and expiring. He then showed the fatal tendency of this preponderating encouragement to those parts of the country, already considered as the strongest parts of the Union—and from the natural operation of these principles he inferred that the interest of the Southern States must be eventually swallowed up. The decision of the Senate, said he, affords a most favorable opportunity to manifest that magnanimity of soul, which shall embrace, upon an extensive, liberal system, the best interest of the great whole. This cannot be done while the present unequal situation of the seat of Government of the United States continues. Nations have their passions as well as individuals. He drew an alarming picture of the consequences to be apprehended from disunion, ambition and rivalry. He then gave a pleasing sketch of the happy effects to be derived from a national, generous, and equal attention to the Southern and Northern interests. Will gentlemen, said he, blast this prospect by rejecting the bill? I trust they will not.

He then entered into the merits of the question. The States of Delaware, Pennsylvania, Maryland, and Virginia, which contribute more than one-half to the revenue, and which have the only rival claim to the permanent seat of Government, are satisfied with the arrangement in the bill. That Philadelphia is the nearest centre of the present wealth and population of the United States, the gentlemen from New York themselves will confess; the Potomac will become the nearest centre for a permanent residence probably by the period proposed—to oppose this, therefore, will be acting from merely local motives.

The gentleman moves to insert Baltimore. Mr. L. insisted that Baltimore is as far South as the place proposed, besides being exposed by its frontier position on the sea; we are not confined,

said he, to a particular spot on the Potomac; we may fix on a place as far North as the gentleman from Connecticut wishes. I consider the motion, therefore, calculated to destroy the bill, and ought to be opposed by every one who is in favor of a Southern situation.

This State has no pretensions to the permanent residence. It is true the citizens of this place have put themselves to a great expense to accommodate the Government, and are entitled to much praise for their exertions; but he wished to take up the subject on national ground, and to have it decided on principles which apply to the best interests of the whole. He then referred to a map of the Potomac, and the adjacent country, which lay on the table, and which had been sent from the Executive of the State of Virginia. He referred also to other papers and documents.

Mr. BURKE said, he wished that the whole business of the temporary and permanent residence might now be settled. He exculpated the members who are in favor of Baltimore from all design to defeat the present bill. He referred to some observations which had been made on the conduct of the members of the States south of Virginia, and said, that they had consulted the interest of the whole. One reason why he was in favor of the motion was, because he preferred Baltimore to Conococheague. He thought a populous city better than building a palace in the woods. Another reason was, that there was no political necessity existing for removing the Government from New York to Philadelphia. He said that the measure would excite the most turbulent passions in the minds of the citizens. It is unjust to the people of this city, to remove from this place till the expense they have incurred is repaid them. It is a breach of honesty and justice. It is injustice to the State—to the whole nation. He entered into a consideration of their sacrifices and services. He thought it a very extraordinary measure indeed. It is calculated, said he, to arrest the funding system, and to throw every thing into confusion. If the bill is passed in its present form, Congress will never leave Philadelphia; for the Commissioners to be appointed will incur no penalty for a neglect of doing their duty. This is a most essential defect in the bill, and there are other defects in it. He spoke in handsome terms of the State of Pennsylvania. He said he had as high an opinion of that State, as any man whatever, but he was afraid of their influence; and that State was the last in which he would ever consent the permanent seat of Government should be. He then adverted to the influence of the members from that State, who by their political management, had raised a storm in the United States. [Here Mr. BURKE was called to order.] After a short interruption, he proceeded, and said a Quaker State was a bad neighborhood for the South Carolinians. Here he adverted to the Quaker business last winter. He objected to Philadelphia, also, on account of there being no gallery in the House proposed for the accommodation of Congress—an open gallery he considered as a very important check to the Legislature.

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Mr. LAWRENCE.—The gentleman from Virginia has observed, that the object of the amendment is to defeat the bill. He has also mentioned the States which are most particularly interested in the question. Mr. L. said, the State of New York might have been considered. He wished the motion might succeed, because he thought that it would conduce to the peace of the Union. He objected to the place proposed for the permanent residence; by the bill it is conceded that the place is not, at present, a suitable position. By what magic can it be made to appear it will be more proper at the end of ten years? What reason can be given why those parts of the Union should not populate which are at a distance from the Potomac, in proportion to those parts in the vicinity of that place? I presume none can be assigned. Why, then, is a period of ten years to expire, previous to going there? The reason is plain. The people would not now consent to have the Government dragged to so remote a part of the United States. He then adverted to the funding business, and other important matters which remain to be decided on, and very strongly intimated that these questions were to be determined agreeable to the fate of this bill. He showed, from a variety of particulars, that Philadelphia would become the permanent residence. He then adverted particularly to the several parts of the bill. The first was respecting the place where it is proposed to erect the public buildings. He said, they could not be erected within the time mentioned, and showed the various difficulties which would attend the whole business. He then stated the advantages of Baltimore, and said that that place would have obtained in the Senate, if the Maryland Senators would have voted for it. He concluded by observing, that, as no necessity exists for removing the temporary residence, he hoped that Congress would sit down contented where they are.

Mr. BLOODWORTH observed, that as the funding bill had been alluded to, he could wish that the objection from that quarter might be taken out of the way. He moved that the committee should rise, in order to take up the ways and means.

Mr. STONE.—All we seem to differ about is whether Baltimore or the Potomac shall be the seat of the Government; and if this was all, the Delegates of that State might fold their arms and sit down contented; but the State of Maryland has been placed in the situation of Tantalus. He then stated how the gentlemen had formerly voted, who now appear in favor of Baltimore. Had the bill come down from the Senate with Baltimore inserted, instead of Potomac, he should have had no difficulty in determining how to act; but he conceived, that if the amendment now proposed should take place, nothing would be done, and the business will be left in a very inauspicious state. From this and other considerations, he was resolved not to be drawn off from his present determination by any motion, amendment, or modification of the bill whatever. With respect to himself, he had no election between the town of Baltimore and the Potomac; yet, as a Marylander, he would, if he saw a prospect of success, vote for the town of Baltimore; but as it respects the United States, he should vote for the Potomac; and on this idea he was willing to make some sacrifices. He considered the subject as one of the most painful and disagreeable that could be agitated, and he wished to have the business finally and unalterably fixed.

Mr. SENEY also considered this as an unhappy question to come before the House at this time. The

State of Maryland is as much divided on the subject as the United States appeared to be; a great rivalry subsists between the Potomac and Susquehanna rivers, and he doubted not but that when the question was ultimately decided, it would be either on the one or the other of those rivers. He agreed with Mr. LEE, that Pennsylvania, Maryland and Virginia, were the only States who could make any reasonable pretensions for the seat of Government; but a majority of voices from these States had been against the Potomac. Pennsylvania and Maryland, he observed, had given the preference to the Susquehanna. Mr. S. then noticed some transactions of the Legislature of Maryland, which he said clearly evinced their determination to support the pretensions of the Susquehanna. Maryland certainly had an equal right with Pennsylvania and Virginia to have her interests consulted. The interests of Maryland, it appeared, were now to be sacrificed to those two adjoining States. And however flattering it may seem to Maryland to fix the seat of Government on her side of the Potomac, the real advantages were in a great measure nugatory, as it would be but a very small portion of that State that could reap any benefit therefrom. The real advantages would undoubtedly result to Pennsylvania and Virginia. It appeared somewhat extraordinary to him, that gentlemen should be willing to confine the residence to a particular spot, previous to their removing to a permanent residence. Why is it necessary to fix upon Philadelphia for ten years? Surely this is putting the Government in a very ineligible situation, for it is by no means improbable that many serious and important occurrences might render a removal highly expedient, perhaps unavoidable. Besides, after the Government shall have remained ten years in Philadelphia, the probability of quitting it for the Potomac appeared to be very slight indeed. For though it was understood by the bill that the offices were to be removed to the Potomac, yet if a majority in either House were opposed to going there, Congress would remain at Philadelphia, and they would be obliged to repeal the bill from necessity.

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Mr. SCOTT said, he should not notice many things which had been offered on the subject. He would only observe, that from the town of Baltimore there is no water conveyance to the interior country; but from the proposed site on the Potomac, there are two hundred miles navigation directly into the heart of the country. Nor is Baltimore more northerly than the position contemplated. A connection with the Western country is of the utmost consequence to the peace and union of the United States, let the gentlemen from the sea-coast say what they will.

Mr. MADISON.—In order to decide this question rightly, we ought to compare the advantages and disadvantages of the two places as they relate to the good of the United States. Now, I will defy any gentleman, however sanguine he may be with respect to Baltimore, to point out any substantial advantage that is not common to the Potomac; and I defy them to disprove that there are not several important advantages belonging to the Potomac, which do not appertain to Baltimore. The committee have had ample information with respect to the Northern and Southern positions of the two places. In point of salubrity of air, without disparaging the pretensions of Baltimore, the Potomac is at least equally favored in that respect. In regard to centrality of situation, the Potomac has undoubtedly the advantage. In respect to security from invasion, I aver the Potomac has the advantage also. With relation to the Western country, there is not a shadow of comparison. If we should go as far South as Baltimore, why not an equal distance south-west to the Potomac? Those who are acquainted with the country on the Potomac, and that in the neighborhood of Baltimore, do not hesitate to give the preference to the Potomac. It is true, that Baltimore has respectable resources; her rapid growth is a clear proof of it; but look at the resources of the Potomac; the great range of rich country that borders on it, and see if these are not advantages that must, in a short time, produce a commercial town. Sir, a period might be named, not exceeding ten years, within which the town of Baltimore obtained the greater part of its increase and consequence; a period of ten years will produce the same effects on the Potomac, because the same causes exist; and when, superadded to this, the residence of Government shall be there, there can be no doubt but that there will be every accommodation that can be desired.

It is said, that before the ten years expire, a repeal of the act may take place, and thus Congress be kept at Philadelphia. But what more can we do than pass a law for the purpose? It is not in our power to guard against a repeal. Our acts are not like those of the Medes and Persians, unalterable. A repeal is a thing against which no provision can be made. If that is an objection, it holds good against any law that can be passed. If those States that may have a superiority in Congress at a future day will pay no respect to the acts of their predecessors, or to the public good, there is no power to compel them.

But I flatter myself that some respect will be paid to the public interest, and to the plighted faith of the Government. As to centrality, the best evidence we have at this time in favor of the Potomac is the different travelling of the members; and this, sir, proves incontestably that the proposed place on the Potomac is near the centre. If any arguments could be brought against it, it is its being too far to the northward. For the mileage south of the Potomac is twelve thousand seven hundred and eighty-two miles, to the north of it twelve thousand four hundred and twenty-two miles. If to this Rhode Island be added, it will not be more than equal. If the bill once passes, I am not under any apprehensions of a repeal; but if danger of repeal does exist, it is of that kind against which we cannot guard. Sir, we should calculate on accepting the bill as it now stands; we ought not to risk it by making any amendment. We have it now in our power to procure a Southern position. The opportunity may not again speedily present itself. We know the various and jealous interests that exist on this subject. We should hazard nothing. If the Potomac is struck out, are you sure of getting Baltimore? May no other place be proposed? Instead of Baltimore, is it not probable we may have Susquehanna inserted, perhaps the Delaware? Make any amendment, sir, and the bill will go back to the Senate. Are we sure that it will come back

into our possession again? By amending, we give up a certainty for an uncertainty. In my opinion, we shall act wisely, if we accept the bill as it now stands, and I beg leave to press it on gentlemen not to consent to any alteration, lest it be wholly defeated and the prospect of obtaining a Southern position vanish for ever.

Mr. GERRY said, he rose with greater reluctance on this than he ever did on any former occasion; and it is because it appears pretty evident the advocates of the bill are sure of a majority, and are determined not to change their minds let what arguments will be offered on the subject. The business of establishing the permanent residence is contrary to the sentiments of a majority of the members of this House, and of the Senate, as they have both negatived a bill for this purpose the present session. It is to be regretted that it has ever been brought forward, for it is very evident that it has had a very pernicious influence on the great business of funding the public debt. He then mentioned the former removals of Congress, which had never been complained of, as the public business was never neglected. He said, that if the present bill is carried into execution, a very great uneasiness will ensue; for the measures of Congress, and not their residence, are the objects of concern to the people. Those States who think that they shall be injured, it cannot be expected will then acquiesce. He then gave an account of the process of this measure the last session. The travelling has been mentioned. This, he said, could not be considered as an argument in favor of the bill, for the expense is not paid by particular States, it comes out of the common treasury. He asserted that the accessibility to New York is better than to the Potomac. He contended that the risk by land is greater than by water. He stated the advantages that the Southern members derived from coming to the northward, while, on the other hand, is there, asked he, any thing to balance the risk and difficulties which the Northern members must encounter in such a Southern situation? He said it was highly unreasonable to fix the seat of Government in such a position as to have nine States out of thirteen to the northward of the place. He adverted to the sacrifices which the Northern States are ready to make in being willing to go so far south as Baltimore. He contended that the explicit consent of the Eastern States ought to be obtained, before they are dragged still further south. He ridiculed the idea of fixing the Government at Conococheague. He did not think there was any serious intention of ever going to this Indian place. He considered the whole business as a mere manœuvre. Baltimore holds out the only prospect of a permanent seat of Government. He recapitulated the account which before had been given. From this he adverted to the general expectation of the public with respect to the Government's tarrying here till the permanent seat was established. He particularized the expenses that had been incurred by the citizens, and for which they merited great honor. He said, it had been promised to New York that this place should be the temporary residence of Congress, and on this engagement they came into an unconditional adoption of the constitution. Should this bill pass, what can it be denominated but a delusion, a deception, sanctioned by Congress itself? He remarked on the several observations offered by Messrs. MADISON, LEE, STONE, and SCOTT.

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Mr. VINING.—When I find arguments made use of to inflame the minds of gentlemen against the members of this House, I think it my duty to notice such observations. Attempts are made to hold up, in an odious point of light, the members of Pennsylvania. Sir, it is a fact, which your Journals will justify, that the members from Pennsylvania voted the last session against Philadelphia. I trust that none of those observations will have the least influence on the mind of one single individual. We are sent here to do the public business, and I trust that our constituents have not sent men that are to be deterred from doing their duty by such insidious insinuations, such ill-founded suggestions of deceiving and deluding the citizens of this place. Mr. V. added some more strictures on Mr. GERRY'S observations, and then entered largely into the merits of the question. He supported the bill on general principles, and noticed the several objections that had been made by different members. He imputed the embarrassments of the public business to the assumption, and not to the subject of residence.

Mr. CLYMER made a few remarks on the observations of Mr. BURKE, which were not distinctly heard.

The committee rose, and reported progress

WEDNESDAY, July 7.

Seat of Government.

The House again resolved itself into a committee on the bill for establishing the temporary and permanent seat of Government, Mr. BOUDINOT in the chair.

Mr. BURKE made some remarks on the observations of Mr. VINING, in which he exculpated himself from all design to excite mobs and tumults among the citizens of New York, as had been insinuated by that gentleman. He declared that he believed the citizens incapable of behaving so much out of character. For himself, he disclaimed any such idea. He further observed, that the delegates from Pennsylvania were fully competent to advocate the interests of their particular State; they had given abundant evidence of their abilities; they therefore did not need the assistance of the gentleman from Delaware.

Mr. HARTLEY observed, that it was the fault of the New York Senators last year that they did not vote for a four years' residence in their own city, and the permanent one at Germantown, which they could then have carried. He defended himself and his colleagues from any charge of want of generosity, and also defended the character of the Quakers. The gentleman (Mr. BURKE) is not acquainted with the people called Quakers or their history, or he would entertain different

sentiments concerning them. Under the famous William Penn, they settled the former Province of Pennsylvania, between the years 1680 and 1690, near the close of the last century; and such was their justice, wisdom, moderation and good policy, that they gained reputation abroad. Men emigrated from the European world to this land of freedom. They preserved peace at home; for it was not until the year 1753, in a war, fomented on the borders of another Province, that an inhabitant of Pennsylvania was killed by the hands of an Indian. The Quakers had always been remarkable for their moral laws, for the plainness of their manners, and their benevolence. Nay, should the gentleman go to Philadelphia, he will find that these people will treat him as well as any other society. They merit not the abuse which has been so frequently thrown upon them.

Mr. BLOODWORTH thought that if the New York Senators had acted wrong, yet the people should not be blamed for it. The proposition of Mr. BURKE was so reasonable and just, that he said he could not avoid approving of it.

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Mr. LAWRENCE defended the New York Senators, and explained the reasons of their former conduct, which, when it was known, he believed, would rather merit the approbation of the people. He then proceeded to remark upon the conduct of New York during the war and since. Her revenue had been thrown into the Treasury of the United States, and every succor that could possibly be expected was received from her. Upon the whole, he wished the dispute of residence could be left to the decision of the three Northern and three Southern States; and he appealed to the House, as politicians and men, for the justice of the case.

Mr. WADSWORTH rose next. He was proceeding when he was called to order. After some altercation on the question of order,

Mr. PAGE spoke to the merits of the question, in which he introduced several conciliatory observations, and then added, as to the place for the permanent residence of Congress, any unprejudiced disinterested man in the world, looking over the map of the United States, would put his finger on the district pointed out in the bill, and say, "This is your place, sir." As to going to Philadelphia, it is not my wish to go and stay there as proposed in the bill; but I say, with my colleague, (Mr. MADISON,) that I consent to go there to get into a more central position, and to be fairly on our way to the permanent residence on the Potomac. As to our present situation, the citizens of New York themselves acknowledge, nay, even the member himself who has called me to order, acknowledges that it has no pretensions to be the permanent residence; and it must be confessed that in proportion as it is improper for the permanent residence, it must be improper for the temporary residence. The continuance of Congress here has been acquiesced in by the Southern States, merely on the supposition that a removal to the permanent residence would take place sooner if Congress sat here than at some other place more central. The wise and virtuous citizens of New York know this, and cannot resist the removal.

Sir, I was not apprehensive that the observations made by gentlemen yesterday could excite an improper resentment in their minds. There is not a city in the world in which I would sooner trust myself and Congress than in New York; for it is superior to any place I know for the orderly and decent behavior of its inhabitants; but, sir, when the member behind me, (Mr. BURKE,) who alluded to me when he was last up, said that they were injured and robbed by Congress, I told him, as a friend, that had I been in the chair, I should have called him to order.

I confess I was shocked to hear that gentleman's declarations repeated by a member on the other side of the House, who is remarkable for his coolness and his peculiar attention to every sentiment offered in debate (Mr. GERRY.) I took the liberty, when the House adjourned, to tell that gentleman, perhaps too freely, what I thought respecting those declarations; if I gave him, or the member behind me any offence, I ask their pardon; but I still think I should have done my duty had I taken notice of the impropriety of their declarations in my place in the House, as a friend to order and freedom of debate.

Mr. LIVERMORE said, that the motion for striking out the Potomac and inserting Baltimore is so reasonable in itself, that I cannot conceive there should be one person opposed to it. He observed, that Baltimore is as far south as the Potomac; the members will then have as far to go to one as the other. There is a river, it is said, which runs two hundred miles into the country as far as the Allegany mountains; what advantage can this be to Congress? I can conceive none, except that it may be to send the acts of Congress by water to the foot of the Allegany mountains. He thought that the centre of population was the only true centre. It is not pretended that the Potomac is at present this centre; but it is said that it will in time become the centre of population. What reason is there for any such supposition? The place in which this favorite spot is has been as long settled as any other part of the Continent, but the population has not kept pace with many other parts of the United States; it is therefore entirely chimerical and problematical whether it ever will become the centre of population. He then enlarged on the superior advantages of a populous city for the seat of Government, and concluded by repeating that the amendment is so reasonable in itself that he hoped every member of the committee would vote for it.

Mr. GERRY.—In discussing this subject yesterday, I made use of such arguments as appeared to me pertinent to the occasion. But, sir, those arguments have had the most extraordinary construction put on them by the gentleman from Delaware; they have been represented as tending to excite mobs, and to raise insurrections in this city. Sir, I insist that the observations I made had a direct contrary tendency. I said that the bill contained those malignant principles which had a direct tendency to agitate and inflame the minds of the citizens of America. Those principles I was endeavoring to expose, and to show what must be their obvious effects. Is this exciting mobs? Directly the reverse, in my opinion. I never had any such idea; and as to the

citizens of New York, I have too just a sense of their wisdom and good judgment to harbor such a sentiment. He then adverted to the constitution, to show that there could be no danger of an insurrection or rebellion against the Government. Congress is vested with a sufficient power to protect themselves from every insult whatever; they have a right to call forth the whole militia of the Union for their protection. [Here Mr. G. was called to order, and some altercation ensuing, Mr. G. said he would say nothing farther on this particular topic.] He then proceeded to state his arguments against the Potomac, in the course of which he noticed some observations which had fallen from Messrs. VINING and CLYMER. One of the gentlemen had said that "Pennsylvania had a right to the seat of the General Government." This he denied; he said no State in the Union could pretend to such a right; Congress alone has a right to determine where the seat of Government shall be. He entered into a lengthy discussion on the merits of the Potomac, and among other observations asserted that taking so southern a situation would amount to a disqualification of many of the Northern members, who would forego their election rather than attend the National Legislature on that river.

Mr. VINING read a report of a committee of the late Congress, respecting two seats of Government, in which report Georgetown was mentioned. Mr. GERRY, being one of this committee, rose to explain.

Mr. SEDGWICK, in a speech of considerable length, stated his objections to so southern a situation as either Baltimore or the Potomac, and said that he should have the unhappiness, he feared, of dividing on the question from his colleagues.

Mr. SHERMAN offered some calculations respecting distances, and made Baltimore to be the nearest to the centre of any other place that had been mentioned.

Mr. WHITE said, he had no idea of altering the sentiments of a single member of the committee; he did not expect the gentleman from New Hampshire would agree with him. The gentleman from Massachusetts had said something about the Government going into the wilderness; he said it was true that there was not at present every accommodation which gentlemen might wish; but there is every probability that there will be. He said that such improvements were making in the navigation of the Potomac as will render it a place affording every accommodation whether Congress go there or not. He instanced several places on the Potomac which were at this day sufficiently populous to accommodate Congress. He then adverted to situations, and observed that a line from the Atlantic, east and west, to the extreme point mentioned in the bill, will intersect the State of New Jersey, include the whole of Delaware and Maryland, and will throw thirty-one members of the representation in the southern division of the United States. He then observed, that after the present ferment is subsided, this position will be considered as a permanent bond of union; and the Eastern States will find their most essential interests promoted by the measure. He adverted to the trade of Massachusetts, which he said was greater to Virginia than to the whole Union besides; the Southern States will be cordial in promoting their shipping and advancing their interests, when they observe that the principles of justice influence them on this great national question.

He then remarked on the observation of Mr. SHERMAN respecting the repealing of the law, and reprobated the principles on which such observations are founded; he remarked on the attraction of populous cities, and trusted that other ideas would prevail in this country than what influenced in fixing the seats of Government in Europe.

Mr. SMITH (of South Carolina) said, he was in favor of the motion, as the only one which held out a probability of ever fixing on a southern residence. He enlarged on the difficulty and improbability of ever removing from Philadelphia. He said that it was evident, from the present representation, and what is most likely it will be ten years hence, that Congress could not be removed from that place. He then stated the number of the members to the southward and northward of Philadelphia, and observed that the Congress that would exist at the expiration of ten years may think entirely different from the present, and will not think themselves bound by the law; but if they should, what can the measure be denominated but legislating for the next century? A system proposed the last session, which combined a much greater interest than the present, failed; and what reason have we to suppose that this bill will ever be carried into execution? He said no gentleman pretends that the place proposed is now ready for the reception of the Government; and even if the buildings were now erected, is there any gentleman who would give his vote for going there? He would agree to a place in the neighborhood of Baltimore, and this he supposed was the furthest southern position the gentlemen from the eastward will ever consent to. From all the views he could take of the measure, he was fully convinced that the Potomac was tacked to the bill merely to carry Philadelphia; he wished gentlemen seriously to consider the consequences of passing a law which would so intimately and inauspiciously affect the interests of so many people.

Mr. MADISON objected to the motion for inserting Baltimore, as it would be risking the bill with a place which has already been repeatedly rejected by the Senate; he religiously believed, he said, that if Baltimore was inserted the bill would never pass the Senate; and the fate of the bill which the gentleman mentions ought to be a serious warning to us never to risk this with an amendment; the instance, therefore, produced by the gentleman, is very much against his own argument.

The question being put for striking out the word "Potomac," and inserting "Baltimore," it was negatived—37 to 23.

THURSDAY, July 8.

General Post Office.

The House proceeded to consider the amendments proposed by the Senate to the bill to establish the Post Office and post roads within the United States.

The first amendment was to strike out the first and second sections, which specified and established the several roads, and to insert a clause empowering the Postmaster General, under the direction of the President of the United States, to establish them. [Pg 249]

A concurrence in this amendment was opposed by MESSRS. BLOODWORTH, WHITE, STEELE, LIVERMORE, HARTLEY, and GERRY.

It was said, that it was delegating the power of legislation to the Supreme Executive in one of the most important points that could be mentioned. The revenue also will centre in the hands of the Executive; and in process of time this revenue may be converted into an engine destructive to the liberties of the United States; for as it is a perpetual law, and as the time may, and probably will come, when the Executive may be corrupt, as the revenue increases, the officers of the department will be increased, and we do not know to what extent the consequences may be carried. It is unconstitutional, as that expressly reserves the power of establishing Post Offices and post roads to the Legislature. It was further observed, it would be throwing a burden upon the President which he cannot execute with any convenience to himself, and, from his situation, with satisfaction to the people. The representatives of the people, who come from all parts of the United States, must be supposed to have a more competent knowledge of the proper places for establishing post roads than the Postmaster General.

A concurrence was advocated by Mr. PARTRIDGE, and Mr. SEDGWICK.

It was said, that upon an accurate calculation it was found that the roads proposed by the bill as it passed the House, are so numerous, that so far from affording a revenue, they will prove a great burden to the United States. The circumstances of the country are continually changing; the seats of Government in the several States are removed from their ancient situations to one hundred miles' distance; to accommodate the people in such cases, old routes must be discontinued and new roads opened, which will be a perpetual source of legislation and unnecessary expense. This business was left to the Postmaster General by the late Congress, and very few complaints were heard; the Postmaster General, by his office, must be the most competent judge, as the business will be a principal object of his attention, and actual surveys of the roads will be made by his assistants in all parts of the United States; but if the responsibility of this officer is divided into sixty-five parts, every one of which has its own particular convenience in view, it must appear evident that all responsibility is entirely dissipated. As to the unconstitutionality, it was said that the bill proposes no more in the present instance than is provided for in the other Executive Departments; the principles of conducting the business are established by the House; the mode of carrying those principles into execution is left with the Executive, and this of necessity is done in almost every case whatever. The House adjourned without coming to a vote.

FRIDAY, July 9.

Seat of Government.

The House proceeded to consider the bill sent from the Senate for the establishing the temporary and permanent seat of Government of the United States.

Mr. BOUDINOT, after expressing his disapprobation of the bill generally, moved that the Potomac should be struck out and the Delaware inserted, and called for the yeas and nays; after some debate, this motion was negatived, as follows:

YEAS.—MESSRS. AMES, Benson, Boudinot, Floyd, Foster, Gerry, Goodhue, Grout, Huntington, Hathorn, Leonard, Lawrence, Livermore, Partridge, Rensselaer, Trumbull, Schureman, Sherman, Sylvester, Sturges, Sedgwick, Wadsworth—22.

NAYS.—Messrs. Ashe, Baldwin, Bloodworth, Brown, Burke, Cadwalader, Carroll, Clymer, Coles, Contee, Fitzsimons, Gilman, Heister, Hartley, Jackson, Gale, Griffin, P. Muhlenberg, Madison, Mathews, Moore, Page, Parker, Lee, Steele, Scott, Sinnickson, Stone, Sevier, Seney, Smith, (of Maryland,) Smith, (of South Carolina,) Sumter, Thatcher, Tucker, Vining, White, Williamson, Wynkoop—39.

Mr. AMES moved to strike out Potomac and insert Germantown, as the permanent residence. Yeas 22, nays 39.

Variation—Mr. GILMAN, yea; Mr. TRUMBULL, nay.

Mr. SMITH (of Maryland) moved to strike out Potomac and insert between the Potomac and Susquehanna. Yeas 25, nays 36.

Variation—Messrs. SMITH, (of Maryland,) SMITH, (of South Carolina,) TRUMBULL, and THATCHER, yea; Mr. SHERMAN, nay.

Mr. LAWRENCE moved to strike out Potomac and insert Baltimore.

YEAS.—MESSRS. AMES, Benson, Boudinot, Floyd, Foster, Gerry, Goodhue, Grout, Hathorn, Huntington, Lawrence, Leonard, Livermore, Rensselaer, Partridge, Schureman, Sedgwick, Seney, Sherman, Smith, (of Maryland,) Smith, (of South

Carolina,) Sylvester, Sturges, Thatcher, Trumbull, Wadsworth—26.

NAYS.—Messrs. Ashe, Baldwin, Bloodworth, Brown, Cadwalader, Carroll, Clymer, Coles, Contee, Fitzsimons, Gilman, Gale, Griffin, Hartley, Heister, Jackson, Lee, Madison, Mathews, Moore, Muhlenberg, Page, Parker, Scott, Sevier, Sumter, Sinnickson, Steele, Stone, Tucker, Vining, White, Williamson, Wynkoop—34.

A motion was made to adjourn; which was also negatived.

The bill was then read the third time; and on the question, Shall the bill pass? the yeas and nays were as follows:

YEAS.—Messrs. Ashe, Baldwin, Bloodworth, Brown, Cadwalader, Carroll, Clymer, Coles, Contee, Fitzsimons, Gale, Griffin, Hartley, Heister, Jackson, Lee, Madison, Mathews, Moore, Muhlenberg, Page, Parker, Scott, Sevier, Sinnickson, Steele, Stone, Sumter, Vining, White, Williamson, Wynkoop—32.

NAYS.—Messrs. Ames, Benson, Boudinot, Burke, Floyd, Foster, Gerry, Goodhue, Gilman, Grout, Hathorn, Huntington, Lawrence, Leonard, Livermore, Partridge, Rensselaer, Schureman, Sedgwick, Seney, Sherman, Sylvester, Smith, (of Maryland,) Smith, (of South Carolina,) Sturges, Thatcher, Trumbull, Tucker, Wadsworth—29.^[37]

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THURSDAY, August 12.

Agreeably to the concurrent vote of the two Houses, an adjournment took place this day—to meet in the city of Philadelphia on the first Monday in December next.

Previous to the adjournment, a unanimous vote passed both Houses, returning thanks to the Corporation of this City for the elegant and convenient accommodations furnished the Congress of the United States.

Adjourned, *sine die*.

FIRST CONGRESS.—THIRD SESSION.

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HELD AT THE CITY OF PHILADELPHIA, DECEMBER 6, 1790

PROCEEDINGS IN THE SENATE.

MONDAY, December 6, 1790.

The Senate assembled: present,

JOHN ADAMS, Vice President of the United States, and President of the Senate.

From New Hampshire, JOHN LANGDON and PAINE WINGATE.

From Massachusetts, TRISTRAM DALTON.

From Connecticut, OLIVER ELLSWORTH.

From New York, RUFUS KING.

From Pennsylvania, WILLIAM MACLAY and ROBERT MORRIS.

From Delaware, RICHARD BASSETT.

From North Carolina, SAMUEL JOHNSTON and BENJAMIN HAWKINS.

From South Carolina, PIERCE BUTLER and RALPH IZARD.

From Georgia, WILLIAM FEW.

PHILEMON DICKINSON, from the State of New Jersey, produced his credentials and took his seat in the Senate, in the place of Governor PATERSON.

JAMES MONROE, appointed by the Legislature of the State of Virginia, in the place of JOHN WALKER, who was appointed by the Executive of the said State in the room of WILLIAM GRAYSON, deceased, produced his credentials, and took his seat in the Senate.

The VICE PRESIDENT administered the oath required by law to Mr. DICKINSON and Mr. MONROE, respectively.

A letter was read from WILLIAM PATERSON, Governor of the State of New Jersey, communicating the resignation of his appointment to be a Senator of the United States.

Ordered, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled, and ready to proceed to business.

TUESDAY, December 7.

A message from the House of Representatives informed the Senate that a quorum of that body is assembled and ready to proceed to business.

Messrs. LANGDON and MORRIS were appointed a committee, on the part of the Senate, to inform the President of the United States that a quorum of the two Houses is assembled, and will be ready, in the Senate Chamber, at such time as he may appoint, to receive any communication which he may be pleased to make.

Mr. LANGDON, in the course of the day, reported that the President would meet the two Houses, as proposed, to-morrow, at 12 o'clock.

WEDNESDAY, December 8.

JONATHAN ELMER, from New Jersey; CALEB STRONG, from Massachusetts; and GEORGE READ, from the State of Delaware; attended.

A letter from the Commissioners of the city and county of Philadelphia was received, offering to Congress the county court-house for their accommodation during their residence in Philadelphia.

The members of the House of Representatives having taken their seats, the PRESIDENT OF THE UNITED STATES entered the Senate Chamber, and addressed both Houses as follows:

Fellow-Citizens of the Senate and House of Representatives:

In meeting you again, I feel much satisfaction in being able to repeat my congratulations on the favorable prospects which continue to distinguish our public affairs. The abundant fruits of another year have blessed our country with plenty, and with the means of a flourishing commerce. The progress of public credit is witnessed by a considerable rise of American stock abroad as well as at home; and the revenues allotted for this and other national purposes have been productive beyond the calculations by which they were regulated. This latter circumstance is the more pleasing, as it is not only a proof of the fertility of our resources, but as it assures us of a further increase of the national respectability and credit; and, let me add, as it bears an honorable testimony to the patriotism and integrity of the mercantile and marine part of our citizens. The punctuality of the former in discharging their engagements has been exemplary.

In conforming to the powers vested in me by acts of the last session, a loan of three millions of florins, towards which some provisional measures had previously taken place, has been completed in Holland. As well the celerity with which it has been filled, as the nature of the terms, (considering the more than ordinary demand for borrowing, created by the situation of Europe,) give a reasonable hope that the further execution of those powers may proceed with advantage and success. The Secretary of the Treasury has my directions to communicate such further particulars as may be requisite for more precise information.

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Since your last sessions I have received communications by which it appears that the district of Kentucky, at present a part of Virginia, has concurred in certain propositions contained in a law of that State; in consequence of which the district is to become a distinct member of the Union, in case the requisite sanction of Congress be added. For this sanction application is now made. I shall cause the papers on this very important transaction to be laid before you. The liberality and harmony with which it has been conducted will be found to do great honor to both the parties; and, the sentiments of warm attachment to the Union and its present Government, expressed by our fellow-citizens of Kentucky, cannot fail to add an affectionate concern for their particular welfare to the great national impressions under which you will decide on the case submitted to you.

It has been heretofore known to Congress, that frequent incursions have been made on our frontier settlements by certain banditti of Indians from the north-west side of the Ohio. These, with some of the tribes dwelling on and near the Wabash, have of late been particularly active in their depredations; and, being emboldened by the impunity of their crimes, and aided by such parts of the neighboring tribes as could be seduced to join in their hostilities, or afford them a retreat for their prisoners and plunder, they have, instead of listening to the humane invitations and overtures made on the part of the United States, renewed their violences with fresh alacrity, and greater effect. The lives of a number of valuable citizens have thus been sacrificed, and some of them under circumstances peculiarly shocking, whilst others have been carried into a deplorable captivity.

These aggravated provocations rendered it essential to the safety of the Western settlements, that the aggressors should be made sensible that the Government of the Union is not less capable of punishing their crimes, than it is disposed to respect their rights and reward their attachments. As this object could not be effected by defensive measures, it became necessary to put in force the act which empowers the President to call out the militia for the protection of the frontiers; and I have, accordingly, authorized an expedition, in which the regular troops in that quarter are combined with such drafts of militia as were deemed sufficient: the event of the measure is yet unknown to me. The Secretary of War is directed to lay before you a statement of the information on which it is founded, as well as an estimate of the expense with which it will be attended.

The disturbed situation of Europe, and particularly the critical posture of the great

maritime Powers, whilst it ought to make us the more thankful for the general peace and security enjoyed by the United States, reminds us, at the same time, of the circumspection with which it becomes us to preserve these blessings. It requires, also, that we should not overlook the tendency of a war, and even of preparations for a war, among the nations most concerned in active commerce with this country, to abridge the means, and thereby at least to enhance the price of transporting its valuable productions to their proper markets. I recommend it to your serious reflection how far, and in what mode, it may be expedient to guard against embarrassments from these contingencies, by such encouragements to our own navigation as will render our commerce and agriculture less dependent on foreign bottoms, which may fail us in the very moments most interesting to both of these great objects. Our fisheries, and the transportation of our own produce, offer us abundant means for guarding ourselves against this evil.

Your attention seems to be not less due to that particular branch of our trade which belongs to the Mediterranean. So many circumstances unite in rendering the present state of it distressful to us, that you will not think any deliberations misemployed which may lead to its relief and protection.

The laws you have already passed for the establishment of a Judiciary system have opened the doors of justice to all description of persons. You will consider, in your wisdom, whether improvements in that system may yet be made; and, particularly, whether a uniform process of execution, on sentences issuing from the Federal courts, be not desirable through all the States.

The patronage of our commerce, of our merchants, and seamen, has called for the appointment of Consuls in foreign countries. It seems expedient, to regulate by law, the exercise of that jurisdiction, and those functions which are permitted them, either by express convention, or by a friendly indulgence, in the places of their residence. The Consular Convention, too, with His Most Christian Majesty, has stipulated, in certain cases, the aid of the national authority to his Consuls established here. Some legislative provision is requisite to carry these stipulations into full effect.

The establishment of the Militia, of a Mint, of Standards of Weights and Measures, of the Post Office and post roads, are subjects which (I presume) you will resume of course, and which are abundantly urged by their own importance.

Gentlemen of the House of Representatives:

The sufficiency of the revenues you have established for the objects to which they are appropriated, leaves no doubt that the residuary provisions will be commensurate to the other objects for which the public faith stands now pledged. Allow me, moreover, to hope that it will be a favorite policy with you not merely to secure a payment of the debt funded, but as far and as fast as the growing resources of the country will permit, to exonerate it of the principle itself. The appropriation you have made of the Western lands explains your dispositions on this subject, and I am persuaded the sooner that valuable fund can be made to contribute, along with other means, to the actual reduction of the public debt, the more salutary will the measure be to every public interest, as well as the more satisfactory to our constituents.

Gentlemen of the Senate and House of Representatives:

In pursuing the various and weighty business of the present session, I indulge the fullest persuasion that your consultations will be equally marked with wisdom, and animated by the love of your country. In whatever belongs to my duty, you shall have all the co-operation which an undiminished zeal for its welfare can inspire. It will be happy for us both, and our best reward, if, by a successful administration of our respective trusts, we can make the established Government more and more instrumental in promoting the good of our fellow-citizens, and more and more the object of their attachment and confidence.

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GEO. WASHINGTON.

UNITED STATES, *December 8, 1790.*

The President of the United States having retired, and the two Houses being separated, Messrs. ELLSWORTH, KING, and IZARD, were appointed a committee to prepare and report the draft of an Address to the PRESIDENT, in answer to his Speech to both Houses.

THURSDAY, December 9.

To the President, and the Honorable the Congress of the United States of America.

The memorial of the Representatives of the people of Kentucky, in Convention assembled, pursuant to an act of the Legislature of Virginia, passed the 18th December, 1789, entitled "An act concerning the erection of the District of Kentucky into an independent State," humbly sheweth:

That the inhabitants of this country are warmly devoted to the American Union, and as firmly attached to the present happy establishment of the Federal Government, as any of the citizens of the United States.

That, migrating from hence, they have, with great hazard and difficulty, effected their present settlements. The hope of increasing numbers could alone have supported the early adventurers under those arduous exertions. They have the satisfaction to find that hope verified. At this day, the population and strength of this country render it fully able, in the opinion of your memorialists, to form and support an efficient domestic Government.

The inconveniences resulting from its local situation, as a part of Virginia, at first but little felt, have for some time been objects of their most serious attention; which occasioned application to the Legislature of Virginia for redress.

Here your memorialists would acknowledge, with peculiar pleasure, the benevolence of Virginia in permitting them to remove the evils arising from that source, by assuming upon themselves a state of independence.

This they have thought expedient to do, on the terms and conditions stipulated in the above recited act; and fixed on the first day of June, 1792, as the period when the said independence shall commence.

It now remains with the President and the Congress of the United States to sanction these proceedings, by an act of their honorable Legislature, prior to the first day of November, 1791, for the purpose of receiving into the Federal Union the people of Kentucky, by the name of the State of Kentucky.

Should this determination of your memorialists meet the approbation of the General Government, they have to call a Convention, to form a Constitution, subsequent to the act of Congress, and prior to the day fixed for the independence of this country.

When your memorialists reflect upon the present comprehensive system of Federal Government, and when they also recollect the determination of a former Congress on this subject, they are left without a doubt that the object of their wishes will be accomplished.

And your memorialists, as in duty bound, shall for ever pray.

GEORGE MUTER, *President.*
Attest, THOMAS TODD, *Clerk of the Con.*

A letter from the Secretary of War was communicated to the VICE PRESIDENT, enclosing sundry papers referred to in the President's Speech to both Houses of Congress, on the 8th instant, which, being read, were ordered to lie for consideration.

FRIDAY, *December 10.*

A letter from Monsieur Beniere, President of the Commonalty of Paris, addressed to the PRESIDENT and members of Congress of the United States, with twenty-six copies of a Civic Eulogy on BENJAMIN FRANKLIN, pronounced the 21st day of July, 1790, in the name of the Commonalty of Paris, by Monsieur L'Abbé Fauchet, was delivered to the Senate, by Mr. Lear, Secretary to the President of the United States.

Read, and

Ordered, That the letter and copies of the Eulogy be sent to the House of Representatives.

A message from the House of Representatives informed the Senate, that they have, on their part, appointed the Rev. Dr. BLAIR one of the Chaplains of the present Congress.

Mr. ELLSWORTH, from the committee appointed to prepare and report the draft of an Address to the President of the United States, reported accordingly; and, the report being amended, was adopted, as followeth:

To the President of the United States of America.

We receive, sir, with particular satisfaction, the communications contained in your speech, which confirm to us the progressive state of the public credit, and afford, at the same time, a new proof of the solidity of the foundation on which it rests; and we cheerfully join in the acknowledgment which is due to the probity and patriotism of the mercantile and marine part of our fellow-citizens, whose enlightened attachment to the principles of good government is not less conspicuous in this than it has been in other important respects.

In confidence that every constitutional preliminary has been observed, we assure you of our disposition to concur, in giving the requisite sanction to the admission of Kentucky as a distinct member of the Union; in doing which, we shall anticipate the happy effects to be expected from the sentiments of attachment towards the Union, and its present Government, which have been expressed by the patriotic inhabitants of that district.

While we regret that the continuance and increase of the hostilities and depredations which have distressed our north-western frontiers, should have rendered offensive measures necessary, we feel an entire confidence in the sufficiency of the motives which have produced them, and in the wisdom of the

dispositions which have been concerted, in pursuance of the powers vested in you; and, whatever may have been the event, we shall cheerfully concur in the provisions which the expedition, that has been undertaken, may require on the part of the Legislature, and in any other which the future peace and safety of our frontier settlements may call for.

The critical posture of the European Powers will engage a due portion of our attention, and we shall be ready to adopt any measures which a prudent circumspection may suggest, for the preservation of the blessings of peace. The navigation and the fisheries of the United States are objects too interesting not to inspire a disposition to promote them, by all the means which shall appear to us consistent with their natural progress and permanent prosperity.

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Impressed with the importance of a free intercourse with the Mediterranean, we shall not think any deliberations misemployed which may conduce to the adoption of proper measures for removing the impediments that obstruct it.

The improvement of the Judiciary system, and the other important objects to which you have pointed our attention, will not fail to engage the consideration they respectively merit.

In the course of our deliberations upon every subject we shall rely upon that co-operation which an undiminished zeal, and incessant anxiety for the public welfare, on your part, so thoroughly ensure; and, as it is our anxious desire, so it shall be our constant endeavor, to render the established Government more and more instrumental in promoting the good of our fellow-citizens, and more and more the object of their attachment and confidence.

Ordered, That the Address to the President of the United States, in answer to his Speech, be presented by the Vice President, attended by the Senate, and that the committee which reported the Address wait on the President, and desire to be informed at what time and place he will receive the same.

MONDAY, December 13.

WILLIAM S. JOHNSON, from Connecticut, and PHILIP SCHUYLER, from New York, attended.

Mr. ELLSWORTH, from the committee appointed on the 10th, to wait on the President of the United States, reported:

That it would be agreeable to the President to receive the Address of the Senate, in answer to his Speech to both Houses of Congress, on Monday next, at 12 o'clock.

Whereupon,

The Senate waited upon the President of the United States at his own house, and the Vice President, in their name, communicated to him the Address agreed to on the 10th instant; to which the President of the United States was pleased to make the following reply:

GENTLEMEN: These assurances of favorable attention to the subjects I have recommended, and of entire confidence in my views, make the impression on me which I ought to feel. I thank you for them both, and shall continue to rely much for the success of all our measures for the public good, on the aid they will receive from the wisdom and integrity of your councils.

GEO. WASHINGTON.

The Senate returned to the Senate Chamber.

WEDNESDAY, December 15.

JOSEPH STANTON, junior, from Rhode Island, attended.

MONDAY, January 10.

JOHN HENRY, from Maryland, attended.

MONDAY, January 17.

JAMES GUNN, from Georgia, attended.

FRIDAY, January 21.

CHARLES CARROLL, from the State of Maryland, attended.

MONDAY, February 14.

The Senate on Executive business. The following Message from the PRESIDENT OF THE UNITED STATES was under consideration:

Gentlemen of the Senate:

Conceiving that in the possible event of a refusal of justice on the part of Great Britain, we should stand less committed should it be made to a private rather than a public person, I employed Mr. Gouverneur Morris, who was on the spot, and without giving him any definite character, to enter informally into the conferences before mentioned. For your more particular information, I lay before you the instructions I gave him, and those parts of his communications wherein the British ministers appear either in conversation or by letter. These are two letters from the Duke of Leeds to Mr. Morris, and three letters of Mr. Morris, giving an account of two conferences with the Duke of Leeds, and one with him, and Mr. Pitt. The sum of these is, that they declare, without scruple, they do not mean to fulfil what remains of the Treaty of Peace to be fulfilled on their part, (by which we are to understand the delivery of the posts and payment for property carried off,) till performance on our part, and compensation where the delay has rendered the performance now impracticable; that on the subject of a treaty of commerce they avoided direct answers, so as to satisfy Mr. Morris they did not mean to enter into one unless it could be extended to a treaty of alliance offensive and defensive, or unless in the event of a rupture with Spain.

As to the sending a Minister here, they made excuses at the first conference, seemed disposed to it in the second, and in the last express an intention of so doing.

Their views being thus sufficiently ascertained, I have directed Mr. Morris to discontinue his communications with them. GEO. WASHINGTON.

UNITED STATES, *Feb.* 14, 1791.

Ordered, That this Message lie for consideration.

TUESDAY, February 15.

RICHARD HENRY LEE, from Virginia, attended.

No business of importance before the Senate to-day.

THURSDAY EVENING, March 3.

A message from the House of Representatives informed the Senate that they, having completed the Legislative business before them, intend shortly to adjourn without day.

Ordered, That the Secretary acquaint the House of Representatives that the Senate, having completed the Legislative business before them, are about to adjourn; and having acquainted the VICE PRESIDENT that he had delivered the message,

The Senate adjourned without day.

FIRST CONGRESS.—THIRD SESSION.

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PROCEEDINGS AND DEBATES

IN

THE HOUSE OF REPRESENTATIVES.

MONDAY, December 6, 1790.

On which day, being the day appointed by adjournment of the two Houses for the meeting of the present session, the following members appeared and took their seats, to wit:

From New Hampshire—ABIEL FOSTER, NICHOLAS GILMAN, and SAMUEL LIVERMORE.

From Massachusetts—FISHER AMES, BENJAMIN GOODHUE, and GEORGE THATCHER.

From Connecticut—BENJAMIN HUNTINGTON, ROGER SHERMAN, and JONATHAN STURGES.

From New York—EGBERT BENSON, WILLIAM FLOYD, JOHN LAWRENCE, and PETER SYLVESTER.

From New Jersey—ELIAS BOUDINOT, LAMBERT CADWALADER, and JAMES SCHUREMAN.

From Pennsylvania—GEORGE CLYMER, THO'S FITZSIMONS, FREDERICK AUGUSTUS MUHLENBERG, PETER MUHLENBERG, and HENRY WYNKOOP.

From Maryland—JOSHUA SENEY.

From Virginia—JOHN BROWN, SAMUEL GRIFFIN, and JAMES MADISON, Junior.

From North Carolina—TIMOTHY BLOODWORTH and HUGH WILLIAMSON.

From South Carolina—WILLIAM SMITH.

From Georgia—ABRAHAM BALDWIN.

Which not forming a quorum of the whole number, the House adjourned until to-morrow.

TUESDAY, December 7.

DANIEL HEISTER and THOMAS SCOTT, from Pennsylvania; RICHARD BLAND LEE, from Virginia; and DANIEL HUGER, from South Carolina, appeared and took their seats.

WILLIAM B. GILES, from Virginia, returned in the place of Theodorick Bland, deceased, also appeared, produced his credentials, and took his seat.

WEDNESDAY, December 8.

ELBRIDGE GERRY and JONATHAN GROUT, from Massachusetts; ANDREW MOORE and ALEXANDER WHITE, from Virginia; and THOMAS TUDOR TUCKER, from South Carolina, appeared and took their seats.

A message from the Senate informed the House that they are ready to meet the members of this House in the Senate Chamber, to receive the usual communication from the President of the United States.

Mr. SPEAKER, attended by the members of this House, then withdrew to the Senate Chamber, for the purpose expressed in the above message.

And being returned, the SPEAKER laid before the House a copy of the Speech, delivered by the PRESIDENT (which will be found in the proceedings of the Senate),

Which being read, it was, on motion, committed to the consideration of a Committee of the whole House to-morrow.

THURSDAY, December 9.

JAMES JACKSON and GEORGE MATHEWS, from Georgia, appeared and took their seats.

Address to the President.

On motion, the House resolved itself into a Committee of the Whole on the Speech of the President of the United States, Mr. LIVERMORE in the chair.

On motion of Mr. LAWRENCE, the committee agreed to a resolution, which the committee rose and reported to the House, which was concurred with as follows:

Resolved, that it is the opinion of this committee, that an Address ought to be presented by the House to the President of the United States, in answer to his Speech to both Houses, with assurances that this House will, without delay, proceed to take into consideration the various and important matters recommended to their attention.

And Messrs. MADISON, AMES, and TUCKER, were appointed to prepare the Address.

FRIDAY, December 10.

GEORGE PARTRIDGE, from Massachusetts; JONATHAN TRUMBULL and JEREMIAH WADSWORTH, from Connecticut; THOMAS SINNICKSON, from New Jersey; and WILLIAM SMITH, from Maryland, appeared and took their seats.

SATURDAY, December 11.

A translation of the Letter from the President of the Commonalty of Paris, addressed to the Federal Legislature, was read as follows: [Pg 256]

Mr. President—Gentlemen:

The news has reached our ears—FRANKLIN is no more!—FRANKLIN, the citizen of the world!—All nations are indebted to him for instruction in every branch of science. They are all bound to participate in the grief occasioned by this common loss. But the Assembly of the Representatives of the Commonalty of our capital, thinking it their duty, in addition to the general mourning, to pay to his memory a further tribute of honor, have ordered, by a public decree, that the virtues and talents of this great philosopher should be perpetuated to distant ages, in a public and solemn Eulogy—the first of the kind ever bestowed by our nation on civic worth.

By order of the Assembly I transmit it to your hands; and, with the most lively sensations of pleasure, embrace the opportunity of paying due homage to a body of men, who not only possess, but are justly entitled to enjoy the sweets of Liberty.

May the approbation of your Assembly attend, as well the present itself, as the fraternal and respectful sentiments with which

I am, Mr. President—Gentlemen,
Your most obedient humble servant,
BENIERE,

To the PRESIDENT and CONGRESS *of the United States.*

The letter accompanied twenty-six copies of the Eulogium on Dr. FRANKLIN, delivered by the Abbé Fauchet, pursuant to a decree of that body.

Mr. BOUDINOT proposed that thirteen copies of the Eulogium be returned to the President of the United States and the Senate; which was done.

Mr. SMITH (of South Carolina) observed, that it would be proper to request the President of the United States to return an answer to the President of the Commonalty of Paris, or that a Joint Committee of the House and Senate should be appointed for the purpose. He was not tenacious of any particular mode, but supposed it highly proper that some notice should be taken of the polite attention shown the Government by the President of the Commonalty of Paris. The business was specially committed to the SPEAKER.

Agreeably to the order of the day, the House resolved itself into a Committee of the Whole, to take into consideration the Address to the President of the United States, in answer to his Speech to both Houses, as reported yesterday. Mr. LIVERMORE in the chair.

The Address was read by the clerk, and then discussed by the committee in paragraphs.

On reading the clause respecting the Western expedition against the Indians,

Mr. JACKSON rose and observed, that he was as fully impressed with the importance of an Indian war, and of extending the protection of Government to our defenceless frontiers, as any man whatever, and had no doubt of the necessity of the measures taken to chastise the banditti on the Ohio; but as a Representative from the State of Georgia, he should think himself inexcusable were he not to express his astonishment that no notice is taken in the President's speech of the treaty with the Creek Nation; a treaty which has spread alarm among the people of that State—a treaty by which more than three millions of acres of land, the property of the State of Georgia, guarantied to that State by the Constitution of the United States, are ceded away without any compensation. Mr. J. then adverted to several articles of the treaty, which he said controverted the plainest principles of the constitution, particularly those parts which secure to every citizen the rights of property. He contrasted the present situation of the inhabitants of Georgia, with what it was under the British Government, and said this treaty placed them in a less eligible situation in respect to the Indians.

It had been said, exclaimed he, that there are secret articles in the treaty. Good God! at this early period are there to be secret articles existing between the United States and any other nation under heaven! Treaties by the constitution are to be considered the supreme law of the land; but will Congress permit the laws of the United States, like those of *Caligula*, to be placed where they cannot be read, and then punish the people for not obeying them? The people will never submit to be bound by secret articles.

[Here the Chairman interrupted Mr. JACKSON, by inquiring whether his observations were intended as introductory to any motion on the paragraph just read.]

Mr. J. replied, that it was his intention, at a future day, to introduce a motion, that the President be requested to lay before this House the treaty with the Creek Indians—not excepting the secret articles. He then expatiated on the sufferings of the people of Georgia, and asked, what must be their feelings when they reflect on the preparations made to chastise the Wabash banditti, while the exertions of Congress have not been called forth to their relief. The President sent three Commissioners to Georgia (not one of whom was a citizen of that State). They investigated the truth of her representations, and made a report favorable to her claims, that the lands in dispute were fairly purchased, and as fully obtained as the Confederation, or the nature of the case would admit; but what has been the result? The treaty, so far from recognizing the rights of Georgia, has sacrificed them—the report of the Commissioners does not appear to have been attended to. On the other hand, a savage of the Creeks has been invited and brought to the seat of Government, and there loaded with favors, and caressed in the most extraordinary manner.

He said, he would not at present engross any more of the time of the House, only to give notice that, at a future opportunity, he should move that the President of the United States be requested to lay before the House for their consideration, the treaty with the Creek Indians—not excepting the secret articles.

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The paragraph respecting encouraging our own navigation being read,

Mr. SMITH (of South Carolina) observed, that he did not rise to propose any alterations in the style of the Address; the language was such as might be expected from the acknowledged abilities of the gentleman who drafted it. The paragraph just read, he conceived, pledged the House to take measures in respect to our own navigation, which may, in the issue, prove injurious to the agricultural interests of the United States. At this early period of the session, it appeared extremely improper for the House to commit itself, especially as few, if any of the States, are fully represented on the floor. He was afraid that the mode of expression adopted in the Address would conduce to the exclusion of foreign bottoms altogether. If the opinion of the committee should be adopted by the House, he conceived it would be anticipating a decision to the precluding future discussions of the subject. He foresaw that this paragraph would be called up at some future period, and brought as an argument against any different propositions that might be offered—and thus the question be determined without any debate. He thought the Address

went into too minute a consideration of the several parts of the Speech, and could have wished that more general terms had been used. As a substitute for the paragraph under consideration, he moved the following amendment in substance:

"We shall consider with attention the best means of guarding against the embarrassments you mention, and will take such measures as may remove every obstruction to the prosperity of the commerce and agriculture of the United States."

Mr. WILLIAMSON observed, that he saw no material difference between the paragraph in the report and the amendment proposed. The mode of expression adopted by the committee is in so general terms, that he hoped it would have met the full approbation of every member of the committee. The President proposes that the commerce of the United States should be relieved from all injurious restrictions; nothing can be more just and reasonable: and this is perfectly compatible with supporting the agricultural interests of the country; the promotion of the former involves that of the latter. He touched on the impositions of Great Britain on our commerce, and observed, that reason and justice point out the propriety of seeking redress. He, however, saw no opposition in the two propositions; but as the obvious design in bringing forward the substitute is to preclude such an inquiry as the exigency of the case seems to require, he hoped it would not be adopted.

Mr. JACKSON observed that he had seconded the motion of the gentleman from South Carolina, because he thought there was an obvious difference in the two modes of expression. He then entered into a discussion of the subject generally; and enlarged on the injurious consequences which would result to the Southern States particularly by enhancing the duties on foreign bottoms. He said, that the tonnage was at present so high as to prevent foreigners from becoming our carriers; several instances of this had been mentioned to him from good authority; and while the American shipping was incompetent to the object, and he called on gentlemen to show that it was, the exclusion of foreign ships from our ports must be ruinous to South Carolina and Georgia; therefore, he hoped the amendment would take place.

Mr. SHERMAN said, that the words in the report appeared to him less exceptionable than those in the proposed amendment, even on the principle supported by the gentleman in favor of the amendment. In the report it was only said, we should consider what means, &c., but the amendment declared we should take effectual measures. The words in the report only binding us to consider—those in the amendment obliging us to act. He thought the answer should be general, and was therefore against the amendment.

Mr. SMITH (of South Carolina) observed, that the member last up had confined his observation to the first words in the paragraph objected to. If he will take the trouble of reading a little further, he will see, that as the report stands, we give it as our opinion, that foreign bottoms ought to be excluded, which would be severely felt by the States of South Carolina and Georgia. We cannot wholly depend upon our own vessels for the exportation of our produce; they are not sufficiently numerous, nor will they be for many years; therefore, let us not at this time, in a hasty manner, declare, that all articles exported shall be carried in our own bottoms. To settle this important question, Mr. S. thought that some time should be given to reflect, and a day fixed for discussion; in the mean time, he thought it improper at this stage of the session, that the opinion of the House should be given.

Mr. WILLIAMSON remarked, that the report did not say that we should have no dependence on foreign bottoms; but that we should not depend altogether upon them for the exportation of our produce. He had no idea of excluding foreign bottoms. He was for making provision in case that resource should fail.

Mr. JACKSON.—To show the importance of foreign shipping to the Southern States, and the inadequacy of our own to transport their produce, notwithstanding the low duty on American shipping, Mr. J. read a statement of the tonnage duties paid by each, in the State of Georgia, for the same period; the foreign tonnage amounted to eight thousand two hundred and twenty-seven dollars, the American to six hundred and twenty-nine dollars only. This being the fact, he inquired, what could be done with the Southern produce, in case of the exclusion of foreign bottoms? It must rot in the planter's hands. With respect to the amendment's being as positive as the clause in the report, as had been asserted, if this is the case he could see no objection to its being adopted.

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Mr. TUCKER said, he thought it improper that in an Address on this occasion, the committee should go into a particular detail on every subject; much less commit their judgment without a previous discussion. The President may have maturely considered the subject during the recess, but the committee cannot be supposed to be prepared for a decision. The thinness of the House was a further objection, in his opinion, to entering into a discussion of the question. He was not pleased with the paragraph in the report, as it seemed to imply that nothing had been done for the encouragement of our own navigation, the reverse of which was fact. The posture of affairs in Europe suggested no stronger reasons for giving further encouragement to our own navigation than what was presented last session; the expediency of the measure is not therefore apparent from any change of circumstances. Though he was dissatisfied with the report, the amendment proposed fell short of his wishes. It did not recognize what had been done for the encouragement of American shipping. He would, therefore, propose a substitute by leave of his colleague; which he did to the following purport: "The encouragement of our own navigation has at all times appeared to us highly important, and has employed a large share of our deliberations; we shall continue to pay due attention to the subject, and consider by what means our commerce and

agriculture may be best promoted."

Mr. SMITH withdrew his motion to admit Mr. TUCKER'S.

Mr. SENEY said, he could not conceive what ground of apprehension there was in the Address, to lead gentlemen to suppose that the opinion of the House would be committed by its adoption. He thought it couched in the most general and unexceptionable terms. The amendment proposed he did not think essentially variant from the paragraph under consideration; but as the original was well expressed, he saw no reason for expunging the clause; it contained an assertion, the truth of which he supposed would not be controverted. As to the objection against going into a detail of particulars, it was fully justified by precedent in the last Address; the gentleman from South Carolina, he will recollect, was on the committee who framed it; that Address more pointedly committed the House than the present.

Mr. MADISON thought proper to take some notice of the objections that had been made to the report. There were two modes of proceeding, which might be adopted in drawing up the answer. The first method was generally to declare, that the House would take into their serious consideration the business recommended to their attention by the President. And this, he observed, would be saying nothing, for, as by the constitution it was the President's duty to communicate what matters he judged of importance, so it was undoubtedly that of the House to pay attention to the objects recommended. The second method was, to enter into a detail of the different points mentioned in the President's Address, and in such cases where there was no doubt as to the propriety of measures being taken, assure him, in the answer, that measures would be adopted; and if any thing doubtful occurred, merely promise that the subject would be attended to. This rule the committee had followed in drawing up their report, and as in the business mentioned in the paragraph now before the House, they did not hesitate to believe some measures necessary, they could see no impropriety in assuring him that the best would be adopted. He added, that as it is clear that a war in Europe would, by depriving us of foreign bottoms to export our produce, injure this country; and as wars were doubtful, it was of the utmost importance that the American navy be put on so respectable a footing as not to need foreign aid for the exportation of her produce. He further observed, that the answer returned last session was more full, and went even to give the President assurances that the House would concur in certain points proposed for their consideration in his address. He concluded by remarking, that the amendment proposed was binding on the House quite as much as the paragraph in the report.

Mr. SMITH (of South Carolina) said, it was true those who reported the Address the last session, adverted to particulars; but were cautious in their mode of expression, and adopted ambiguous language to avoid giving an opinion. This would appear by recurring to that Address. The charge of inconsistency on his part was therefore not well founded. Mr. S. read some paragraphs of that Address, and observed that the House was not pledged by the expressions then read; but in the present Address there is an opinion given. It says that we ought not to depend on foreign bottoms, because in case of war we may be deprived of that resource. These declarations originated the objections, and gave rise to the amendment. He proposed, therefore, as gentlemen appear to have no objection to either mode of expression, that they would accommodate for the sake of harmony and unanimity.

The question on the amendment was lost by a considerable majority.

The remainder of the Address was read, and agreed to by the committee. The committee then rose and reported, and the House adopted it unanimously.

A committee was then appointed to wait on the President of the United States, to know at what time and place it would be convenient for him to receive the Address.

The committee having waited on the President, Mr. MADISON reported, that the President was pleased to return for answer, that, at two o'clock on Monday next, he would receive the Address at his own house.

MESSESS. WILLIAMSON and SHERMAN were added to the committee on the bill to amend the act for promoting the progress of the useful arts. [Pg 259]

Mr. MATHEWS was appointed on the committee on the militia bill, *vice* Mr. JACKSON, who begged leave to decline serving, as his colleague had been heretofore on that business, and must consequently be better acquainted with the subject than he was.

MONDAY, December 13.

GEORGE LEONARD from Massachusetts; JOHN VINING, from Delaware; JOSIAH PARKER, from Virginia; JOHN BAPTIST ASHE, from North Carolina; and EDANUS BURKE, from South Carolina, appeared and took their seats.

Eulogium on Dr. Franklin.

Mr. SMITH (of South Carolina) introduced the following motion, which was read, and laid on the table:

The House being highly sensible of the polite attention of the Commonalty of Paris, in directing a eulogium to the illustrious memory of Dr. Benjamin Franklin, pronounced before them, to be transmitted to the President and Congress of the

United States,

Resolved, That the Speaker communicate the sense of this House in a letter addressed to the President and Commonalty of Paris.

Address to the President.

At two o'clock, the House, preceded by the Sergeant-at-Arms, waited on the President of the United States, at his house where the SPEAKER delivered the following Address in answer to his Speech to both Houses:

SIR: The Representatives of the people of the United States have taken into consideration your Address to the two Houses at the opening of the present session of Congress.

We share in the satisfaction inspired by the prospects which continue to be so auspicious to our public affairs. The blessings resulting from the smiles of Heaven on our agriculture, the rise of public credit, with the further advantages promised to it, and the fertility of resources which are found so little burdensome to the community, fully authorize our mutual congratulations on the present occasion. Nor can we learn, without an additional gratification, that the energy of the laws for providing adequate revenues have been so honorably seconded by those classes of citizens whose patriotism and probity were more immediately concerned.

The success of the loan, opened in Holland under the disadvantages of the present moment, is the more important, as it not only denotes the confidence already placed in the United States, but as the effects of a judicious application of that aid will still further illustrate the solidity of the foundation on which the public credit rests.

The preparatory steps taken by the State of Virginia, in concert with the District of Kentucky, towards the erection of the latter into a distinct member of the Union, exhibit a liberality mutually honorable to the parties. We shall bestow on this important subject the favorable consideration which it merits, and with the national policy which ought to govern our decision, shall not fail to mingle the affectionate sentiments which are awakened by those expressed in behalf of our fellow-citizens of Kentucky.

Whilst we regret the necessity which has produced offensive hostilities against some of the Indian tribes north-west of the Ohio, we sympathize too much with our Western brethren, not to behold with approbation the watchfulness and vigor which have been exerted by the Executive authority for their protection; and which, we trust, will make the aggressors sensible that it is their interest to merit, by a peaceable behavior, the friendship and humanity which the United States are always ready to extend to them.

The encouragement of our own navigation has at all times appeared to us highly important. The point of view under which you have recommended it to us is strongly enforced by the actual state of things in Europe. It will be incumbent on us to consider in what mode our commerce and agriculture can be best relieved from an injurious dependence on the navigation of other nations, which the frequency of their wars renders a too precarious resource for conveying the productions of our own country to market.

The present state of our trade in the Mediterranean seems not less to demand, and will accordingly receive, the attention which you have recommended.

Having already concurred in establishing a Judiciary system, which opens the doors of justice to all without distinction of persons, it will be our disposition to incorporate every improvement which experience may suggest; and we shall consider, in particular, how far the uniformity which in other cases is found convenient in the administration of the General Government through all the States may be introduced into the forms and rules of executing sentences issuing from the Federal Courts.

The proper regulation of the jurisdiction and functions which may be exercised by Consuls of the United States in foreign countries, with the provisions stipulated to those of His Most Christian Majesty established here, are subjects of too much consequence to the public interest and honor not to partake of our deliberations.

We shall renew our attention to the establishment of the militia and other subjects unfinished at the last session, and shall proceed in them with all the despatch which the magnitude of all, and the difficulty of some of them, will allow.

Nothing has given us more satisfaction than to find that the revenues heretofore established have proved adequate to the purposes to which they were allotted. In extending the provision to the residuary objects, it will be equally our care to secure sufficiency and punctuality in the payments due from the Treasury of the United States. We shall also never lose sight of the policy of diminishing the public debt, as fast as the increase of the public resources will permit; and are

particularly sensible of the many considerations which press a resort to the auxiliary resources furnished by the public lands.

In pursuing every branch of the weighty business of the present session, it will be our constant study to direct our deliberations to the public welfare. Whatever our success may be, we can at least answer for the fervent love of our country, which ought to animate our endeavors. In your co-operation, we are sure of a resource which fortifies our hopes that the fruits of the established Government will justify the confidence which has been placed in it, and recommend it more and more to the affection and attachment of our fellow-citizens.

To the foregoing Address the PRESIDENT was pleased to reply:

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GENTLEMEN: The sentiments expressed in your Address are entitled to my particular acknowledgment. Having no object but the good of our country, this testimony of approbation and confidence, from its immediate representatives, must be among my best rewards, as the support of your enlightened patriotism has been among my greatest encouragements. Being persuaded that you will continue to be actuated by the same auspicious principle, I look forward to the happiest consequences from your deliberations during the present session.

GEO. WASHINGTON.

TUESDAY, December 14.

JEREMIAH VAN RENSSLAER, from New York, and THOMAS HARTLEY, from Pennsylvania, appeared and took their seats.

FRIDAY, December 17.

JOHN HATHORN, from New York, and JOHN SEVIER, from North Carolina, appeared and took their seats.

BENJAMIN BOURNE, a member returned from Rhode Island, produced his credentials, and took his seat.

MONDAY, December 27.

Public Lands.

The House then went into Committee of the Whole on the state of the Union, Mr. LIVERMORE in the chair.

The report of the Secretary of the Treasury on the establishment of land offices for the disposal of the vacant lands belonging to the United States was taken up; when

Mr. BOUDINOT offered the following resolution:

Resolved, That it is the sense of the committee that a Land Office be established at the seat of the General Government, under the direction of —— Commissioners.

Mr. SCOTT wished the House to take a general view of the business before they went into the particulars of the Secretary's report. Upon the whole, he was pleased with the plan drawn up by that officer; one part, however, he objected to—that part of the report which provided for the distribution of the land. He did not approve of setting apart tracts for particular descriptions of purchasers. As an amendment, he offered seven propositions, which he wished, for the present, to lie on the table, and which he proposed to offer as substitutes to different parts of the Secretary's report, as they came before the House. His principal object was to let the tracts which Congress proposed to sell be indiscriminately located.

Mr. BOUDINOT thought the committee could not then enter into the minutiae of the business. It was enough to fix the general principles, viz: Whether there shall be a General Land Officer and two subordinates? Whether they shall be under the direction of Commissioners? And whether certain tracts of land should be reserved by Congress for certain purposes? And then to appoint a committee to bring in a bill on those principles, and to take into consideration the minutiae of the business.

Mr. SCOTT moved as a substitute his second proposition, that such districts as shall be set apart for sale, shall include the actual settlements, and be left to be indiscriminately located. He said it was improper to set aside different tracts for different modes of location—some in large tracts, others in small lots. He conceived it would be the interest of Government to let every one purchase where he pleased, and as much or as little as he chose. From experience, he knew that those parts were always settled with the most celerity that were not bound down to any of those restrictions. For his part, he could see no good argument in favor of them.

He wished some of the gentlemen who approved of this mode would give him some reasons for preferring it. There could be no fear of individual settlers scattering and losing themselves in the backwoods; there was a sufficient check to prevent it—the Indians would keep them compact much more effectually than any regulations Congress could make. If, after granting certain scattered tracts to individual settlers, a considerable tract, including these, was wanted, he could see no inconvenience in granting it, reserving to the former settlers their rights.

Mr. WILLIAMSON rose to give the gentleman last up one reason for opposing indiscriminate location. Hitherto, he owned, much mischief had not arisen from this mode of settlement; but now there were persons rich in securities and cash, ready to take up considerable quantities of land, which, if they were permitted to select here and there, would select every choice tract they could; and those who might not have the same means of purchasing immediately at command, could only obtain the indifferent parcels. Many, he knew, had it in contemplation to do this, if the opportunity offered. He instanced North Carolina as an example of the injurious tendency of this liberty; where many tracts are unsaleable owing to this circumstance. If these tracts were to be purchased by actual settlers, the case would be different; they would only be taken up by persons under the name of actual settlers. Such a practice would be an impediment to such companies of Europeans as might wish to settle among us.

Mr. SCOTT said he expected the gentleman would have offered more solid objections to his plan, and more forcible arguments in favor of the other. Though the first settlers had the choice of the land, yet he conceived the remaining part would acquire a considerable additional value from the surrounding settlements. As for the European companies who might be tempted to settle among us, he did not contemplate it as an object so desirable. A body of French people settling in that way would preserve their language and manners two thousand years perhaps. This would not be for the true interest of the country; all its inhabitants should, by mutual intercourse, become assimilated, and no name be known but that of Americans.

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Mr. BOUDINOT was against indiscriminate location. He had seen the bad effects of it in the State from which he came. Persons had bought up the low lands, and sold them again to such as absolutely needed a water lot to their farms, at enormous prices. He mentioned another objection to the plan—the tendency it had to create lawsuits. He said more money had been spent at law, in disputes arising from that mode of settlement, in New Jersey, than would have been necessary to purchase all the land of the State. The late Congress, he was informed, had adopted a method to obviate the inconveniences of the former mode—the lands were laid out into a mile square; these were divided into four equal squares, and in that form sold.

Mr. SCOTT said there were tracts of land which it is impossible to sell, even by offering good parcels with them. Between Philadelphia and his home there were spots which were only intended by nature for the birds and beasts—that could be of no value for cultivation. He could not see much probability that the best land would be picked out. The difficulty of exploring a wild and uncultivated desert opposed a considerable barrier to such attempts.

Mr. SCOTT's amendment was lost.

TUESDAY, December 28.

Land Offices.

The House then went again into a Committee of the Whole on the state of the Union, Mr. BOUDINOT in the chair. The report of the Secretary of the Treasury on the subject of a Land Office being under consideration.

Mr. SCOTT said, he was ready to give some information relative to the extent of the seven ranges. He produced a map of them, from which it appeared that they included thirty-five lots, each six miles square. The tract is in the shape of a triangle, of which one leg measured about sixty, and the other forty-two—in all, about twelve hundred square miles. His amendment was agreed to.

The next article was agreed to, with a trifling amendment, without debate.

Then the following was read:

"That the price shall be thirty cents per acre, to be paid either in gold or silver, or public securities, computing those which shall bear an immediate interest of six per cent. as at par with gold and silver, and those which shall bear a future or less interest, if any there be, at a proportional value."

Mr. SCOTT moved that thirty cents should be struck out.

Mr. SHERMAN was in favor of inserting fifty cents per acre. He said there was every reasonable probability the lands would be worth that sum in a few years.

Mr. LAWRENCE said, that as the quality of the land would vary, it appeared proper to fix on two prices at which they should be sold, viz: That the price shall not be more than —, nor less than —. He submitted the idea to the consideration of the committee.

Mr. SEDGWICK preferred the insertion of a sum below which the lands should not be sold.

Mr. WILLIAMSON suggested the propriety of making a difference in the price to those who purchase large quantities, from the price to those who purchase small quantities.

The motion for striking out was lost.

Mr. SEDGWICK then moved to amend the clause, by inserting "that the price per acre shall not be less than thirty cents."

Mr. STONE objected to the motion. He said the operation of it would be to leave it discretionary with the Surveyors to fix the price of the various tracts. This would be to constitute a tribunal in a measure independent of the Government. He thought the policy of the Government should be to fix on a price, which shall be so reasonable, that persons may feel every inducement to pay it

before they take up the lands; for it has been found by experience, that when once a tract of distant country is taken possession of, you never can get any thing more than the settlers are willing to pay. He insisted that it was impracticable to fix the relative value of unlocated lands—it had been repeatedly tried without effect. He asked if any of the States had ever established various rates for their lands? He knew of none.

Mr. SEDGWICK answered the inquiry respecting the relative value of lands being ascertained in the several States. He said, that so far as his information extended, which respected only the States of New York, New Hampshire, and Massachusetts, this had invariably been the case. Every man knows there is a most essential difference in the value of lands. Those on navigable rivers may be ten times as valuable as those on the top of a mountain. This every individual is so sensible of, that a difference in the price is constantly made; and why the Government should not make a difference, it is impossible to say. Any man, by casting his eye upon the map, can at once determine that some part of the land is unspeakably more valuable than other parts. He was certain that vesting a discretionary power, in the disposal of the lands, would be productive of the greatest advantage to the United States, and on this principle he could not conceive why the Surveyors should not determine the relative quality, that the United States may stand some chance of getting the value of this property.

Mr. LIVERMORE was in favor of Mr. SEDGWICK's motion, and enlarged on the unreasonableness of fixing a particular price.

Mr. JACKSON was opposed to investing a discretionary power to determine the price with any persons whatsoever. It had been productive of mischievous consequences in the State of Georgia. He was for fixing a price, and the highest price—the best the land would bear; when that is sold, if the revenue will not bear the price established, it can then be reduced.

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Mr. SCOTT objected to the motion. He stated several difficulties; the principal was, that foreigners would be deterred from adventuring, owing to the uncertainty in the price; for when they arrive in the country to settle, they must purchase, and they will then lie at the mercy of speculators.

Mr. LAWRENCE.—The people have great dependence on the Western territory as a fund to extinguish their debt; it therefore becomes the duty of the Government to obtain the best price they can for it. The question is, whether we shall fix a price, or adopt the plan proposed by the gentleman from Massachusetts. He was in favor of the latter, and said he doubted not it would be easy to make a discrimination in the relative qualities of the lands. This difference in price may render it worth while for the Commissioners to have the land of a particular district explored. He replied to the objection from the want of integrity in the surveyors. Admitting the full force of the objection, it was probable that the United States would gain by it; at any rate, it would not lose; and it was probable that, to avoid suspicion, if the surveyors should be interested in the tract surveyed, they would give more than thirty cents. With respect to foreigners, after they arrive in this country, they then will be on the same footing with our own citizens. He adverted to the mode which had been adopted by New York—they had sold lands in every way, at a certain price, at auction, and are now selling them at the discretion of Commissioners, at a rate not below a certain sum.

Mr. STONE objected to the mode of leaving the price unfixed, as it would involve a complex system, subjecting the purchasers to great inconvenience, perplexity, and uncertainty. He reprobated the system adopted by New York, and asked the gentleman (Mr. LAWRENCE) whether New York had not been subjected to great loss and vexation in consequence of the plan they had pursued? He wished the system of New York should be fully understood, in order that the United States may avoid it. He concluded by saying, that he was in favor of fixing a price, and supposed that the Western Territory, sold at thirty cents per acre, would sink the whole of the national debt.

Mr. LAWRENCE replied to Mr. STONE. He said, that when the State of New York sold their lands at a fixed price, there had been complaints on account of the best tracts being taken up. When they had sold them at auction, the value of the lands had been generally realized in proportion to the quality. With respect to the last mode adopted, the result was not yet known.

Mr. WHITE said, if gentlemen had proposed the amendment to the clause which respects large purchases, he should not have objected to it. He, however, objected to it in the present case, and, in order to show that a fixed price was most eligible for small quantities, he instanced the practice of Lord Fairfax, who had been a great proprietor in Virginia; and also the practice of the first proprietors of Pennsylvania. These sold their lands, good and bad, at one price; their experience for such a length of time, near a century, he thought sufficient to show that mode to be the most eligible. He would not object to fixing that condition to special contract.

Mr. SEDGWICK obviated the objection in the first instance, by saying that the officers will be able to determine, with very considerable precision, what will be for the interest of the United States. He said experience had proved that there were no insuperable difficulties in the case.

Mr. MOORE observed, that the actual value of the best lands in that territory was about thirty cents per acre. When all of that description is sold, the next will bring the same price; from whence he inferred, that there could be no difficulty or loss attending fixing the price. He stated some difficulties which would result from adopting the mode proposed.

WEDNESDAY, January 5.

Duties on Spirits.

The House, agreeably to the order of the day, resolved itself into a Committee of the Whole, Mr. BOUDINOT in the chair, and took into consideration the bill repealing, after a certain time, the act laying duties on distilled spirits, &c., and imposing others in their stead.

Mr. JACKSON moved to strike out the essential part of the first clause. He stated his objections at large against the principles of the bill, and reprobated the funding system, and an excise in particular, as an auxiliary to it.

The tenor of his observations was to show that this mode of taxation was odious, unequal, unpopular, and oppressive, more particularly in the Southern States; in which he observed its unequal operation would be most sensibly felt, as the citizens of those States have no alternative to adopt by which they can diminish the weight of the tax; no breweries or orchards to furnish a substitute for spirituous liquors; hence they become a necessary article. He contended that they were not only necessary, but salutary in the Southern regions. This, he said, had been acknowledged by an Eastern author, *Mr. Morse*, an authority which he presumed would not be disputed by the Northern gentlemen, especially when it was considered he was a clergyman. Mr. M. declares that grog is a necessary article of drink in the Southern States.

Mr. J. took notice of the petition of the College of Physicians, which had lately been read in the House on the subject of distilled spirits. He disapproved highly of their interfering in the business. He thought they might with equal propriety interpose their offices to prevent the use of many other articles which were deemed pernicious or of a poisonous quality. He instanced mushrooms; they might petition Congress to pass a law interdicting the use of catsup, because some ignorant persons had been poisoned by eating mushrooms.

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Mr. J. then gave a short sketch of the history of excises in England. He said they always had been considered by the people of that country as an odious tax, from the time of *Oliver Cromwell* to the present day; even *Blackstone*, a high prerogative lawyer, has reprobated them. He said, he hoped this country would take warning by the experience of the people of Great Britain, and not sacrifice their liberties by wantonly contracting debts which would render it necessary to burden the people by such taxes as would swallow up their privileges. We are, said he, too much in the habit of imitating that country; and I plainly perceive that the time will come when a shirt shall not be washed without an excise. He then expatiated on the unequal operation of excises, and instanced the experience of this State. A few counties, said he, approximate to the capital, have borne the weight of the whole, while the distant parts of the State did not feel the burden; and, by an indication of several particulars, he showed its unequal operation in the Southern States. It will deprive the mass of the people of almost the only luxury they enjoy, that of distilled spirits. He did not see the necessity of passing this law the present session. The amount of the produce of the duties laid last session is not yet known, nor is it yet ascertained whether the citizens will subscribe to the assumption. Let us not lay a tax for a purpose which may never exist; for my part, I hope they never will subscribe. He then adverted to the excess of duties already laid, and the probability of a great increase of that excess; and urged the propriety of waiting at least another quarter to see what that excess may amount to. These observations he enforced by recurring to the recent transactions of the States of Maryland, Virginia, and North Carolina; and he expected to hear very shortly that the Assembly of Georgia had expressed similar opinions with the latter States on the business of the assumption. He concluded by expressing a general disapprobation of the various parts of the bill.

Mr. PARKER said, he had seconded the motion of the gentleman from Georgia, not because he was more averse to this particular clause than to the subsequent parts of the bill. He exceedingly disliked the several provisions contained in it. He then adverted to the general process of the revenue business the last session; and observing on the conduct of the mercantile interest, to which so much credit had been given, said, he thought they were not entitled to the liberal encomiums which had been bestowed on them for their promptitude in paying the duties, as the certainty and increase of the revenue had served to enhance the value of the public securities, of which it is well known they hold a very considerable portion.

He then touched on the subsequent parts of the bill, which he reprobated as hostile to the liberties of the people, as contrary to the general sentiment; not only as partial and unequal in the mode of assessment, but particularly on account of the mode of collecting the tax. It will, said he, convulse the Government; it will let loose a swarm of harpies, who, under the denomination of revenue officers, will range through the country, prying into every man's house and affairs, and like a Macedonian phalanx bear down all before them. And though the Government has proceeded with a degree of prosperity and success beyond the most sanguine expectations, yet he very much doubted the policy of trying its strength by an experiment of this nature.

Recurring to the actual and probable produce of the duties already laid, he attempted to show that the additional sum of upwards of eight hundred thousand dollars, contemplated to be raised by this bill, is not necessary. He controverted the policy of the measure, and contended that it would, in all probability, rather diminish than increase the revenue of the United States. For the mercantile part of the community, who have been applauded for acting so honorably in making their entries, and paying the impost, will find it for their interest to alter their conduct; they will combine to defeat the excise, which will in its operations bear so unequally on them.

He objected very particularly to the bill on account of its tendency to promote smuggling. Mr. P. said, no man was more heartily disposed than he was to give his approbation to every just measure for supporting the public credit, and doing every thing in his power to support the constitutional operations of the Government; but this mode of raising a revenue he considered as particularly odious to the people; and at the present moment he was not satisfied that such an

increase to the public burdens is necessary.

Mr. STONE said, he had no objection to the design of the bill so far as additional revenue was necessary; but the mode of raising it by excise he exceedingly disliked. He had no doubt that other means might be devised; but at present he thought the committee was not sufficiently informed respecting the actual and probable amount of the revenue from the duties already imposed, to determine the necessity of an addition to the revenue. He therefore moved that the committee should rise without any further discussion of the bill at this time, and that a select committee should be appointed to make the necessary previous inquiries upon the subject, and report to the House.

Mr. FITZSIMONS observed that there was already on the table a statement from the proper officers of the product of the revenue, from September, 1789, to September, 1790.

This statement was read.

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The motion for the committee's rising was put and lost.

The question on Mr. JACKSON'S motion for striking out the clause was put, and negatived by a great majority.

THURSDAY, January 6.

Duties on Spirits.

The House again resolved itself into a Committee of the Whole on the bill repealing after the last day of — next, the act laying duties on distilled spirits, &c., and imposing others in their stead. Mr. BOUDINOT in the chair.

The twelfth section, which specifies the rates of duties, being read,

Mr. PARKER moved that it should be struck out, in order to admit a substitute which should provide for a different mode of raising the requisite additional revenue; the proposition he had in view, he said, was a duty on molasses. This, he observed, would answer every purpose, without being liable to the objections which had been offered against the plan of the bill.

Mr. MADISON observed, that he had felt the force of the objections which had been urged against the bill. He was in general principled against excises, but of all excises, that on ardent spirits he considered the least exceptionable. The question now to be determined, he conceived, was this— is an addition to the present amount of the revenue necessary? It had appeared that an addition is necessary; for his own part, he should prefer direct taxation to any excises whatever; but he conceived this would be contrary to the sentiments of a majority of the people of the United States; and he was fully convinced that it was contrary to the opinion of a great majority of the House. If, said he, any mode could be adopted, without having recourse to excises, he would be the last that would give them support; but he conceived there was none, and the plan proposed was divested of the most exceptionable provisions usually connected with an excise system.

Mr. JACKSON observed, that his defeat yesterday should not deter him, while he had a monitor within, from rising in his place to do his duty, in opposition to a system unfriendly to the liberties of the people. He said, he was not the first on this floor who had been outvoted by silent majorities; gentlemen of superior abilities had met with similar treatment. He, however, felt so much respect for himself as to suppose that this silence proceeded from an inability to answer the arguments which he had the honor to offer against what he considered a most ruinous and mischievous system of taxation.

He then stated certain particulars respecting the produce of the revenue, to show that so great a sum as is proposed to be raised by excise is unnecessary.

He doubted not other resources of revenue might be explored which would be more palatable; he instanced a tax on salaries, pensions, and lawyers, and in these particulars, he wished that the example of Great Britain might be followed.

He then dilated on the practice of smuggling, which he contended would be promoted by this bill; also the difficulties and opposition which were justly to be expected, by which the dignity of the Government would be insulted. Can this Government, said he, protect its officers from the resentment of any one State in the Union? He reprobated the idea of placing the Government in such a situation.

Mr. LAWRENCE observed, that he doubted not every gentleman's mind was open to conviction, and he hoped and expected that every question would be treated dispassionately. He did not rise yesterday to answer the gentleman, because he was not impressed with the force of his arguments in the manner the gentleman supposed the House was. He then adverted to the act of the last session, by which the debts of the particular States were assumed. Having taken this debt upon ourselves, the consequence is obvious, nor can we ever get over the dishonor of not making the necessary provision for paying it. He then adverted to the statements which had been submitted to the House by the officer to whom the Union had intrusted the direction of its finances. From these it fully appeared that a much greater deficiency in the revenue existed than some gentlemen appeared willing to allow. If this deficiency exists, and if the United States are bound to make provision for the debts they have assumed to pay, the duties contemplated by the bill appear the most obvious for the Government to recur to. He adverted to the idea of direct taxation, and inquired, on what principle will gentlemen consent to this mode of raising the necessary supplies? Will they make the representation of the several States the rule by which it

shall be apportioned? He doubted whether direct taxes on this principle would be agreeable, even to the gentlemen who have mentioned them. He then remarked on the objections to an excise, on account of the mode of collection. He said a rigorous collection would bear hard only on the dishonest, while it would protect the fair trader from bearing an undue proportion of the public burdens.

He observed on the uneasiness which is said to prevail in some of the States; and to obviate the force of these reflections he instanced the harmony and peace that prevailed in those States which bear a much greater proportion of the public burdens than those which complain, as was abundantly evident from the documents in possession of the House.

Mr. STEELE stated his objections at large to an excise; he adverted to the particular situation of affairs in some of the Southern States, especially North Carolina. The Assembly of that State had rejected the proposal of taking an oath to support the Constitution of the United States, with scorn; they had also refused to admit Continental prisoners into their jails; and another circumstance more hostile to the General Government than either of the foregoing had taken place, which he forbore to mention. He said such was the present state of the public mind, in various parts of the Union, that he should dread taking any measures which might serve to increase the fermentation which the people are in. An excise he considered of this nature; it would in its operations produce the worst consequences. A more exceptionable mode of taxation he conceived could not be devised. A direct or poll tax, he supposed, would not be so odious; and though, for his own part, he should prefer an excise to either of the former taxes, yet such was the aversion of the people to it, that he should prefer almost any other alternative. He thought other objects might be found from which the necessary revenue could be raised. He instanced duties on inland navigation, law proceedings, legal conveyances, &c.

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He then adverted to the operation of an excise, especially in the State of North Carolina, and said that the consumption of ardent spirits in that State was so great that the duty would amount perhaps to ten times as much as in the State of Connecticut. On the whole, he hoped, if the section is not struck out, that the excise will be reduced.

Mr. SHERMAN observed, that the subject now before the committee was thoroughly discussed the last session; and as nothing new or of weight or importance had been offered the present session against it, he thought it would be a useless waste of the time of the House to go into a particular reply to the objections offered against the bill. This he thought a sufficient answer to the charge of carrying questions by silent majorities.

He then entered into a short consideration of the subject generally, and defended the system from the charges which had been adduced respecting its unequal operation.

Mr. LIVERMORE was in favor of the bill. He said he considered it as an equal and just mode of taxation; and, as such, will be agreeable to the people—they will consider it as drinking down the national debt. So far, said he, as my observations have extended, I have not found a single individual who has objected to it. He then obviated the objections to the bill, which he conceived arose principally from the word excise. He thought the term very improperly applied on the present occasion, for the duty cannot be said to be an excise. He then gave a description of what had been considered in times past as an excise, which, to be sure, is a very unequal tax, inasmuch as it fell on the poor only, who were obliged to purchase in small quantities; while the rich, by storing their cellars, escaped the duty. But this bill provides that the duty shall fall equally on the rich and poor. It is to be paid, or secured, by the importer of foreign spirits, and on the still-head on domestic spirits. This will equalize the burden, and leave no room for complaint. He then adverted to direct taxation; and by a variety of particulars, showed that it was utterly impossible to lay a direct tax that would not prove unjust, unequal, and grievously oppressive.

Mr. BLOODWORTH spoke against the bill. He dilated largely on the present uneasiness which prevailed in the State of North Carolina. His experience, he said, was directly contrary to that of the gentleman from New Hampshire; the people to the southward universally condemned an excise.

Mr. SEDGWICK said, he was unhappy to hear that discontents prevailed in any part of the United States. He could assure gentlemen that he did not contemplate the execution of the laws by military force. He was sure that in no part of the Legislature were entertained designs inimical to the public liberty. In framing the present bill, great attention had been paid to prevent its being attended with those qualities which, in other countries, rendered taxation by excise justly obnoxious to popular resentment. He relied on the good sense and well-informed understandings of the people in every part of America, for the execution of such systems for the support of public credit, and for the diminution of the national debt, as should be devised by the wisdom of their Representatives. For the same purposes, he said, he confided in the patriotism of the gentlemen who came from those districts of country where uneasiness was said to exist. He believed there was indeed considerable deficiency to be provided for, for the support of Government and of the public credit. This belief was founded in his confidence in the information received from the Secretary of the Treasury. But if there was no deficiency, his disposition to support the bill would be the same; for he had never believed that a public debt was a public benefit. Is it not, then, the duty of those to whom the people have delegated the important trust of guarding their prosperity, in a season of profound peace, to liberate them from the burden and pressure of debt? Therefore the only question to be determined is, whether the proposed duties are a proper source from whence we might derive the necessary aids to provide for the payment of the interest, or the diminution of the principal of our debt? He believed that of all the subjects of revenue which were within the power of Congress, none was so proper as the duty on ardent spirits,

contemplated by the bill. In this sentiment, he believed he concurred with that of the great body of the people. The several species of taxation may be divided into the four following: by impost; a tax on internal negotiations; direct taxes; and that now under consideration, excise. The impost duties had been extended as far as was, in the opinion of any gentleman, dictated by sound policy. The tax on internal negotiations, which could not be carried on to any considerable extent without the intervention of stamps, was subject to the objection brought against the present bill, and that in a degree incomparably beyond it, of being opposed by public opinion. Direct taxes are still more objectionable on that account, at least in every part of the country to which his knowledge extended. They are of all taxes the most unequal, and in this country would be found the most oppressive. They are unequal, because with whatever exactness they might be apportioned upon capital or income, the only two principles on which an apportionment can be made, they may, and will be, very unequal as to the burden imposed; because a man's ability to pay taxes is not in proportion either to his capital, his property, or his income, but to that part of his income which is over and above his necessary expenses, according to the usual manner of living for persons of his degree in the community. They will be oppressive in this country, because in many of the States the plentiful circulation of money, and the facility of obtaining it, does not extend to the interior parts, nor could it be obtained by many of our citizens without a great sacrifice of property. It may be added, that from the extent of our settlements compared with the number of our citizens, the expense of collection would be immense.

In regard to excises, Mr. S. said, that in all insensible modes of taxation, it should be observed, that a much greater sum would be obtained from an individual than by any mode of direct imposition: this, without entering into a discussion of the reasons upon which it was founded, is demonstrated by fact. He instanced the porters of London, from whom, in the single article of beer, was drawn ten times as much as could be procured by the most rigorous mode of direct taxation. With regard to the proposed duties, though the well-meant consideration of morality which had been urged by some gentlemen weighed but little with him, because he doubted whether it was well founded, yet, if the consumption should be lessened, he did not believe it would be attended with any sensible inconvenience. The consumption, at present, amounts to an enormous quantity; from these considerations, as the measure is dictated by sound policy, he hoped and believed it would be supported by a good degree of unanimity.

Mr. SMITH (of South Carolina) adverted to the funding system, to show that the faith of the United States was pledged to raise a sufficient revenue to discharge the debt, which, by that system, they have engaged to pay. The Secretary's statements point out a deficiency; those statements, he had no doubt, were as accurate as the nature of things would admit. Gentlemen who find fault with the proposed plan do not offer a substitute. He then entered into a defence of the bill, and showed in what respects it differed from the English plan of an excise.

He said, the present bill was not so exceptionable on account of its violating private property as the collection law.

He instanced, in a particular clause of that law, the power of entering houses by warrant from a justice of the peace—trial by jury is secured by this bill, and other provisions friendly to personal rights are added.

Direct taxes are as much objected to by North Carolina as the excise; and though direct taxes are mentioned, no plan is offered.

He then enlarged on the importance of punctuality in paying the interest of the public debt, and of having a surplus revenue in the Treasury. He doubted not the gentlemen in favor of the bill were as patriotic as those who are averse to it. Difference of opinion is to be expected; but he had a better opinion of the good sense of the community than to suppose they would be led away by a sound; they will see and judge for themselves; and when they see that the law is free from all those obnoxious qualities which have been suggested, they will submit to it without complaint, especially when they realize that the tax is equal, and the only effective resource within the present command of the Government. The General Government is authorized to lay excises—North Carolina knew this when she adopted the constitution. The opposition, he suspected, was against the object to which the money is to be appropriated.

Mr. GILES said, the sentiments of the people of the Southern States have been so differently represented from what he conceived to be the state of facts, that, in justice to them he conceived himself bound to take some notice of the observations which had fallen from gentlemen. He then stated certain principles on which taxation should be formed. Taxes should be necessary, and raised on a plan consistent with the principles of liberty. He adverted to the necessity, which, he observed, was abundantly apparent from the report of the Secretary of the Treasury; but he did not confine his opinion to what had fallen from him. He instanced other reasons which would occasion a necessity for replenishing the public Treasury. The expediency of the present mode he argued from the impost's being carried to the utmost; from the approbation of this mode by a majority of the people; and though uneasiness might prevail in some of the Southern States, he considered them as originating altogether from want of due information. Possessed of that information, he could pledge himself to the committee that they would cheerfully acquiesce in whatever the Legislature should decide to be for the general interest.

With respect to the bill's being agreeable to the principles of liberty and republicanism, this would more properly come into view when that part of the bill which designates the mode of collection comes under consideration. At present he would only say, that he had observed with pleasure, that there appeared to be a universal disposition in the members of the House to manifest the most scrupulous attention, in all their deliberations, to the liberties of the people.

On the whole, he had no doubt that, on mature reflection, the people would acquiesce in the present plan, when the honor, security, and peace of the United States appeared to be essentially connected with a further provision for the public exigencies.

Mr. STONE particularly alluded to the statement offered by Mr. JACKSON, by which it appears that only the sum of 146,000 dollars was wanting—whereas the Secretary's report calls for the enormous sum of 800,000 dollars. He called on gentlemen to show the errors of the statement offered by the gentleman. It had not been done.

He then adverted to the number of people that would probably be wanted in order to make the duty productive. He believed they would be so numerous as to be sufficient to constitute an army.

Mr. FITZSIMONS read an estimate of the actual and probable produce of the present impost and tonnage for the current year, by which it appears there will be a deficiency of upwards of 300,000 dollars; but taking into consideration certain contingencies, which, should they take place, will diminish the amount of the present duties, it appeared that the deficiency would be much larger than the sum mentioned; but even in case of a surplus being produced by this bill, there are objects to which it can be applied highly beneficial to the United States. He instanced sinking the deferred stock, and the three per cents. The reduction of the public debt is an object which ought never to be lost sight of.

MONDAY, January 10.

Vacancy in the Presidency.

In Committee of the Whole on the bill, declaring what officer, in case of vacancy [by death, removal, or inability] in the offices of President and Vice President, shall act as President, Mr. BOUDINOT in the chair.

The first clause of the bill was read, which contains a blank to be filled up, designating the person who shall act as President.

Mr. SMITH (of South Carolina) observed that, by the constitution, the vacancy is to be filled with an officer of the United States. This narrows the discussion very much. But he conceived there was a previous question necessary to be determined; and that was, whether the person appointed to supply the vacancy should hold the office during the time for which the President and Vice President were elected, or whether he was to hold the office only till a new election could take place. He thought that, by the constitution, a new election was not to take place till the term for which the President and Vice President had been elected was expired.

He then descanted on the respective offices of the Chief Justice, Secretary of State, and Secretary of the Treasury; and, by several particulars, showed that the appointment would most naturally devolve on the Secretary of State. He accordingly moved that the blank be filled with the words "The Secretary of State."

Mr. LIVERMORE observed, that in considering this question, he thought no reference should be had to the officers which had been mentioned, for, as it was supposed that the case contemplated would not happen once in a hundred years, he conceived that the present characters, who now hold the above offices, would be entirely out of the question. He had in view a different person, and that was the President of the Senate, *pro tempore*, and moved that the blank be filled with this person.

Mr. WHITE observed, that the constitution says the vacancy shall be filled by an officer of the United States. The President, *pro tempore*, of the Senate, is not an officer of the United States. Besides, this will give one branch of the Legislature the power of electing a President. This, he conceived, was contrary to the constitution, as both branches have a right to an equal voice in the appointment in this case. This will introduce the very evil intended to be guarded against.

Mr. WILLIAMSON said, the motion was directly repugnant to the constitution. Why not choose the Speaker of this House?

Mr. LIVERMORE said, he was well aware of the objections offered by the gentlemen. He could have wished the constitution had pointed out the person. But he conceived that the Senate was the only body that could do this business. If either of the officers mentioned should be the person designated to supply the vacancy, it would be in the power of the Vice President, by virtue of the power of removing officers, absolutely to appoint a successor, without consulting either branch of the Legislature.

Mr. SHERMAN observed that this matter is left with the Legislature. The whole power of the people, in case of vacancy, devolves on the Legislature. The particular officer is not pointed out; it lies with Congress to say who it shall be. The President of the Senate is an officer of the United States. In case of the death of a Governor and Lieutenant Governor, it is common in the several States, for the oldest councillor to preside. He instanced the case of the abdication of James II. Adverting to the constitution, he showed that the appointment of Vice President, in certain cases, devolves on the Senate. The vacancy may be filled for a longer or shorter time, and this appears to be a question previous in its nature to be determined.

Mr. SEDGWICK said he should be in favor of the motion of the gentleman from New Hampshire, if it was not for the express provision in the constitution, which says, the office shall be filled by an officer of the United States. Should the vacancy now happen, there would be no officer of the Senate that could be appointed.

He mentioned that the office of Chief Justice was considered as next to that of President, and therefore on the whole, he considered him as the most proper person to fill the vacancy. He thought the bill respecting the votes for President and Vice President should be first determined. He moved, therefore, that the committee should rise, and take up the next bill.

Mr. CARROLL and Mr. LIVERMORE objected to the motion for the committee's rising.

Mr. MADISON was also opposed to the motion. He enlarged on the subject, and said he thought it a duty urged by a variety of considerations, important in themselves, and more so, perhaps, in their consequences, that the decision should now be made.

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Mr. SMITH started a variety of objections to Mr. LIVERMORE's proposition. He thought it unconstitutional, as it would, in its operation, deprive a State of a vote in the Senate.

Mr. BOURNE said he seconded the motion for the committee's rising, because he conceived there was other business of more immediate importance to be considered; and he saw no necessity for coming to a decision on this question at the present time.

Mr. LAWRENCE supposed that the blank could be filled up in the House; he was, therefore, in favor of the committee's rising.

The motion for the committee's rising was negatived.

Mr. BENSON was in favor of filling up the blank with the Chief Justice. He observed that the objection arising from the Vice President's having it in his power to name his successor, in case the Secretary of State is inserted, does not apply to the Chief Justice. He is independent of the Executive.

He pointed out several particulars, in which there was an incompatibility in the offices of Secretary of State, and that of President. He observed that the appointment to the Regency, in all countries, is generally of the first law officer.

Mr. JACKSON objected to the Chief Justice, and said the Speaker of the House of Representatives was, in his opinion, the next officer in point of dignity to the President and Vice President.

Mr. MADISON objected to the Chief Justice, as it would be blending the Judiciary and the Executive. He objected to the President *pro tem.* of the Senate. He will be a Senator of some particular State, liable to be instructed by the State, and will still hold his office—thus he will hold two offices at once. He adverted to the other objections which had been offered against the Secretary of the State, and showed the compatibility of the two offices.

Mr. STONE stated sundry difficulties respecting all the officers that had been named; but, on the whole, thought there were fewer against the Secretary of State than any other officer that had been mentioned.

Mr. SENEY was opposed to coming to any decision at the present time. He thought more important business was before the House. He was not for making any decision that would give umbrage to any officer of the Government. The Secretary of State and the Secretary of the Treasury were equally entitled to public notice.

Mr. CARROLL was in favor of coming to a decision; and if nothing more could be offered against the motion for filling up the blank with the Secretary of State, he presumed the committee were ripe for a decision. He referred to the situation of countries who had not, in season, made provision for a Regent, &c.

Mr. SHERMAN said, he was in favor of the committee's rising and reporting the bill, and leaving the blanks to be filled up in the House.

Mr. WHITE was in favor of filling up the blank in the committee—he saw no reason for a delay. The officers mentioned are as well known now as they will be three days hence. The President and Vice President being in health, is a reason why the subject should now be considered; it can be done with coolness and freedom from all warmth.

Mr. LAWRENCE said, he thought there was no necessity for precipitating the decision. With respect to every person that has been named, difficulties have been started. The subject is important, and time should be given to deliberate on the several officers that have been named. He hoped, therefore, that the committee would rise and report the bill, and leave the blank to be filled up at another time.

Mr. BURKE was in favor of the committee's rising. He observed, that the members in general appeared to be very much undetermined. This is the first day the subject has been under consideration. He hoped the members would not be precipitated to vote on the occasion.

Mr. CARROLL said, if the committee should rise, he hoped the bill would not be reported, but that they would sit again.

Mr. BURKE said, he hoped the committee would sit again.

The question on the committee's rising and reporting progress, was carried in the affirmative.

THURSDAY, January 13.

Vacancy in the Presidency.

In Committee of the Whole, on the bill declaring the officer who, in case of vacancy in the offices of President and Vice President, shall exercise the office of President of the United States, Mr.

BOUDINOT in the chair.

The motion for filling up the blank with "the Secretary of State for the time being," was renewed by Mr. CARROLL.

Mr. LIVERMORE observed, that the character of the gentleman who fills that office should have no weight in determining the question, because the House was about to provide for a case that might not happen before a number of years were elapsed. The House should fix on the officer who would, from the nature of his office, most naturally succeed. He hoped they would not determine in favor of an officer of their own creating, and of which no mention is made in the constitution. The Chief Justice, he remarked, had been spoken of: one great objection he mentioned against him—the provision which the constitution makes in case the President is impeached, viz: that he should preside. As this was an elective Government, he wished its principles preserved, and not to see the Chief Magistracy filled by an officer not the choice of the people. The President of the Senate *pro tem*, appeared to him a much fitter officer to fill that station: he was originally chosen by the people to the Senate.

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When amendments to the constitution came to be thought of, perhaps it would be proper to provide for this case by a special clause in it, empowering the Electors who had chosen the President and Vice President, in case of vacancy, to meet again, and make another choice; only, however, for the remainder of the four years; because, at the end of that time, the power of choosing the Electors should return to, and be exercised by the several States.

If the motion before the committee was negatived, he gave notice that he would bring in his, viz: to fill up the blank with the person last antecedently chosen President of the Senate.

Mr. BALDWIN said, that he should vote for the present motion, because he conceived that the constitution is express, that an officer of the Government, designated either by the law or the constitution, should be appointed to fill this vacancy. He stated some objections against the Chief Justice. He is an officer who ought to be entirely detached from all political agitations whatever—his mind ought to be kept calm and as unembarrassed as possible. He quoted the precedent established in the law instituting the Governor of the Western Territory—there the Secretary is to succeed the Governor. The Secretary of State is an Executive officer, an assistant to the President, and must be supposed, from his situation, to be the most proper person to supply the vacancy.

Mr. SHERMAN was of opinion, that putting the Chief Magistracy into the hands of a subordinate officer, was by no means proper. As to the observations made by the gentleman last up, on the arrangements in the Government of the Western Territory, he did not think they could be applied to the present case. That Government is a subordinate one, and a kind of legislative power is vested in the Governor of selecting, from the laws and regulations of the different States, such as he thought requisite for the Government of those he had under his care.

He was in favor of giving the supreme Executive, in case of accident, to the President of the Senate. The Government would certainly suffer fewer inconveniences by that arrangement than if the head of a department was put in. The Vice President, by the constitution, succeeds to the President—the President of the Senate to the office of the first; it is therefore very natural that he should also exercise the duties of the second in case of a vacancy.

To designate any officer as possible successor to the President, would be giving him too much dignity, and raising him, in a manner, even above the Legislature.

Mr. CARROLL observed, that the vacancy might happen in the recess of the Legislature, or in the absence of the President of the Senate; the Secretary of State would always be at the seat of Government. Besides, the constitution declares the vacancy shall be filled by an officer of the Government. The President of the Senate is only an officer *pro tem*. If the framers of the constitution had intended the vacancy should be filled by an officer named in it, they could have designated him; but this they had not done; he therefore supposed they had in view some officer not then in existence.

Mr. GERRY regretted that the subject should have been taken up at this moment, when so much important business is before Congress. He adverted to the motion, and said, that the character which now fills the office of Secretary of State undoubtedly possessed the confidence of the Legislature in the fullest manner, and very justly; but when the exigency shall arrive for which we now are about to provide, a character may fill that office who would be a scourge to the Union. Besides, said he, if the office of Vice President was now to be filled, the Secretary of State would be ineligible, coming from the same State with the President. He stated other objections from the constitution. He thought the nomination should not be confined to officers of the United States. He supposed the views of Government may be extended even to officers of the several States. He, however, wished the whole business postponed; but if this idea is overruled, he suggested the propriety of filling the blank with the constitutional clause respecting the highest candidates who are primarily voted for as President and Vice President.

Mr. SMITH remarked, that there appeared to be so great a diversity of opinion on the subject before the House, that he doubted the possibility of procuring a majority for either of the motions that had been made. There would be objections, he conceived, to any proposition that could be offered; but the committee should determine on that to which there were fewest. To the Secretary of State he thought there were less than to any other officer proposed. Those against the Chief Justice he thought unanswerable. Indeed, the gentleman who proposed him had not offered any answer to the objections made to that officer.

The duties of the President of the Senate, and those of the President of the United States, appeared to him incompatible. The first was the Representative of a particular State, and bound to obey the instructions of it. If he was to be deprived of his seat in the Senate, his State would lose a vote there, and the balance of that branch of the Legislature would be destroyed.

He recapitulated the objections that had already been made to the Chief Justice's filling the chair. His power of expounding treaties would be improperly mixed with that of making them; that of condemning for offences, with a power of granting reprieves and pardons. Then the Chief Justice could not act with propriety as Commander-in-Chief of the army and navy. It had been said, he observed, that the Judiciary business might go on for some time without the assistance of the Chief Justice. He thought not; there were three Circuit Courts, and two Judges for each, including the Chief Justice. If he was absent, the business of one of the circuits could not proceed; besides, he should preside in the Supreme Court.

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He concluded by saying, that the office of Secretary of State and the duties of President were analogous. He was a kind of assistant to the Chief Magistrate, and would, therefore, very properly supply his place; besides, he was always at the seat of Government.

Mr. BURKE said, that he had consulted a gentleman skilled in the doctrine of chances, who, after considering the subject, had informed him, that there was an equal chance that such a contingency would not happen more than once in eight hundred and forty years. He hoped, therefore, that the committee would not spend any more time upon the subject, but postpone it altogether.

Mr. GILES conceived, that the probability of the event taking place was much greater than Mr. BURKE seemed to think. According to the doctrine of politics, he said, it was not more than fifty to one that it would not happen in two months. However, even if the chance was much less, it was the duty of the House to make provision for the accident before it occurred. If it was left till the case actually took place, it would then be too late to think of remedying the evil; for it was to be provided for by a Legislative act, which could not be made complete without the President's approbation and signature, and could therefore not be obtained when the chair was vacant. Then, if the event should happen before it was provided for, there would be, he conceived, an end to this Government.

He used another argument to urge the necessity of a speedy provision. Suppose, said he, the Vice President should die, then the fate of this Government would remain in the hands of the President, who, by resigning, would destroy its organization, without leaving a constitutional mode of filling the vacancy.

In addition to the loss of this Government, would not every member of the Legislature, he asked, lose his character, credit, and reputation?

Having shown the necessity of making immediate provision for a case of so much importance to the very existence of the Government, Mr. GILES declared he was in favor of filling up the blank with the Secretary of State. He chiefly rested his opinion on the idea, that if the constitution had not intended that the vacancy should be filled by some officer not there mentioned, they would have determined who it should be.

Mr. SEDGWICK was sorry that the business had been brought forward, and more so that gentlemen should discover a zeal on the occasion which indicated too much of taking a personal interest in the question.

He did not apprehend the consequences which would follow, if the accident should occur, would be so dreadful as the gentleman last up appeared to think. There was more danger, he conceived, in ruffling men's tempers now, by designating one officer heir apparent (if he might be allowed the expression) to the office of Chief Magistrate.

He objected to filling up the blank with the Secretary of State; it would be putting in the hands of the President (or of the Vice President) a power of appointing his successor. The authority with which the Chief Justice is vested, the respect which his station commands, and his independence, induced him, he said, at first to think him the most proper person to be at the head of affairs, in case of vacancy in the Chief Magistracy. However, if it could not be agreed to postpone the business, he should now vote for the President of the Senate *pro tem*.

Mr. BENSON said, that an honorable gentleman (Mr. SMITH) had remarked that he had not attempted to answer the objections which were made to the Chief Justice's being designated to fill the vacancy, and had drawn the conclusion that the objections were unanswerable. He was sensible that there might and would be objections to any officer that could be mentioned; but those against the Chief Justice he did not think unanswerable. It had been objected that there would be an impropriety in his condemning as Chief Justice, and pardoning as President. But something like this is frequently the case. He supposed that whoever exercised the office of Chief Magistrate would for the time resign his first office. He only mentioned this to show that the objections made to the Chief Justice had not been answered because they were deemed unanswerable. But his wish was to see the vacancy filled by an independent officer; he had, therefore, no objection to the President of the Senate *pro tem*.

Mr. JACKSON moved that the consideration of this business be postponed, which was agreed to. The committee rose and reported.

FRIDAY, January 21.

Duty on Spirits.

The House resumed the consideration of the new Revenue Bill.

Mr. JACKSON proposed an amendment, by adding a clause to prevent inspectors, or any officers under them, from interfering, either directly or indirectly, in elections, further than giving their own votes, on penalty of forfeiting their offices.

This being seconded,

Mr. SHERMAN said, he should propose an addition to the amendment, and that was to extend the prohibition to every other person whatever. He supposed that to practise the arts of electioneering would be as criminal in persons in general as in the officers of the revenue; but if any provision is necessary in the case, he thought it might be made in some other bill.

Mr. LIVERMORE approved the motion. These officers, said he, will hold their places under the Government, and, from the duties assigned them, will acquire such a knowledge of persons and characters, as will give them great advantages, and enable them to influence elections to a great degree. He thought the proposition important, and merited the attention of the House.

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Mr. VINING observed, that the motion went to disfranchise a great number of citizens of the rights of suffrage. It appeared to him, also, to be unconstitutional, as it will deprive them of speaking and writing their minds; a right of which no law can divest them. He offered some observations on the eligibility of the duty now contemplated, in preference to direct taxes; and then urged the bad policy of rendering the law odious, by fixing a stigma on the officers appointed to execute it.

Mr. JACKSON replied to the observations against his motion. He said the experience of Great Britain showed the propriety of the prohibition. He read a section from a law passed in the reign of William and Mary on the subject. A law was found necessary in that country to prevent the interference of excise officers in elections, though the excise law then in existence was only for ten years, and that now before us is a perpetual law; for it is to exist till the whole State debts are extinguished. He denied that it was a disfranchisement of the citizens; they will have the same right to vote at the elections as other citizens; it only goes to defining an offence, which may be of pernicious consequence. Did I consider it as depriving the citizens of the rights of suffrage, I would be the last to vote for it. He adverted particularly to the dangerous influence that some future President would acquire, by virtue of the power which he will possess of removing these officers. He read some clauses from the British Excise Law, to show its resemblance to the law now under consideration. He added some strictures on the bill, and regretted that it had not been recommitted; but to render it less odious and mischievous he strongly urged the necessity of the section he had proposed.

Mr. BENSON said, there appeared to him to be an absurdity to say a man shall forfeit an office which he holds during pleasure.

Mr. GERRY objected to the motion, because he thought it did not go far enough; it ought to extend to all other revenue officers. He gave a short account of the nature of civil government; no form, said he, is stationary, they are always verging either to Democracy or Monarchy, or to Aristocracy and Despotism. From hence, he drew an inference favorable to a provision which should tend to abate and lessen the influence of the Executive power in certain cases.

Mr. AMES objected to the motion. He said, the circumstances of this country and Great Britain were not similar. That country is without a constitution; the United States are blessed with one, which defines the rights of the electors and the elected; rights of which they cannot be deprived. The law which the gentleman referred to was not passed till the abuses it was intended to remedy had arisen to an enormous height. If ever there should be a necessity for a similar law in this country, which he by no means expected, it will then be time enough to make the regulation; but this clause will muzzle the mouths of freemen, and take away the use of their reason.

Mr. BLOODWORTH replied to Mr. AMES. He observed, that corruptions had taken place; elections have been influenced, and human nature being the same, the same evils are to be expected. He thought it would be best to prevent the evil if possible by enacting a law in season, and not wait till the mischief is done.

Mr. SENEY was in favor of the clause. He thought it would be a salutary provision, and no infringement on the rights of the people, as it would be optional to accept the offices or not, with this restriction.

Mr. STONE was in favor of the motion. He observed, that it was a painful consideration that a number of citizens should be disfranchised, and deprived of their reason and speech, but this is a dilemma to which we shall be reduced by means of this excise law; we must either deprive the excise officers of this privilege of interfering, or give up the freedom of elections.

Mr. VINING controverted the oft-repeated observation, that there was an analogy between the two countries, Great Britain and America. He urged an acceleration of the bill; delays he thought did not produce conviction, they only serve to inflame; he hoped the clause would not be agreed to, nor the bill recommitted.

Mr. LAWRENCE was sorry that there were so many impediments thrown in the way of this bill. He could wish that the clause might be deferred, and made the subject of a separate discussion. He objected to it as not extensive enough. It ought to include all the officers of the Government. At present, he should waive any further remarks, but hoped the motion would not be agreed to at this time, but wished that the bill might be finished.

Mr. SEDGWICK opposed the motion. He said, the natural tendency would be to render the law odious; to deprive the Government of the services of the best men in our country. Let me ask gentlemen, if they, or any of their connections, would accept an appointment under this law, with such an exceptionable clause in it? He observed on the total difference in the circumstances of this country and those of Great Britain; and asked, shall we transplant the corrupt maxims of that country to this? I hope we shall not.

Mr. GERRY replied to the several objections which had been offered against the motion. It will be too late, said he, when the evil takes place to apply the remedy. The President will then have it in his power to influence the elections in such manner as to procure a Legislature that would not consent to a law for applying a remedy.

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Mr. AMES reprobated the motion in very pointed terms, as impolitic in respect to the law, as repugnant to the constitution, and as degrading to human nature. Besides, he observed, that it was nugatory in itself, because it goes to deprive the citizens of an inalienable right, which you cannot take from them, nor can they divest themselves of it.

Mr. JACKSON made a short reply to Mr. AMES. He observed, that he had always supposed that the English nation possessed a constitution, and that the violation of the freedom of elections was the greatest infringement on that constitution.

Mr. SHERMAN observed, that this motion went to create a positive offence. He said he could not conceive any reason why this offence should be chargeable on one description of officers only; he thought it ought to go through, and include every class. He replied to the several objections arising from the influence of the President; and observed, that fixing such a stigma would oblige the President to appoint mean and ordinary characters—characters fit to make tools of; for persons of credit and respectability will not accept of appointments under such a disqualification.

The question was determined in the negative, the yeas and nays being as follows:

YEAS.—MESSRS. Ashe, Baldwin, Bloodworth, Brown, Burke, Floyd, Gerry, Grout, Hathorn, Heister, Jackson, Livermore, Mathews, Moore, Parker, Rensselaer, Seney, Sylvester, Stone, Tucker, and White—21.

NAYS.—Messrs. Ames, Benson, Boudinot, Bourne, Cadwalader, Carroll, Clymer, Fitzsimons, Foster, Gale, Gilman, Goodhue, Griffin, Giles, Hartley, Huntington, Lawrence, Lee, Leonard, Madison, P. Muhlenberg, Schureman, Scott, Sedgwick, Sevier, Sherman, Sinnickson, Smith, (of Maryland,) Smith, (of South Carolina,) Steele, Sturges, Thatcher, Trumbull, Vining, Wadsworth, Williamson, and Wynkoop—37.^[38]

THURSDAY, January 27.

Duty on Spirits.

The engrossed bill, repealing, after the last day of June next, the duties heretofore laid on distilled spirits imported from abroad, and laying others in their stead, and also upon spirits distilled within the United States, and for appropriating the same, was passed by a majority of fourteen.

The yeas and nays being called for, were as follows:

YEAS.—MESSRS. Ames, Benson, Boudinot, Bourne, Cadwalader, Carroll, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Griffin, Grout, Huntington, Lawrence, Lee, Leonard, Livermore, Madison, Partridge, Schureman, Sedgwick, Sherman, Sylvester, Sinnickson, Smith (of South Carolina), Sturges, Thatcher, Trumbull, Vining, Wadsworth, White, and Wynkoop—35.

NAYS.—Messrs. Ashe, Baldwin, Bloodworth, Brown, Burke, Giles, Hartley, Hathorn, Heister, Jackson, Mathews, Moore, Muhlenberg, Parker, Van Rensselaer, Seney, Smith (of Maryland), Steele, Stone, Tucker, and Williamson—21.

TUESDAY, February 1.

Bank of the United States.

The bill sent from the Senate, to incorporate the subscribers to the Bank of the United States, was read the third time; and, the question being on the passage of the bill,

Mr. SMITH (of South Carolina) observed, that the bill being taken up rather unexpectedly yesterday, gentlemen did not appear prepared to discuss the subject. It therefore was suffered to be read in Committee of the Whole, and passed to the third reading, in his opinion, rather informally; as the members were thereby deprived of giving their sentiments in the usual manner on a bill of the greatest importance. He thought it susceptible of various amendments. [The SPEAKER having observed, that the bill, agreeably to the rules of the House, could not be amended without being recommitted,] Mr. S. moved, that the bill should be recommitted, for the purpose of making sundry alterations, and removing objections which he thought the bill liable to. He then enumerated several objections. Those who are to receive the subscriptions, he said, by the bill, are not obliged to give any bonds for their fidelity. He thought the clause which excludes foreigners from voting by proxy exceptionable; and the time in which subscriptions are to be

received, he thought too contracted.

Mr. JACKSON said he was in favor of the motion for a recommitment; but not for the reasons offered by the gentleman from South Carolina. He was opposed to the principle of the bill altogether. He then adverted to the situation of the United States, and observed, that it was so different from that of Great Britain, at the time the Bank was established in that country, that no reason in favor of the institution can be deduced from thence. He adverted to the arguments arising from the facility which banks afford of anticipating the public resources in case of emergency. This idea of anticipations he reprobated, as tending to involve the country in debt, and an endless labyrinth of perplexities. This plan of a National Bank, said he, is calculated to benefit a small part of the United States, the mercantile interest only; the farmers, the yeomanry, will derive no advantage from it; as the bank bills will not circulate to the extremities of the Union. He said he had never seen a bank bill in the State of Georgia, nor will they ever benefit the farmers of that State, or of New Hampshire. He urged that there was no necessity for instituting a new bank. There is one already established in this city, under the style of the Bank of North America. This proposed institution is an infringement of the charter of that bank, which cannot be justified. He urged the unconstitutionality of the plan; called it a monopoly; such a one as contravenes the spirit of the constitution; a monopoly of a very extraordinary nature; a monopoly of the public moneys for the benefit of the corporation to be created. He then read several passages from the *Federalist*, which he said were directly contrary to the assumption of the power proposed by the bill. He hoped, therefore, that it would be recommitted; and he could not help hoping, also, that it would be deferred to the next session.

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Mr. LAWRENCE observed, that the friends of the institution proposed had been unjustly charged with precipitating the bill; but, he said, it had long been in the hands of the members; they have had time to consider it; the usual forms have been observed in its progress thus far; and if those who are opposed to the bill did not see proper to come forward with their objections, it surely is their own fault, and the advocates of the bill are not justly chargeable with precipitancy. He then particularly replied to the objections offered by Mr. SMITH, of South Carolina; and after considering them, said, that those objections did not, in his opinion, constitute sufficient reason to induce a recommitment of the bill. He then noticed the constitutional objections of Mr. JACKSON, and said, the Government of the United States is vested by the constitution with a power of borrowing money; and in pursuance of this idea, they have a right to create a capital, by which they may, with greater facility, carry the power of borrowing on any emergency into effect. Under the late Confederation, the Pennsylvania Bank, called the Bank of North America, was instituted. He presumed that it will not be controverted, that the present Government is vested with powers equal to those of the late Confederation. He said, that he had no doubt its operation would benefit, not only the centre, but the extremities also of the Union. The commercial, mechanical, and agricultural interests of the United States are so combined, that one cannot be benefited without benefiting the other. He concluded by observing, that he thought the Legislature of the United States could not better answer the purposes of their appointment, than by passing this bill. He hoped, therefore, that it would not be recommitted, but that it would now pass.

Mr. LEE observed, that having been confined by sickness, he was precluded from attending the House yesterday; but sick as he was, had he supposed that there was a prospect of a bill of such magnitude and importance passing without a discussion of its principles, he certainly would have attended, and offered his objections to various parts of it, which he thought very exceptionable. He hoped, therefore, it would now be recommitted; that a bill which is so unequal and so partial may undergo a thorough discussion.

Mr. TUCKER was in favor of a recommitment. He acknowledged that those who had their objections to the bill were certainly blamable for not coming forward with them yesterday. He then stated sundry objections to the bill. The time allowed to receive the subscriptions, he said, is too short, and will benefit those only in the vicinity of the Bank. The clause which authorizes the loaning of one hundred thousand dollars to the Government, without express provision by law, he thought exceptionable, as the Executive will be able, by this means, to borrow at any time, without being authorized, to almost any amount, of the Bank. The loan of two millions of dollars by the United States to the Bank, he objected to; as diverting that sum from the particular object for which it was borrowed. There is no appropriation, he said, of the half yearly dividend of profits accruing to the United States, which, he observed, was a very essential defect. Mr. T. stated other objections, as reasons for a recommitment.

Mr. WILLIAMSON was in favor of the recommitment, to give those who say they have not had an opportunity of offering their objections, time to do it; and if the motion be not agreed to, he should not give his vote for the bill. He then adverted to the objections deduced from the constitution, and explained the clause respecting monopolies as referring altogether to commercial monopolies.

Mr. SHERMAN objected to the recommitment. He said, that though the bill could not be amended without its being recommitted, yet it was open to discussion and objection previous to taking a vote on its passage. He did not think the objections offered afforded sufficient reasons for a recommitment. He replied to the observations offered by several gentlemen who had spoken in favor of the motion.

Mr. GERRY expressed his surprise at the observations of gentlemen who had neglected to offer their objections to the bill before, and said it could only be imputed to their own neglect, and not to any precipitancy on the part of the friends of the bill. Mr. G. noticed several objections which had been offered, and said, if nothing more important could be offered, he thought it would be

unjustifiable in the House to go into a committee.

Mr. MADISON observed, that at this moment it was not of importance to determine how it has happened that the objections which several gentlemen now say they have to offer against the bill were not made at the proper time. It is sufficient for them, if the candor of the House should lead them now to recommit the bill, that in a Committee of the Whole they may have an opportunity of offering their objections.

Mr. AMES replied to Mr. MADISON. He said, he did not conceive that the appeal now made to the candor of the House was in point. The gentlemen who object to the bill had an opportunity to offer their objections; the customary forms have been attended to; and the whole question for the recommitment turns on the force of the objections which are now offered to the general principles of the bill altogether. The candor of the House, he conceived, was entirely out of the question, and therefore not to be appealed to; but the justice due to their constituents in the proper discharge of the duty reposed in them. He said, it appeared to him absurd to go into Committee of the Whole to determine whether the bill is constitutional or not. If it is unconstitutional, that amounts to a rejection of it altogether.

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Mr. MADISON thought there was the greatest propriety in discussing a constitutional question in Committee of the Whole.

Mr. STONE and Mr. GILES were in favor of the recommitment. They objected to the unconstitutionality of the bill, and to several of its particular clauses.

Mr. VINING said, he thought it was a subject of congratulation that the bill was in its present situation; it had happily passed to the third reading without that tedious discussion which bills usually receive. The subject has been a considerable time before the House, and gentlemen have had time to contemplate it. The bill is now in the stage to which gentlemen very usually reserve themselves to state their objections at large, and he hoped they would now do it. He was not perfectly satisfied as to the constitutional point. He therefore hoped gentlemen would state their objections, that those who are satisfied on that point may offer their reasons.

Mr. BOUDINOT stated the process of the business yesterday. He observed that he had then the honor to be in the chair. He had read the bill very distinctly and deliberately, with proper pauses; he thought that the fullest opportunity had been offered for gentlemen to come forward with their objections. He was opposed to the recommitment, as it would, he feared, issue in a defeat of the bill this session. He had one difficulty, however, respecting the unconstitutionality of the bill, which he hoped to have removed; and he hoped that a full discussion of its general principles would take place.

The motion for a recommitment was lost, as follows:

YEAS.—Messrs. Ashe, Baldwin, Bloodworth, Bourne, Brown, Burke, Carroll, Contee, Gale, Grout, Giles, Jackson, Lee, Madison, Mathews, Moore, Parker, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Tucker, White, and Williamson—23.

NAYS.—Messrs. Ames, Benson, Boudinot, Cadwalader, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Hartley, Hathorn, Heister, Huntington, Lawrence, Leonard, Livermore, Muhlenberg, Partridge, Rensselaer, Schureman, Scott, Seney, Sherman, Sylvester, Sinnickson, Steele, Sturges, Thatcher, Trumbull, Vining, Wadsworth, and Wynkoop—34.

WEDNESDAY, February 2.

Bank of the United States.

The House resumed the consideration of the bill sent from the Senate to incorporate the subscribers to the Bank of the United States.

The bill being on its passage,

Mr. MADISON began with a general review of the advantages and disadvantages of banks. The former he stated to consist in, first, the aid they afford to merchants, who can thereby push their mercantile operations further with the same capital. Second, The aids to merchants in paying punctually the customs. Third, Aids to the Government in complying punctually with its engagements, when deficiencies or delays happen in the revenue. Fourth, In diminishing usury. Fifth, In saving the wear of gold and silver kept in the vaults, and represented by notes. Sixth, In facilitating occasional remittances from different places where notes happen to circulate.

The effect of the proposed Bank, in raising the value of stock, he thought had been greatly overrated. It would no doubt raise that of the stock subscribed into the Bank; but could have little effect on stock in general, as the interest on it would remain the same, and the quantity taken out of the market would be replaced by bank stock.

The principal disadvantages consisted in, first, banishing the precious metals, by substituting another medium to perform their office. This effect was inevitable. It was admitted by the most enlightened patrons of banks, particularly by *Smith on the Wealth of Nations*. The common answer to the objection was, that the money banished was only an exchange for something equally valuable that would be imported in return. He admitted the weight of this observation in general; but doubted whether, in the present habits of this country, the returns would not be in articles of no permanent use to it.

Second. Exposing the public and individuals to all the evils of a run on the Bank, which would be particularly calamitous in so great a country as this, and might happen from various causes, as false rumors, bad management of the institution, an unfavorable balance of trade from short crops, &c.

It was proper to be considered, also, that the most important of the advantages would be better obtained by several banks, properly distributed, than by a single one. The aids to commerce could only be afforded at or very near the seat of the Bank. The same was true of aids to merchants in the payment of customs. Anticipations of the Government would also be most convenient at the different places where the interest of the debt was to be paid. The case in America was different from that in England: the interest there was all due at one place, and the genius of the Monarchy favored the concentration of wealth and influence at the metropolis.

He thought the plan liable to other objections. It did not make so good a bargain for the public as was due to its interests. The charter to the Bank of England had been granted for eleven years only, and was paid for by a loan to the Government on terms better than could be elsewhere got. Every renewal of the charter had, in like manner, been purchased; in some instances, at a very high price. The same had been done by the banks of Genoa, Naples, and other like banks of circulation. The plan was unequal to the public creditors; it gave an undue preference to the holders of a particular denomination of the public debt, and to those at and within reach of the seat of Government. If the subscriptions should be rapid, the distant holders of evidences of debt would be excluded altogether.

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In making these remarks on the merits of the bill, he had reserved to himself the right to deny the authority of Congress to pass it. He had entertained this opinion from the date of the constitution. His impression might, perhaps, be the stronger, because he well recollected that a power to grant charters of incorporation had been proposed in the General Convention and rejected.

Is the power of establishing an incorporated bank among the powers vested by the constitution in the Legislature of the United States? This is the question to be examined.

After some general remarks on the limitations of all political power, he took notice of the peculiar manner in which the Federal Government is limited. It is not a general grant, out of which particular powers are excepted; it is a grant of particular powers only, leaving the general mass in other hands. So it had been understood by its friends and its foes, and so it was to be interpreted.

As preliminaries to a right interpretation, he laid down the following rules:

An interpretation that destroys the very characteristic of the Government cannot be just.

Where a meaning is clear, the consequences, whatever they may be, are to be admitted—where doubtful, it is fairly triable by its consequences.

In controverted cases, the meaning of the parties to the instrument, if to be collected by reasonable evidence, is a proper guide.

Contemporary and concurrent expositions are a reasonable evidence of the meaning of the parties.

In admitting or rejecting a constructive authority, not only the degree of its incidentality to an express authority is to be regarded, but the degree of its importance also; since on this will depend the probability or improbability of its being left to construction.

Reviewing the constitution with an eye to these positions, it was not possible to discover in it the power to incorporate a bank. The only clauses under which such a power could be pretended, are either:

1. The power to lay and collect taxes to pay the debts, and provide for the common defence and general welfare; or,
2. The power to borrow money on the credit of the United States; or,
3. The power to pass all laws necessary and proper to carry into execution those powers.

The bill did not come within the first power. It laid no tax to pay the debts, or provide for the general welfare. It laid no tax whatever. It was altogether foreign to the subject.

No argument could be drawn from the terms "common defence and general welfare." The power as to these general purposes was limited to acts laying taxes for them; and the general purposes themselves were limited and explained by the particular enumeration subjoined. To understand these terms in any sense that would justify the power in question, would give to Congress an unlimited power; would render nugatory the enumeration of particular powers; would supersede all the powers reserved to the State Governments. These terms are copied from the Articles of Confederation; had it ever been pretended that they were to be understood otherwise than as here explained?

It had been said, that "general welfare" meant cases in which a general power might be exercised by Congress, without interfering with the powers of the States; and that the establishment of a National Bank was of this sort. There were, he said, several answers to this novel doctrine.

1. The proposed Bank would interfere, so as indirectly to defeat a State Bank at the same place.
2. It would directly interfere with the rights of the States to prohibit as well as to establish Banks, and the circulation of bank notes. He mentioned a law in Virginia actually prohibiting the

circulation of notes payable to bearer.

3. Interference with the power of the States was no constitutional criterion of the power of Congress. If the power was not given, Congress could not exercise it; if given, they might exercise it, although it should interfere with the laws, or even the constitution of the States.

4. If Congress could incorporate a bank merely because the act would leave the States free to establish banks also, any other incorporations might be made by Congress. They could incorporate companies of manufacturers, or companies for cutting canals, or even religious societies, leaving similar incorporations by the States, like State Banks, to themselves. Congress might even establish religious teachers in every parish, and pay them out of the Treasury of the United States, leaving other teachers unmolested in their functions. These inadmissible consequences condemned the controverted principle.

The case of the Bank established by the former Congress had been cited as a precedent. This was known, he said, to have been the child of necessity. It never could be justified by the regular powers of the Articles of Confederation. Congress betrayed a consciousness of this in recommending to the States to incorporate the Bank also. They did not attempt to protect the bank notes by penalties against counterfeiters. These were reserved wholly to the authority of the States.

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The second clause to be examined is that which empowers Congress to borrow money.

Is this bill to borrow money? It does not borrow a shilling. Is there any fair construction by which the bill can be deemed an exercise of the power to borrow money? The obvious meaning of the power to borrow money, is that of accepting it from, and stipulating payment to those who are able and willing to lend.

To say that the power to borrow involves a power of creating the ability, where there may be the will, to lend, is not only establishing a dangerous principle, as will be immediately shown, but is as forced a construction as to say that it involves the power of compelling the will, where there may be the ability to lend.

The third clause is that which gives the power to pass all laws necessary and proper to execute the specified powers.

Whatever meaning this clause may have, none can be admitted, that would give an unlimited discretion to Congress.

Its meaning must, according to the natural and obvious force of the terms and the context, be limited to means necessary to the end, and incident to the nature of the specified powers.

The clause is in fact merely declaratory of what would have resulted by unavoidable implication, as the appropriate, and, as it were, technical means of executing those powers. In this sense it has been explained by the friends of the constitution, and ratified by the State conventions.

The essential characteristic of the Government, as composed of limited and enumerated powers, would be destroyed, if, instead of direct and incidental means, any means could be used, which, in the language of the preamble to the bill, "might be conceived to be conducive to the successful conducting of the finances, or might be conceived to tend to give facility to the obtaining of loans." He urged an attention to the diffuse and ductile terms which had been found requisite to cover the stretch of power contained in the bill. He compared them with the terms necessary and proper, used in the constitution, and asked whether it was possible to view the two descriptions as synonymous, or the one as a fair and safe commentary on the other.

If, proceeded he, Congress, by virtue of the power to borrow, can create the means of lending, and, in pursuance of these means, can incorporate a bank, they may do any thing whatever creative of like means.

The East India Company has been a lender to the British Government, as well as the Bank, and the South Sea Company is a greater creditor than either. Congress, then, may incorporate similar companies in the United States, and that too not under the idea of regulating trade, but under that of borrowing money.

Private capitals are the chief resources for loans to the British Government. Whatever then may be conceived to favor the accumulation of capitals may be done by Congress. They may incorporate manufacturers. They may give monopolies in every branch of domestic industry.

If, again, Congress, by virtue of the power to borrow money, can create the ability to lend, they may, by virtue of the power to levy money, create the ability to pay it. The ability to pay taxes depends on the general wealth of the society, and this, on the general prosperity of agriculture, manufactures, and commerce. Congress then may give bounties and make regulations on all of these objects.

The States have, it is allowed on all hands, a concurrent right to lay and collect taxes. This power is secured to them, not by its being expressly reserved, but by its not being ceded by the constitution. The reasons for the bill cannot be admitted, because they would invalidate that right; why may it not be conceived by Congress, that a uniform and exclusive imposition of taxes, would not less than the proposed Banks "be conducive to the successful conducting of the national finances, and tend to give facility to the obtaining of revenue, for the use of the Government?"

The doctrine of implication is always a tender one. The danger of it has been felt in other Governments. The delicacy was felt in the adoption of our own; the danger may also be felt if we

do not keep close to our chartered authorities.

Mark the reasoning on which the validity of the bill depends! To borrow money is made the end, and the accumulation of capitals implied as the means. The accumulation of capitals is then the end, and a bank implied as the means. The bank is then the end, and a charter of incorporation, a monopoly, capital punishments, &c., implied as the means.

If implications thus remote and thus multiplied, can be linked together, a chain may be formed that will reach every object of legislation, every object within the whole compass of political economy.

The latitude of interpretation required by the bill is condemned by the rule furnished by the constitution itself.

Congress have power "to regulate the value of money;" yet it is expressly added, not left to be implied, that counterfeiters may be punished.

They have the power "to declare war," to which armies are more incident than incorporated banks to borrowing; yet the power "to raise and support armies" is expressly added; and to this again, the express power "to make rules and regulations for the government of armies;" a like remark is applicable to the powers as to the navy.

The regulation and calling out of the militia are more appertinent to war than the proposed Bank to borrowing; yet the former is not left to construction.

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The very power to borrow money is a less remote implication from the power of war, than an incorporated monopoly bank from the power of borrowing; yet, the power to borrow is not left to implication.

It is not pretended that every insertion or omission in the constitution is the effect of systematic attention. This is not the character of any human work, particularly the work of a body of men. The examples cited, with others that might be added, sufficiently inculcate, nevertheless, a rule of interpretation very different from that on which the bill rests. They condemn the exercise of any power, particularly a great and important power, which is not evidently and necessarily involved in an express power.

It cannot be denied that the power proposed to be exercised is an important power.

As a charter of incorporation, the bill creates an artificial person, previously not existing in law. It confers important civil rights and attributes which could not otherwise be claimed. It is, though not precisely similar, at least equivalent, to the naturalization of an alien, by which certain new civil characters are acquired by him. Would Congress have had the power to naturalize, if it had not been expressly given?

In the power to make by-laws, the bill delegated a sort of Legislative power, which is unquestionably an act of a high and important nature. He took notice of the only restraint on the by-laws, that they were not to be contrary to the law and the constitution of the Bank, and asked what law was intended; if the law of the United States, the scantiness of their code would give a power never before given to a corporation, and obnoxious to the States, whose laws would then be superseded, not only by the laws of Congress, but by the by-laws of a corporation within their own jurisdiction. If the law intended was the law of the State, then the State might make laws that would destroy an institution of the United States.

The bill gives a power to purchase and hold lands; Congress themselves could not purchase lands within a State "without the consent of its Legislature." How could they delegate a power to others which they did not possess themselves?

It takes from our successors who have equal rights with ourselves, and with the aid of experience will be more capable of deciding on the subject, an opportunity of exercising that right for an immoderate term.

It takes from our constituents the opportunity of deliberating on the untried measure, although their hands are also to be tied by it for the same term.

It involves a monopoly, which affects the equal rights of every citizen.

It leads to a penal regulation, perhaps capital punishments, one of the most solemn acts of sovereign authority.

From this view of the power of incorporation exercised in the bill, it could never be deemed an accessory or subaltern power, to be deduced by implication as a means of executing another power; it was in its nature a distinct, an independent and substantive prerogative, which not being enumerated in the constitution, could never have been meant to be included in it, and not being included could never be rightfully exercised.

He here adverted to a distinction, which he said had not been sufficiently kept in view, between a power necessary and proper for the Government or Union, and a power necessary and proper for executing the enumerated powers. In the latter case, the powers included in the enumerated powers were not expressed, but to be drawn from the nature of each. In the former, the powers composing the Government were expressly enumerated. This constituted the peculiar nature of the Government; no power, therefore, not enumerated could be inferred from the general nature of Government. Had the power of making treaties, for example, been omitted, however necessary it might have been, the defect could only have been lamented, or supplied by an amendment of the constitution.

But the proposed Bank could not even be called necessary to the Government: at most it could be but convenient. Its uses to the Government could be supplied by keeping the taxes a little in advance; by loans from individuals; by the other banks, over which the Government would have equal command; nay greater, as it might grant or refuse to these the privilege (a free and irrevocable gift to the proposed Bank) of using their notes in the Federal revenue.

He proceeded next to the contemporary expositions given to the constitution.

The defence against the charge founded on the want of a bill of rights presupposed, he said, that the powers not given were retained; and that those given were not to be extended by remote implications. On any other supposition, the power of Congress to abridge the freedom of the press, or the rights of conscience, &c., could not have been disproved.

The explanations in the State Conventions all turned on the same fundamental principle, and on the principle that the terms necessary and proper gave no additional powers to those enumerated.

[Here he read sundry passages from the Debates of the Pennsylvania, Virginia, and North Carolina Conventions, showing the grounds on which the constitution had been vindicated by its principal advocates, against a dangerous latitude of its powers, charged on it by its opponents.]

He did not undertake to vouch for the accuracy or authenticity of the publications which he quoted. He thought it probable that the sentiments delivered might, in many instances, have been mistaken, or imperfectly noted; but the complexion of the whole, with what he himself and many others must recollect, fully justified the use he had made of them.

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The explanatory declarations and amendments accompanying the ratifications of the several States formed a striking evidence, wearing the same complexion. He referred those who might doubt on the subject, to the several acts of ratification.

The explanatory amendments proposed by Congress themselves, at least, would be good authority with them; all these renunciations of power proceeded on a rule of construction, excluding the latitude now contended for. These explanations were the more to be respected, as they had not only been proposed by Congress, but ratified by nearly three-fourths of the States. He read several of the articles proposed, remarking particularly on the 11th and 12th; the former, as guarding against a latitude of interpretation; the latter, as excluding every source of power not within the constitution itself.

With all this evidence of the sense in which the constitution was understood and adopted, will it not be said, if the bill should pass, that its adoption was brought about by one set of arguments, and that it is now administered under the influence of another set? and this reproach will have the keener sting, because it is applicable to so many individuals concerned in both the adoption and administration.

In fine, if the power were in the constitution, the immediate exercise of it cannot be essential; if not there, the exercise of it involves the guilt of usurpation, and establishes a precedent of interpretation levelling all the barriers which limit the powers of the General Government, and protect those of the State Governments. If the point be doubtful only, respect for ourselves, who ought to shun the appearance of precipitancy and ambition; respect for our successors, who ought not lightly to be deprived of the opportunity of exercising the rights of legislation; respect for our constituents, who have had no opportunity of making known their sentiments, and who are themselves to be bound down to the measure for so long a period; all these considerations require that the irrevocable decision should at least be suspended until another session.

It appeared on the whole, he concluded, that the power exercised by the bill was condemned by the silence of the constitution; was condemned by the rule of interpretation arising out of the constitution; was condemned by its tendency to destroy the main characteristic of the constitution; was condemned by the expositions of the friends of the constitution, whilst depending before the public; was condemned by the apparent intention of the parties which ratified the constitution; was condemned by the explanatory amendments proposed by Congress themselves to the constitution; and he hoped it would receive its final condemnation by the vote of this House.

THURSDAY, February 3.

Bank of the United States.

The House resumed the consideration of the bill sent from the Senate, to incorporate the subscribers to the Bank of the United States.

A motion was made by Mr. WILLIAMSON to recommit the bill, for the purpose of amending the first section by prolonging the time for receiving subscriptions from October to April; this motion occasioned some debate, and was determined in the negative; the yeas and nays being as follow:

YEAS.—MESSRS. Baldwin, Bloodworth, Brown, Burke, Carroll, Contee, Gale, Giles, Grout, Jackson, Lee, Madison, Mathews, Moore, Sevier, Smith, (of South Carolina,) Steele, Stone, Tucker, White, and Williamson—21.

NAYS.—Messrs. Ames, Benson, Boudinot, Bourne, Cadwalader, Clymer, Fitzsimons, Floyd, Gerry, Gilman, Goodhue, Griffin, Hartley, Hathorn, Heister, Huntington, Lawrence, Leonard, Livermore, Muhlenberg, Parker, Partridge, Rensselaer, Schureman, Scott, Sedgwick, Seney, Sherman, Smith, (of Maryland,) Sylvester,

Mr. AMES.—Little doubt remains with respect to the utility of banks. It seems to be conceded within doors and without, that a public bank would be useful to trade, that it is almost essential to revenue, and that it is little short of indispensably necessary in times of public emergency. In countries whose forms of government left them free to choose, this institution has been adopted of choice, and in times of national danger and calamity, it has afforded such aid to Government as to make it appear, in the eyes of the people, a necessary means of self-preservation. The subject, however intricate in its nature, is at last cleared from obscurity. It would not be difficult to establish its principles, and to deduce from its theory such consequences as would vindicate the policy of the measure. But why should we lose time to examine the theory when it is in our power to resort to experience? After being tried by that test, the world has agreed in pronouncing the institution excellent. This new capital will invigorate trade and manufactures with new energy. It will furnish a medium for the collection of the revenues; and if Government should be pressed by a sudden necessity, it will afford seasonable and effectual aid. With all these and many other pretensions, if it was now a question whether Congress should be vested with the power of establishing a bank, I trust that this House and all America would assent to the affirmative.

This, however, is not a question of expediency, but of duty. We are not at liberty to examine which of several modes of acting is entitled to the preference. But we are solemnly warned against acting at all. We are told that the constitution will not authorize Congress to incorporate the subscribers to the bank. Let us examine the constitution, and if that forbids our proceeding, we must reject the bill; though we shall do it with deep regret that such an opportunity to serve our country must be suffered to escape for the want of a constitutional power to improve it.

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The gentleman from Virginia considers the opposers of the bill as suffering disadvantage, because it was not debated as bills usually are in the Committee of the Whole. He has prepared us to pronounce a eulogium upon his consistency by informing us that he voted in the old Congress against the Bank of North America, on the ground of his present objection to the constitutionality. He has told us that the meaning of the constitution is to be interpreted by contemporaneous testimony. He was a member of the Convention which formed it, and of course his opinion is entitled to peculiar weight. While we respect his former conduct, and admire the felicity of his situation, we cannot think he sustains disadvantage in the debate. Besides, he must have been prepared with objections to the constitutionality, because he tells us they are of long standing, and had grown into a settled habit of thinking. Why, then, did he suffer the bill to pass the committee in silence? The friends of the bill have more cause to complain of disadvantage; for while he has had time to prepare his objections, they are obliged to reply to them without premeditation.

In making this reply I am to perform a task for which my own mind has not admonished me to prepare. I never suspected that the objections I have heard stated had existence; I consider them as discoveries; and had not the acute penetration of that gentleman brought them to light, I am sure that my own understanding would never have suggested them.

It seems strange, too, that in our enlightened country the public should have been involved in equal blindness. While the exercise of even the lawful powers of Government is disputed, and a jealous eye is fixed on its proceedings, not a whisper has been heard against its authority to establish a bank. Still, however unseasonably, the old alarm of public discontent is sounded in our ears.

Two questions occur; may Congress exercise any powers which are not expressly given in the constitution, but may be deduced by a reasonable construction of that instrument? And, secondly, will such a construction warrant the establishment of the Bank?

The doctrine that powers may be implied which are not expressly vested in Congress has long been a bugbear to a great many worthy persons. They apprehend that Congress, by putting constructions upon the constitution, will govern by its own arbitrary discretion; and therefore that it ought to be bound to exercise the powers expressly given, and those only.

If Congress may not make laws conformably to the powers plainly implied, though not expressed in the frame of Government, it is rather late in the day to adopt it as a principle of conduct. A great part of our two years' labor is lost, and worse than lost to the public, for we have scarcely made a law in which we have not exercised our discretion with regard to the true intent of the constitution. Any words but those used in that instrument will be liable to a different interpretation. We may regulate trade; therefore we have taxed ships, erected light-houses, made laws to govern seamen, &c., because we say that they are the incidents to that power. The most familiar and undisputed acts of legislation will show that we have adopted it as a safe rule of action, to legislate beyond the letter of the constitution.

He proceeded to enforce this idea by several considerations, and illustrated it by various examples. He said, that the ingenuity of man was unequal to providing, especially beforehand, for all the contingencies that would happen. The constitution contains the principles which are to govern in making laws; but every law requires an application of the rule to the case in question. We may err in applying it; but we are to exercise our judgments, and on every occasion to decide according to an honest conviction of its true meaning.

The danger of implied power does not arise from its assuming a new principle; we have not only practised it often, but we can scarcely proceed without it; nor does the danger proceed so much from the extent of the power as from its uncertainty. While the opposers of the Bank exclaim against the exercise of this power by Congress, do they mark out the limits of the power which

they will leave to us, with more certainty than is done by the advocates of the Bank? Their rules of interpretation by contemporaneous testimony, the debates of conventions, and the doctrine of substantive and auxiliary powers, will be found as obscure, and of course as formidable, as that which they condemn; they only set up one construction against another.

The powers of Congress are disputed. We are obliged to decide the question according to truth. The negative, if false, is less safe than the affirmative, if true. Why, then, shall we be told that the negative is the safe side? Not exercising the powers we have, may be as pernicious as usurping those we have not. If the power to raise armies had not been expressed in the enumeration of the powers of Congress, it would be implied from other parts of the constitution. Suppose, however, that it were omitted, and our country invaded, would a decision in Congress against raising armies be safer than the affirmative? The blood of our citizens would be shed, and shed unavenged. He thought, therefore, that there was too much prepossession with some against the Bank, and that the debate ought to be considered more impartially, as the negative was neither more safe, certain, nor conformable to our duty than the other side of the question. After all, the proof of the affirmative imposed a sufficient burden, as it is easier to raise objections than to remove them. Would any one doubt that Congress may lend money, that they may buy their debt in the market, or redeem their captives from Algiers? Yet no such power is expressly given, though it is irresistibly implied.

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If, therefore, some interpretation of the constitution must be indulged, by what rules is it to be governed? The great end of every association of persons or States is to effect the end of its institution. The matter in debate affords a good illustration: a corporation, as soon as it is created, has certain powers, or qualities, tacitly annexed to it, which tend to promote the end for which it was formed; such as, for example, its individuality, its power to sue and be sued, and the perpetual succession of persons. Government is itself the highest kind of corporation; and from the instant of its formation, it has tacitly annexed to its being, various powers which the individuals who framed it did not separately possess, but which are essential to its effecting the purposes for which it was framed; to declare, in detail, every thing that Government may do could not be performed, and has never been attempted. It would be endless, useless, and dangerous; exceptions of what it may not do are shorter and safer.

Congress may do what is necessary to the end for which the constitution was adopted, provided it is not repugnant to the natural rights of man, or to those which they have expressly reserved to themselves, or to the powers which are assigned to the States. This rule of interpretation seems to be safe, and not a very uncertain one, independently of the constitution itself. By that instrument certain powers are specially delegated, together with all powers necessary or proper to carry them into execution. That construction may be maintained to be a safe one which promotes the good of society, and the ends for which the Government was adopted, without impairing the rights of any man, or the powers of any State.

This, he said, was remarkably true of the Bank; no man could have cause to complain of it; the bills would not be forced upon any one. It is of the first utility to trade. Indeed, the intercourse from State to State can never be on a good footing without a bank, whose paper will circulate more extensively than that of any State bank. Whether the power to regulate trade from State to State will involve that of regulating inland bills of exchange and bank paper, as the instruments of the trade, and incident to the power, he would not pause to examine. This is an injury and wrong which violates the right of another. As the bank is founded on the free choice of those who make use of it, and is highly useful to the people and to Government, a liberal construction is natural and safe. This circumstance creates a presumption in favor of its conformity to the constitution. This presumption is enforced by the necessity of a bank to other governments. The most orderly governments in Europe have banks. They are considered as indispensably necessary; these examples are not to be supposed to have been unnoticed. We are to pay the interest of our debt in thirteen places. Is it possible to transport the revenue from one end of the continent to the other? Nay, a week before the quarter's interest becomes due, transfers will be made which will require double the sum in Boston which was expected. To guard against this danger, an extra sum must be deposited at the different loan offices. This extra sum is not to be had; our revenue is barely equal to the interest due. This imposes an absolute necessity upon the Government to make use of a bank. The answer is, that the State banks will supply this aid. This is risking a good deal to the argument against the Bank; for will they admit the necessity, and yet deny to the Government the lawful and only adequate means for providing for it? Ten of the States have no banks; those who have may abolish theirs, and suffer their charters to expire. But the State banks are insufficient to the purpose; their paper has not a sufficient circulation; of course their capitals are small. Congress is allowed to have complete legislative power over its own finances; and yet without the courtesy of the States it cannot be exercised. This seems to be inconsistent.

If a war should suddenly break out, how is Congress to provide for it? Perhaps Congress would not be sitting; great expenses would be incurred; and they must be instantly provided for. How is this to be done? By taxes? And will the enemy wait till they can be collected? By loans at home? Our citizens would employ their money in war speculations, and they are not individually in a condition to lend a sufficient sum in specie. Or shall we send across the sea for loans? The dispute between England and Spain furnishes an example; the aid of their banks for several millions was prompt and effectual. Or, will you say that Congress might issue paper money? That power, ruinous and fallacious as it is, is deduced from implication, for it is not expressly given. A bank only can afford the necessary aid in time of sudden emergency. If we have not the power to establish it, our social compact is incomplete, we want the means of self-preservation.

I shall, perhaps, be told that necessity is the tyrant's plea. I answer that it is a miserable one when it is urged to palliate the violation of private right. Who suffers by this use of our authority? Not the States, for they are not warranted to establish a National Bank; not individuals, for they will be assisted in trade, and defended from danger by it.

Having endeavored to enforce his argument, by noticing the uses of banks to trade, to revenue, to credit, and, in cases of exigency, he adverted to the authority of our own precedents. Our right to govern the Western Territory is not disputed. It is a power which no State can exercise; it must be exercised, and therefore it resides in Congress. But how does Congress get this power? It is not expressly given in the constitution, but is derived either from the nature of the case, or by implication from the power to regulate the property of the United States. If the power flows from the nature and necessity of the case, it may be demanded, is the renot equal authority for the Bank? If it is derived from the power of Congress to regulate the territory and other property of the United States, and to make all needful rules and regulations concerning it, and for the disposal of it, a strict construction would restrain Congress merely to the management and disposal of property, and of its own property; yet it is plain that more is intended. Congress has accordingly made rules, not only for governing its own property, but the property of the persons residing there. It has made rules which have no relation to property at all—for punishing crimes. In short, it exercises all power in that territory. Nay, it has exercised this very power of creating a corporation. The government of that territory is a corporation; and who will deny that Congress may lawfully establish a bank beyond the Ohio? It is fair to reason by analogy from a power which is unquestionable, to one which is the subject of debate.

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He then asked, whether it appeared, on this view of the subject, that the establishment of a National Bank would be a violent misinterpretation of the constitution? He did not contend for an arbitrary, unlimited discretion in the Government to do every thing. He took occasion to protest against such a misconception of his argument. He had noticed the great marks by which the construction of the constitution, he conceived, must be guided and limited; and these, if not absolutely certain, were very far from being arbitrary or unsafe. It is for the House, to judge whether the construction which denies the power of Congress is more definite and safe.

In proving that Congress may exercise powers which are not expressly granted by the constitution, he had endeavored to establish such rules of interpretation, and had illustrated his ideas by such observations as would anticipate, in a considerable degree, the application of his principles to the point in question. Before he proceeded to the construction of the clauses of the constitution which apply to the argument, lie observed that it would be proper to notice the qualities of a corporation, in order to take a more exact view of the controversy.

He adverted to the individuality and the perpetuity of a corporation, and that the property of the individuals should not be liable for the debts of the bank or company. These qualities are not more useful to the corporation than conformable to reason; but Government, it is said, cannot create these qualities. This is the marrow of the argument; for Congress may set up a bank of its own, to be managed as public property, to issue notes which shall be received in all payments at the Treasury, which shall be exchangeable into specie on demand, and which it shall be death to counterfeit. Such a bank would be less safe and useful than one under the direction of private persons; yet the power to establish it is indisputable. If Congress has the authority to do this business badly, the question returns, whether the powers of a corporation, which are essential to its being well done, may be annexed as incident to it. The Bank of New York is not a corporation, yet its notes have credit. Congress may agree with that bank, or with a company of merchants, to take their notes, and to cause all payments to pass through their coffers. Every thing that Government requires, and the bank will perform, may be lawfully done without giving them corporate powers; but to do this well, safely, and extensively, those powers are indispensable. This seems to bring the debate within a very narrow compass.

This led him to consider whether the corporate powers are incidental to those which Congress may exercise by the constitution.

He entered into a discussion of the construction of that clause which empowers Congress to regulate the territory and other property of the United States. The United States may hold property; may dispose of it; they may hold it in partnership; they may regulate the terms of the partnership. One condition may be, that the common stock only shall be liable for the debts of the partnership, and that any purchaser of a share shall become a partner. These are the chief qualities of a corporation. It seems that Congress, having power to make all needful rules and regulations for the property of the United States, may establish a corporation to manage it: without which we have seen that the regulations cannot be either safe or useful; the United States will be the proprietor of one-tenth of the bank stock.

Congress may exercise exclusive legislation in all cases whatsoever over the ten miles square, and the places ceded by the States for arsenals, light-houses, docks, &c. Of course it may establish a bank in those places with corporate powers. The bill has not restrained the bank to this city; and if it had, the dispute would lose a part of its solemnity. If, instead of principles, it concerns only places, what objection is there to the constitutional authority of Congress to fix the Bank at Sandy Hook, or Reedy Island, where we have light-houses, and a right of exclusive legislation? A bank established there, or in the district located by law on the Potomac for the seat of Government, could send its paper all over the Union; it is true that the places are not the most proper for a bank; but the authority to establish it in them overthrows the argument which is deduced from the definite nature of the powers vested in Congress, and the dangerous tendency of the proposed construction of them.

The preamble of the constitution warrants this remark, that a bank is not repugnant to the spirit and essential objects of that instrument.

He then considered the power to borrow money. He said it was natural to understand that authority as it was actually exercised in Europe; which is, to borrow of the bank. He observed, the power to borrow was of narrow use without the institution of a bank; and in the most dangerous crisis of affairs would be a dead letter.

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After noticing the power to lay and collect taxes, he adverted to the sweeping clause, as it is usually called, which empowers Congress to exercise all powers necessary and proper to carry the enumerated powers into execution. He did not pretend that it gives any new powers; but it establishes the doctrine of implied powers. He then demanded whether the power to incorporate a bank is not fairly relative, and a necessary incident to the entire powers to regulate trade and revenue, and to provide for the public credit and defence.

He entered into a particular answer to several objections, and after recapitulating his argument, he concluded with observing that we had felt the disadvantages of the Confederation. We adopted the constitution, expecting to place the national affairs under a Federal head; this is a power which Congress can only exercise. We may reason away the whole constitution. All nations have their times of adversity and danger; the neglect of providing against them in season may be the cause of ruining the country.

FRIDAY, February 4.

Bank of the United States.

The House resumed the consideration of the bill for incorporating the Bank of the United States.

The question being on the passage of the bill,

Mr. SEDGWICK said, he would endeavor not to fatigue the patience of the House in the observations he should make on the important subject now under consideration. Without entering into the discussion on a scale so extensive as had been indulged by some gentlemen, he would dwell only on a few important principles, and such consequences as were conclusively deducible from them, which had made a strong impression on his own mind. The opposition to the bill had called in question the constitutional powers of Congress to establish the proposed corporation, and the utility of banks, neither of which till within a few days did he suppose was doubted by any intelligent man in America; and had charged the present system with holding out unequal terms against the Government to those who should subscribe to the proposed stock.

With regard to the question of constitutionality, much had been said which, in his opinion, had not an intimate relation to the subject now before the House. We have with great earnestness been warned of the danger of grasping power by construction and implication; and this warning has been given in very animated language by the gentleman from Virginia (Mr. MADISON.) I do not wish to deprive that member of the honor of consistency; but I well remember the time when the energy of his reasoning impressed on the minds of the majority of this House a conviction that the power of removal from office, holden at pleasure, was, by construction and implication, vested by the constitution in the President; for there could be no pretence that it is expressly granted to him.

He would only observe, in answer to every thing which had been said of the danger of extending construction and implication, that the whole business of legislation was a practical construction of the powers of the Legislature; and that probably no instrument for the delegation of power could be drawn with such precision and accuracy as to leave nothing to necessary implication. That all the different Legislatures in the United States had, and this, in his opinion, indispensably must construe the powers which had been granted to them, and they must assume such auxiliary powers as are necessarily implied in those which are expressly granted. In doing which, it was no doubt their duty to be careful not to exceed those limits to which it was intended they should be restricted. By any other limitation the Government would be so shackled that it would be incapable of producing any of the effects which were intended by its institution.

He observed, that on almost all the great and important measures which come under the deliberation of Congress there were immense difficulties to be surmounted. If we attempt, said he, to proceed in one direction, our ears are assailed with the exclamation of "the constitution is in danger!" if we attempt to attain our objects by pursuing a different course, we are told the pass is guarded by the stern spirit of democracy. Did I concur with gentlemen in opinion on this subject, I should think it my duty to go home to my constituents, and honestly declare to them that by their jealousy of power they had so restrained the operations of the Government that we had not the means of effecting any of the great purposes for which the constitution was designed, without attempting, what perhaps would be found impracticable, to fix by general rules the nice point within which Congress would be authorized to assume powers by construction and implication, and beyond which they may be justly considered as usurpers.

He wished gentlemen to reflect what effect a single principle, universally acknowledged, would have in determining the question now under consideration. It is universally agreed that wherever a power is delegated for express purposes, all the known and usual means for the attainment of the objects expressed are conceded also. That to decide what influence this acknowledged principle would have on the subject before the House, it would be necessary to reflect on the powers with which Congress are expressly invested. He then repeated that Congress was

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authorized to lay and collect taxes, to borrow money on the credit of the United States, to raise and support armies, provide and maintain navies, to regulate foreign and domestic trade, and to make all laws necessary and proper to carry these and the other enumerated powers into effect. They were, in fine, intrusted with the exercise of all those powers which the people of America thought necessary to secure their fame and happiness against the attacks of internal violence and external invasion; and in the exercise of those powers, the Legislature was authorized, agreeably to the principle which he had mentioned, to employ all the known and usual means necessary and proper to effectuate the ends which are expressed. It might be of use to determine with precision what was the meaning of the words *necessary* and *proper*—they did not restrict the power of the Legislature to enacting such laws only as are indispensable. Such a construction would be infinitely too narrow and limited; and, to apply the meaning strictly, it would prove, perhaps, that all the laws which had been passed were unconstitutional; for few, if any of them, could be proved indispensable to the existence of the Government. The conduct of Congress had a construction on those words more rational and consistent with common sense and the purposes for which the Government was instituted; which he conceived to be that the laws should be established on such principles, and such an agency in the known and usual means employed in the execution of them, as to effect the ends expressed in the constitution with the greatest possible degree of public utility.

If banks were among the known and usual means to effectuate or facilitate the ends which had been mentioned, to enable the Government, with the greatest ease and least burden to the people, to collect taxes, borrow money, regulate commerce, raise and support armies, provide and maintain fleets, he thought the argument irrefragable and conclusive to prove the constitutionality of the bill. Pursuing further the same idea, he asked for what purposes were banks instituted and patronized by Governments which were unrestricted by constitutional limitations? Were they not employed as the means and the most useful engines to facilitate the collection of taxes, borrowing money, and the other enumerated powers? Besides, he said, it was to be observed that the constitution had expressly declared the ends of legislation; but in almost every instance had left the means to the honest and sober discretion of the Legislature. From the nature of things this must ever be the case; for otherwise the constitution must contain not only all the necessary laws under the existing circumstances of the community, but also a code so extensive as to adapt itself to all future possible contingencies. By our constitution, Congress has not only the power to lay and collect taxes, but to do every thing subordinate to that end; the objects, the means, the instruments, and the purposes, are left to the honest and sober discretion of the Legislature. The power of borrowing money was expressly granted; but all the known and usual means to that end were left in silence. The same observations might with truth be made respecting the other delegated powers. The great ends to be obtained as means to effectuate the ultimate end—the public good and general welfare—are capable, under general terms, of constitutional specification; but the subordinate means are so numerous, and capable of such infinite variation, as to render an enumeration impracticable, and must therefore be left to construction and necessary implication. He said, on this ground, he was willing to leave the general argument; it was simple, intelligible, and he hoped would be thought conclusive.

He said the constitutionality had been attacked from another quarter. It was said, we could not give commercial advantages to one port above another. The constitutional provision which had been quoted was undoubtedly intended to prevent a partial regulation of commerce; if extended to the case under consideration, it would much more strongly prove that Congress ought not to reside in any commercial city; for he verily believed that the commercial advantages of Philadelphia were incomparably greater from that residence than they could be supposed from the institution of a National Bank. Indeed, it was his opinion that, considering that this city had a bank, the capital of which was adequate to all her commercial exigencies; that she could enlarge that capital as her necessity should require; and that her bank will, if this bill should be rejected, receive the benefit of national operations, the measure will not advance her individual interest.

With regard to the utility of banks, he observed that he would not attempt to display a knowledge of the subject by repeating all he had read and heard in relation to it, nor fatigue the House by a detail of his own reflections and reasoning upon it; the causes were unnecessary to be explained; the effects had been such in all countries where banks had been instituted, as to produce a unanimous opinion that they were alike useful for all the great purposes of Government, and to promote the general happiness of the people. Nor was our own experience wanting to the same purpose. At a time when our public resources were almost annihilated, our credit prostrate, our Government imbecile, and its patronage inconsiderable, a bank of small capital was among the most operative causes which produced that first dawn that ultimately terminated in meridian splendor by the establishment of peace, independence, and freedom. There were two circumstances which he would take the liberty to mention, which would render banks of more importance in this country than in any other country where they are at present in use: the first, the commercial enterprise of our merchants compared with the smallness of their capitals, which, as we had no large manufacturing capitals, whereby the precious metals could be retained in circulation, would frequently, by their exportation, greatly distress the people; the other originated from a measure of the Government. Congress, from a laudable intention of accommodating their constituents, instituted Treasuries in all the States; in some of these there would be, in the ordinary course of events, a deficiency, and in others a redundancy. To keep them in equilibrium by the transportation of the precious metals, or by the purchase of bills in the market, would be not only inconvenient and expensive, but would keep out of circulation a considerable part of the medium of the country.

Gentlemen had been pleased to consider the proposed terms as giving an undue advantage to the

stockholders. He would leave this part of the subject to gentlemen who better understood it; only observing, that as Government must rely principally on merchants to obtain the proposed stock, it would be necessary to afford to them sufficient motives to withdraw from their commercial pursuits a part of their capitals.

He would attempt an answer to some of those desultory objections which had been made, and in doing this, he would omit to answer such as had been, in his opinion, already refuted. He observed, that it had been said that granting charters of incorporation was a high prerogative of Government. He supposed it was not intended that it was, in the nature of things, too transcendent a power to be exercised by a National Government, but that the exercise of it should only be in consequence of express delegation. Let this objection be compared with the conduct of Congress on another subject, in all respects at least as important. There is not, by the constitution, any power expressly delegated to mortgage our revenues, and yet, without any question being made on the constitutionality of the measure, we have mortgaged them to an immense amount. From whence, he asked, do we acquire the authority to exercise this power? Not from express grants, but being empowered to borrow money on the credit of the United States, we have very properly considered the pledging funds as among the known and usual means necessary and proper to be employed for the attainment of the end expressly delegated.

It has been said that the bill authorized the stockholders to purchase real estate. He considered the provision in the bill in that regard, not a grant, but a limitation of power. Any man, or body of men, might, by the existing laws, purchase, in their own private capacities, real estate to any amount. This right was limited as it respected the proposed corporation.

It is said there are banks already, and therefore the proposed incorporation is unnecessary. To this he answered, that if the Government should agree to receive all its demands in the paper of the existing banks, it would give to them every advantage which, in the opinion of gentlemen, renders the present system objectionable, without stipulating for any equivalent to the Government. But are, he asked, gentlemen serious in these observations? Do they believe the capitals of those banks adequate to the exigencies of the nation? Do they believe that those banks possess any powers by which they can give a projectile force to their paper, so as to extend its circulation throughout the United States? Or do they really wish to have the Government repose itself on institutions with which they have no intimate connection, and over which they have no control?

Mr. S. concluded by observing he was very confident a majority of the House could never be induced to believe that it was the intention of the constitution to deprive the Legislature of one of the most important and necessary means of executing the powers expressly delegated.

Mr. LAWRENCE.—The advocates of this measure stand in an unfortunate situation; for being those who in general advocate national measures, they are charged with designs to extend the powers of the Government unduly. He, however, consoled himself with a conscious attachment to the constitution, and with the reflection that their conduct received the approbation of their constituents. If the present be contrasted with the former circumstances of this country, he doubted not the measures of this Government would continue to receive the approbation of the people of the United States.

The silence of the people on the subject now before the House is strongly presumptive that the measure of the Bank is not considered by them as unconstitutional. He then endeavored to show the constitutionality of the bank system. It must be conceded that there is nothing in the constitution that is expressly against it, and therefore we ought not to deduce a prohibition by construction; he adverted to the amendment proposed by Congress to the constitution, which says, "powers not delegated are retained;" here, said he, to prove that the Bank is unconstitutional, the constructive interpretation so much objected against is resorted to.

The great objects of this Government are contained in the context of the constitution. He recapitulated those objects, and inferred that every power necessary to secure these must necessarily follow; for as to the great objects for which this Government was instituted, it is as full and complete in all its parts as any system that could be devised; a full, uncontrollable power to regulate the fiscal concerns of this Union, is a primary consideration in this Government, and from hence it clearly follows that it must possess the power to make every possible arrangement conducive to that great object.

He then adverted to the late Confederation, and pointed out its defects and incompetency; and hence the old Congress called on the States to enact certain laws which they had not power to enact; from hence he inferred, that as the late Confederation could not pass those laws, and to capacitate the Government of the United States, and form a more perfect union, the constitution under which we now act was formed. To suppose that this Government does not possess the powers for which the constitution was adopted, involves the grossest absurdity.

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The deviation from charters, and the infringement of parchment rights, which had been justified on the principle of necessity by the gentleman from Virginia, (Mr. MADISON,) he said had been made on different principles from those now mentioned; the necessity, he contended, did not at the time exist; the old Congress exercised the power, as they thought, by a fair construction of the Confederation.

On constructions, he observed, it was to be lamented that they should ever be necessary; but they had been made; he instanced the power of removability, which had been an act of the three branches, and has not been complained of. It was at least as important a one as the present.

But the construction now proposed, he contended, was an easy and natural construction.

Recurring to the collection law, he observed, that it was by construction that the receipts are ordered to be made in gold and silver.

With respect to creating a mass of capital, he supposed just and upright national measures would create a will to form this capital.

Adverting to the idea that Congress has not the power to establish companies with exclusive privileges, he observed, that by the amendments proposed by New Hampshire, Massachusetts, and New York, it plainly appears that these States considered that Congress does possess the power to establish such companies.

The constitution vests Congress with power to dispose of certain property in lands, and to make all useful rules and regulations for that purpose; can its power be less over one species of its own property than over another?

With respect to giving preference to one State over another, he observed, that ten years hence the seat of Government is to be on the Potomac, and wherever the Government is finally settled, the place will enjoy superior advantages; but still the Government must go thither, and the places not enjoying those advantages must be satisfied.

It is said we must not pass a problematical bill, which is liable to a supervision by the Judges of the Supreme Court; but he conceived there was no force in this, as those judges are invested by the Constitution with a power to pass their judgment on all laws that may be passed.

It is said that this law may interfere with the State Governments; but this may or may not be the case; and in all interference of the kind the particular interest of a State must give way to the general interest.

With respect to the corporation possessing the power of passing laws, this, he observed, is a power incidental to all corporations; and in the instance of the Western Territory, Congress have exercised the power of instituting corporations or bodies politic, to the greatest possible extent.

He defended the right of Congress to purchase and possess property, and quoted a passage in the Constitution to show that they possess this right.

He then touched on the expediency of banks, and of that proposed in particular. The advantages generally derived from these institutions, he believed, applied peculiarly to this country. He noticed the objection from banks banishing the specie; he said the surplus only would be sent out of the country; but is it given away? No, sir, it is sent off for articles which are wanted, and which will enrich the country.

With respect to a run on the Bank, he mentioned the circumstances under which those runs on the British banks, which had been noticed, took place; and showed there was no parallel that would probably ever take place in this country.

For several particulars he showed that the objection which arose from the United States not having a good bargain by the system was not well founded. He then mentioned the peculiar advantages which the United States will enjoy over common subscribers.

The objection from banks being already established in the several States he obviated by stating the mischiefs which might arise from an ignorance of the situation of those banks; and concluded by some remarks on the inexpediency of the General Government having recourse to institutions of merely a local nature.

Mr. JACKSON said, that having been the person who brought forward the constitutional objection against the bill, he thought himself bound to notice the answers which had been offered to that objection. Newspaper authorities, said he, have been alluded to, and their silence on the subject considered as indicating the approbation of the people. He would meet the gentlemen on that ground; and, though he did not consider newspapers as an authority to be depended on, yet if opinions through that channel were to be regarded, he would refer the gentlemen to those of this city; the expediency and constitutionality of the bill have been called in question by the newspapers of this city.

The latitude contended for in constructing the constitution on this occasion he reprobated very fully. If the sweeping clause, as it is called, extends to vesting Congress with such powers, and necessary and proper means are an indispensable implication in the sense advanced by the advocates of the bill, we shall soon be in possession of all possible powers, and the charter under which we sit will be nothing but a name.

This bill will essentially interfere with the rights of the separate States, for it is not denied that they possess the power of instituting banks; but the proposed corporation will eclipse the Bank of North America, and contravene the interests of the individuals concerned in it.

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He then noticed the several arguments drawn from the doctrine of implication; the right to incorporate a National Bank has been adduced from the power to raise armies; but he presumed it would not be contended that this is a bill to provide for the national defence. Nor could such a power, in his opinion, be derived from the right to borrow money. It has been asked what the United States could do with the surplus of their revenue without the convenience of a bank in which to deposit it with advantage? For his part, though he wished to anticipate pleasing occurrences, he did not look forward to the time when the General Government would have this superabundance at its disposal. The right of Congress to purchase and hold lands has been urged to prove that they can transfer this power; but the General Government is expressly restricted in the exercise of this power; the consent of the particular State to the purchase for particular purposes only is requisite; these purposes are designated, such as building light-houses, erecting

arsenals, &c.

It has been said that banks may exist without a charter; but that this incorporation is necessary in order that it may have a hold on the Government. Mr. J. strongly reprobated this idea. He was astonished to hear such a declaration, and hoped that such ideas would prevent a majority of the House from passing a bill that would thus establish a perpetual monopoly; we have, said he, I believe, a perpetual debt; I hope we shall not have a perpetual corporation. What was it drove our forefathers to this country? Was it not the ecclesiastical corporations and perpetual monopolies of England and Scotland? Shall we suffer the same evils to exist in this country instead of taking every possible method to encourage the increase of emigrants to settle among us? For if we establish the precedent now before us, there is no saying where it will stop.

The power to regulate trade is said to involve this as a necessary means; but the powers consequent on this express power are specified, such as regulating light-houses, ships, harbors, &c. It has been said that Congress has borrowed money; this shows that there is no necessity of instituting any new bank, those already established having been found sufficient for the purpose. He denied the right of Congress to establish banks at the permanent seat of Government, or on those sandheaps mentioned yesterday; for if they should, they could not force the circulation of their paper one inch beyond the limits of those places. But it is said, if Congress can establish banks in those situations, the question becomes a question of place, and not of principle; from hence it is inferred that the power may be exercised in any other part of the United States. This appeared to him to involve a very dangerous construction of the powers vested in the General Government.

Adverting to the powers of Congress in respect to the finances of the Union, he observed that those powers did not warrant the adoption of whatever measures they thought proper. The constitution has restricted the exercise of those fiscal powers; Congress cannot lay a poll tax, nor impose duties on exports; yet these undoubtedly relate to the finances.

The power exercised in respect to the Western Territory, he observed, had reference to property already belonging to the United States; it does not refer to property to be purchased, nor does it authorize the purchase of any additional property; besides, the powers are express and definite, and the exercise of them in making needful rules and regulations in the government of that Territory does not interfere with the rights of any of the respective States.

Mr. J. denied the necessity of the proposed institution; and noticing the observation of Mr. AMES, that it was dangerous on matters of importance not to give an opinion, observed that he could conceive of no danger that would result from postponing that construction of the constitution now contended for to some future Congress, who, when the necessity of a banking institution shall be apparent, will be as competent to the decision as the present House.

Alluding to the frequent representations of the flourishing condition of the country, he inferred that this shows the necessity of the proposed institution does not exist at the present time; why, then, should we be anticipating for future generations? State banks he considered preferable to a National Bank, as counterfeits can be detected in the States; but if you establish a National Bank, the checks will be found only in the city of Philadelphia or Conococheague. He passed a eulogium on the Bank of Pennsylvania; the stockholders, said he, are not speculators; they have the solid coin deposited in their vaults.

He adverted to the preamble and context of the constitution, and asserted that this context is to be interpreted by the general powers contained in the instrument. Noticing the advantages which it had been said would accrue to the United States from the Bank, he asked, is the United States going to commence stockjobbing? The "general welfare" are the two words that are to involve and justify the assumption of every power. But what is this general welfare? It is the welfare of Philadelphia, New York, and Boston; for as to the States of Georgia and New Hampshire, they may as well be out of the Union for any advantages they will receive from the institution. He reprobated the idea of the United States deriving any emolument from the Bank, and more especially he reprobated the influence which it was designed the Government should enjoy by it. He said the Banks of Venice and Amsterdam were founded on different principles. In the famous Bank of Venice, though the Government holds no shares, yet it has at command five millions of ducats; but the United States were to be immediately concerned in theirs, and become stockholders.

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The Bank of Amsterdam was under the entire direction of the burgomasters, who alone had the power of making by-laws for its regulation. This power, by the bill, was given up by Government, very improperly he thought, and was to be exercised by the stock-jobbers.

The French Bank, he added, was first established upon proper principles and flourished, but afterwards became a royal bank; much paper was introduced, which destroyed the establishment, and was near oversetting the Government.

The facility of borrowing he deprecated; it will involve the Union in irretrievable debts; the facility of borrowing is but another name for anticipation, which will in its effects deprive the Government of the power to control its revenues; they will be mortgaged to the creditors of the Government. Let us beware of following the example of Great Britain in this respect. He said, undue advantages had been taken in precipitating the measure, and the reasonable proposition respecting the State debts is not admitted. This I consider as partial and unjust.

A gentleman from Virginia has well observed that we appear to be divided by a geographical line; not a gentleman scarcely to the eastward of a certain line is opposed to the Bank, and where is the gentleman to the southward that is for it? This ideal line will have a tendency to establish a

real difference. He added a few more observations, and concluded by urging a postponement, if any regard was to be had to the tranquillity of the Union.

Mr. BOUDINOT said he meant to confine himself to two or three great points on which the whole argument appeared to him to rest. He considered the objections to the bill as pointed against its constitutionality and its expediency. It was essential, he observed, that every member should be satisfied, as far as possible, of the first; for however expedient it might be, if it was clearly unconstitutional, the bill should never receive the sanction of the representatives of the people. He would, in a great measure, refer its expediency, if constitutional, to the experience of every gentleman of the House, as the most satisfactory proof on that head, and he conceived there was no need of much argument in support of its decision. The first question then was, is Congress vested with a power to grant the privileges contained in the bill? This is denied, and ought to be proved. In order to show in what manner this subject had struck his mind, he first laid down these principles:

Whatever power is exercised by Congress must be drawn from the constitution; either from the express words or apparent meaning, or from a necessary implication arising from the obvious intent of the framers.

That whatever powers (vested heretofore in any individual State) not granted by this instrument, are still in the people of such State, and cannot be exercised by Congress. That whatever implication destroys the principle of the constitution ought to be rejected. That in construing an instrument, the different parts ought to be so expounded as to give meaning to every part which will admit of it.

Having stated these preliminaries, Mr. B. proceeded to inquire what were the powers attempted to be exercised by this bill? For, until the powers were known, the question of constitutionality could not be determined.

By it Congress was about to exercise the power of incorporating certain individuals, thereby establishing a banking company for successfully conducting the finances of the nation.

The next inquiry is, what rights will this company enjoy in this new character, that they do not enjoy independent of it? Every individual citizen had an undoubted right to purchase and hold property, both real and personal, to any amount whatever; to dispose of this property to whom and on what terms he pleased; to lend his money on legal interest to any person willing to take the same; and indeed to exercise every power over his property that was contained in the bill. Individual citizens, then, having these powers, might also associate together in company or copartnership, and jointly exercising the same rights, might hold lands in joint tenancy, or as tenants in common, to any amount whatever; might put any sum of money into joint stock; might issue their notes to any amount; might make by-laws or articles of copartnership for their own government; and, finally, might set up a bank to any amount, however great, and no authority in the Government could legally interfere with the exercise of these rights. The great difference between this private association of citizens, in their individual capacities, and the company to be created by this bill, and which is held up in so dangerous a light, is, that the one exposes the company to the necessity of using each individual's name in all their transactions; suits must be brought in all their names; deeds must be taken and given in like manner; each one in his private estate is liable for the default of the rest; the death of a member dissolves the partnership as to him; and for want of a political existence the union may be dissolved by any part of its members, and of course many obvious inconveniences must be suffered merely of an official kind. By the bill these difficulties are to be removed by conveying three qualities to them.

1st. Individuality, or constituting a number of citizens into one legal artificial body, capable by a fictitious name of exercising the rights of an individual.

2d. Irresponsibility in their individual capacity, not being answerable beyond the joint capital.

3d. Durability, or a political existence for a certain time, not to be affected by the natural death of its members.

These are the whole of the powers exercised, and the rights conveyed. It is true these are convenient and advantageous to the company, but of trifling importance when considered as a right of power exercised by a National Legislature for the benefit of the Government. Can it be of any importance to the State whether a number of its citizens are considered, in legal contemplation, as united in an individual capacity, or separately as so many individuals, especially if the public weal is thereby promoted? By their irresponsibility being known, every person dealing with them gives his tacit consent to the principle, and it becomes part of the contract. And by political duration their powers and abilities are limited, and their rights restricted, so as to prevent any danger that might arise from the exercise of their joint natural right, not only as to the amount of their capital, but as to the by-laws they may make for their government.

A private bank could make contracts with the Government, and the Government with them, to all intents and purposes, as great and important as a public bank, would their capital admit of it; though they would not possess such qualities as to justify the confidence of Government, by depending on them in a time of danger and necessity. This might put it in the power of any individuals to injure the community in its essential interests by withdrawing the capital when most needed. To prevent this, and many other inconveniences, it is necessary that a bank for the purposes of Government should be a legally artificial body, possessing the three qualities above mentioned.

Mr. B. then took up the constitution, to see if this simple power was not fairly to be drawn by necessary implication from those vested by this instrument in the legislative authority of the United States. It sets out in the preamble with declaring the general purposes for which it was formed: "The insurance of domestic tranquillity, provision for the common defence, and promotion of the general welfare." These are the prominent features of this instrument, and are confirmed and enlarged by the specific grants in the body of it, where the principles on which the Legislature should rest after their proceedings are more fully laid down, and the division of power to be exercised by the general and particular Governments distinctly marked out. By the 8th section, Congress has power "to levy taxes, pay debts, provide for the common defence and general welfare, declare war, raise and support armies, provide for and maintain a navy;" and as the means to accomplish these important ends, "to borrow money," and finally, "to make all laws necessary and proper for carrying into execution the foregoing powers." Let us, then, inquire, is the constituting a public bank necessary to these important and essential ends of Government? If so, the right to exercise the power must be in the supreme Legislature.

He argued that the power was not contained in express words, but that it was necessarily deduced by the strongest and most decisive implication, because he contended that it was a necessary means to attain a necessary end. Necessary implication had led Congress under the power to lay and collect impost and taxes, to establish officers for the collection, to inflict penalties against those who should defraud the revenue, to oblige vessels to enter at one port and deliver in another; subjected them to various ceremonies in their proceedings, for which the owners were made to pay; and he conceived that it was not so great an exertion of power by implication to incorporate a company for the purpose of a bank. He also deduced the right from the power of paying debts, raising armies, providing for the general welfare and common defence, for which they were to borrow money. All these necessarily include the right of using every proper and necessary means to accomplish these necessary ends. It is certain, he said, that money must be raised from the people. This could not be done in sums sufficient for the exigencies of Government in a country where the precious metals were as scarce as in this. The people in general are poor when compared with European nations; they have a wilderness to subdue and cultivate; taxes must be laid with prudence, and collected with discretion; the anticipation of the revenues, therefore, by borrowing money, becomes absolutely necessary. If so, then as the constitution had not specified the manner of borrowing, or from whom the loan was to be obtained, the supreme Legislature of the Union were at liberty, it was their duty, to fix on the best mode of effecting the purposes of their appointment. For it was a sound principle, that when a general power is granted, and the means are not specified, they are left to the discretion of those in whom the trust is reposed, provided they do not adopt means expressly forbidden. The public defence, or general welfare, resting on the annual supplies from uncertain revenues, would expose the very existence of the community. It is the duty of those to whom the people have committed this power to prepare in time of peace for the necessary defence in a time of war. The United States are now happily in a state of peace; but it was impossible for any one to say how long it would continue. By prudent management it might be long preserved; but this prudence consisted in being always found in a state of preparation to defend our country.

The constitution contemplates this very duty by authorizing Congress to provide for the common defence by borrowing money. Why borrow money? Are not the annual revenues sufficient? It might be so, if nothing was to be attended to but internal wants; but the common defence and general welfare loudly call for that provision which will produce a constant guard on external enemies and internal insurrections. To this necessary end it becomes Congress to provide that the necessary means may be always at hand, by being able to arm their citizens and provide their support while engaged in the defence of their common country. This can be done only by borrowing money, which is usually of citizens or foreigners; if of the first, it must be from individuals or from private banks: will it be prudent to trust to either? Loans from individuals were attempted during the war, when patriotism produced a will in some lenders, and others were glad to get rid of a depreciating paper currency almost on any terms whatever.

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But even these loans, arising from this paper medium with which the market was glutted, were altogether insufficient; and by one change of circumstances every hope was precluded of being any way successful in procuring money from that source. The circumstances of individuals, too, in this country are such, when compared with the wants of a nation, as to render the source too vague and uncertain to rely upon; and it would be a most improvident execution of the powers granted for the express purpose of the common defence and general welfare. Private banks are almost as inadequate to the object, and for reasons already given, were neither to be depended on for will or capital as to the supply for the principal wants of Government. They are generally established for commercial purposes, and on capitals not always sufficient for them. If they should be prevailed upon at any time to attempt to supply the demands of a nation at war, it must be from a general combination of their whole stocks, to the destruction of the original designs of their several institutions. This ought not to be expected; for as far as it goes to the depression of the mercantile interests, so far it is injurious to the Government; besides, a dependence upon such a combination would be impolitic, both from its slowness and uncertainty. The votes of a few individuals affected by local, selfish, or adverse politics, might endanger the whole people. Such a dependence ought not to be attributed to the wise framers of the constitution, neither does the language warrant it. But foreign loans have been mentioned, as a proper source for this purpose. The imprudence of placing the common defence of a nation on the will of those who have no interest in its welfare is a good answer to this observation. Would it be prudent to trust a foreigner, perhaps a rival, if not an enemy, with your supply of what has emphatically been called the sinews of war? Would it not expose us to exorbitant demands, and often a refusal? Many

adventitious circumstances of a war, increasing demands from all quarters, scarcity of coin, and difficulty of communication, as well as the intrigues of courts, all loudly oppose the measure, as contrary to the spirit and meaning of a provision for the common defence and general welfare. The only resort then, he conceived, was by a timely provision to secure institutions at home from which loans might be obtained at all times on moderate terms, and to such amount as the necessity of the State might require. But gentlemen say that the constitution does not expressly warrant the establishment of such a corporation. If by *expressly*, express words are meant, it is agreed that there are no express words; and this is the case with most of the powers exercised by Congress; for if the doctrine of necessary implication is rejected, he did not see what the supreme Legislature of the Union could do in that character. If this power is not clearly given in the constitution by necessary implication, then is a necessary end proposed and directed, while the common and usual necessary means to attain that end are refused, or at least not granted.

Mr. B. was firmly of opinion that a National Bank was the necessary means, without which the end could not be obtained. Theory proved it so in his opinion, and the experience of the Union in a day of distress had fully confirmed the theory. The struggles of the friends of freedom during the late contest had nearly been rendered abortive for want of this aid. That danger which was then so hardly avoided became a solemn memento to this House to provide against a similar case of necessity. This was the time to do it with advantage, being in such profound peace. He had not heard any argument by which it was proved that individuals, private banks, or foreigners, could with safety and propriety be depended on as the efficient and necessary means for so important a purpose. Although money was at present plentiful in Europe, and might be borrowed on easy terms, it might not be so to-morrow, in case a war should break out, and our necessities become pressing. He again enumerated the harmless qualities with which it was proposed to vest the bank corporation, by the bill on the table, for the important purposes of the common defence and general welfare. Gentlemen had not yet pointed out any danger arising to the community, neither did he think it possible that any could ever be mentioned equal to those of suffering the Government to depend on individuals or private banks for loans in a day of distress.

But it was said that this bill gave the corporation a right to hold real property in a State, which Congress had no power to do. The terms of the bill are misapprehended; this is a right which has been already shown, attaches to the citizens individually, or in their associated capacity; the bill, therefore, does no more than to vest a number with an artificial single capacity under a fictitious name, and by that name to hold lands, make by-laws, &c.; all which they might have done before as citizens in a collective capacity. So far from giving a new power, their original individual rights are limited for the public safety as to the amount of their stock and the duration of their existence.

Mr. B. then proceeded to cite numerous instances of powers exercised by Congress during the last two years, deduced under the constitution by necessary implication, to show the utter impossibility of carrying any one provision of that authority into execution for the benefit of the people without this reasonable latitude of construction. He also adverted to some instances of the like conduct under the former Confederation. It had been urged that the new Congress had no rights or powers but what had been vested in and given to them by the individual States, and therefore they could not accept a cession from Great Britain by the treaty of peace of the lands extending to the Lake of the Woods, because not before included in any individual State. Every member was soon convinced of the absurdity of the argument, and by a necessary implication established the power of the Confederated Legislature. During the war the Commander-in-chief gave a passport to a British officer to transmit clothing to the British prisoners at Lancaster. He accordingly conveyed a very large quantity of British goods into Pennsylvania for that purpose; which being directly against an express law of that State, they were seized and condemned by the proper magistrate. On a complaint to the Legislature of the State, they referred the same to their Judicial officers, upon whose report (that Congress being vested with the power of declaring war, the right of giving safe passports to an enemy was necessarily implied, which, therefore, was duly exercised by their Commander-in-chief, though no express power was given to him for that purpose) the Legislature declared their law directing the condemnation of the goods void *ab initio*, and the judgment of condemnation had no effect.

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This was also the rule that governed this House with regard to the removability of officers by the President, and the authority given to a Council to legislate for the Western Territory. In fine, he concluded, that it was universally understood that whenever a general power was given, especially to a supreme Legislature, every necessary means to carry it into execution were necessarily included. This was the common sense of mankind, without which it would require a multitude of volumes to contain the original powers of an increasing Government that must necessarily be changing its relative situation every year or two.

If power was given to raise an army, the making provision for all the necessary supplies and incidental charges was included. If a navy was to be formed, the manning and supplying the warlike stores are necessarily included. If a power is given to borrow money, a right to mortgage or pledge the public property to secure the repayment is understood to be vested in the borrower. Take up the present statute book, and every page will afford evidence of this doctrine. Examine the law with regard to crimes and punishments; under the power of establishing courts, we have implied the power of punishing the stealing and falsifying the records, and ascertained the punishment of perjury, bribery, and extortion. Under the power of regulating trade, we have accepted cessions of real estate, and built light-houses, piers, &c. All this is under the doctrine of necessary implication for the public good; and in cases not so strong as the present, and on the exercise of which no gentleman thought proper to start this objection.

This construction appears so natural and necessary, that the good sense of every gentleman on the floor has hitherto led him to proceed on this principle ever since we began to legislate; what principle of the constitution does it destroy? It gives nothing that can affect the rights of any State or citizen. Indeed, it has been said that it is exercising a high act of power; he thought it had been shown to be rather of the inferior kind; but allow the position, and who so proper as the Legislature of the whole Union to exercise such a power for the general welfare? It has also been said that this power is a mere conveniency for the purpose of fiscal transactions, but not necessary to attain the ends proposed in the constitution. This is denied, and at best is mere matter of opinion, and must be left to the discretion of the Legislature to determine.

Mr. B. said, he should now conclude what he had to say, had not an honorable gentleman (Mr. JACKSON) brought forward the observations of the author of the *Federalist*, vol. 2, p. 72, 73, 74, to show a different contemporaneous exposition of the constitution, and charged the author, who he alleged was said to be also the author of the present plan before the House, with a change of sentiment. As this gentleman is not here to speak for himself, he ought to have the next best chance by having what he then wrote candidly attended to, especially as gentlemen allow him to be a good authority. Mr. B. read only part of the 73d page referred to by Mr. JACKSON, in these words: "Had the Convention attempted a positive enumeration of the powers necessary and proper for carrying their other powers into effect, the attempt would have involved a complete digest of laws on every subject to which the constitution relates; accommodated, too, not only to the existing state of things, but to all the possible changes which futurity may produce; for in every new application of a general power, the particular powers which are the means of attaining the general power must always necessarily vary with that object, and be often properly varied whilst the object remains the same." How these sentiments can be said to be a different contemporaneous exposition must be left to the House to determine.

Mr. B. then begged the indulgence of the House to hear the same gentlemen when arguing expressly on that part of the constitution now under consideration; and then read pp. 144, 145, and 146, of the 1st vol. of the *Federalist*, which are too long to be inserted. He declared that, in his opinion, it was impracticable to put together language in the same length that could more forcibly and pointedly elucidate and prove the construction contended for in support of the bill on the table. There remained yet but two objections, to answer which Mr. B. would detain the House a little longer.

The gentleman from Georgia (Mr. JACKSON) had charged the measure with establishing the commercial interests, to the great injury of the agricultural. If this was true he never would agree to it, for he considered the agricultural interests of America as its great and sure dependence. Mr. B. confessed that so far from seeing these measures in this point of light, he could not bring his mind to comprehend how the commercial interests of a country could be promoted without greatly advancing the interests of agriculture. Will the farmer have any temptation to labor, if the surplus of what he raises beyond his domestic consumption is to perish in his barn for want of a market? Can a market be obtained without the merchant? If commerce flourishes, the merchants increase, and of course the demand for the produce of the land; but if the mercantile interests fail, there is none to export the surplus produced by agriculture. If the farmer should undertake to export his own produce, he could not give his whole attention to his affairs; or, if the merchant should attempt to raise the grain he wanted, he could not carry on his merchandise. The one interest depends on the other; a separation destroys both.

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But the incapacity of the Bank to extend its influence to the extremes of the Union has been argued from the gentleman never having seen a note of the present Bank of North America in Georgia; he therefore concludes that bank has never been of any service to her agricultural interests. Mr. B. said that he drew very different conclusions from this fact. He supposed that by means of the bank the traders with Georgia had been enabled to send her the precious metals, while the bank paper had answered their purposes nearer home, where it circulated with undoubted credit. He instanced a case of a Philadelphia merchant, who was possessed of £100 in gold, and £100 credit at the bank; the merchant wanted £100 worth of rice of a Georgia planter, and the like value in flour of a Pennsylvania farmer. When he purchased the one of the Georgian, he could safely pay him the whole in gold, while he found the Pennsylvanian would as readily receive the bank paper for his flour; but had there been no bank, he could have purchased but £50 worth of each, and the Georgia and Pennsylvanian both would have gone without a market for the residue. In short, the whole Union may be likened to the body and limbs; you cannot aid or comfort one but the other must be likewise benefited.

He said it was, however, difficult and impracticable to show that every measure adopted by the Government should have an effect perfectly equal over so extensive a country as that of the United States; it was sufficient if, upon the whole, the measures of Government, taken all together, produced the desired equality.

The last objection was, that by adopting this bill we exposed the measure to be considered and defeated by the Judiciary of the United States, who might adjudge it to be contrary to the constitution, and therefore void; and not lend their aid to carry it into execution. This, he alleged, gave him no uneasiness. He was so far from controverting this right in the Judiciary, that it was his boast and his confidence. It led him to greater decision on all subjects of a constitutional nature, when he reflected that if, from inattention, want of precision, or any other defect, he should do wrong, that there was a power in the Government which could constitutionally prevent the operation of such a wrong measure from affecting his constituents. He was legislating for a nation, and for thousands unborn; and it was the glory of the constitution that there was a remedy even for the failures of the supreme Legislature itself.

Upon the whole, then, he said, that on taking the power in question in every point of view, and giving the constitution the fullest consideration, under the advantage of having the objections placed in the strongest point of light by the great abilities of the gentlemen in the opposition, he was clearly in favor of the bill; as to its expediency, there could be little doubt in the minds of any gentleman; and unless more conclusive arguments could be adduced to show its unconstitutionality, he should in the end vote for passing the bill.

SATURDAY, February 5.

Bank of the United States.

The House resumed the consideration of the bill for incorporating the Bank of the United States.

The question being on the passage of the bill,

Mr. SMITH observed, that he considered it his duty to offer the reasons which should influence him in giving his vote on this occasion. He had wished amendments to the bill, as some parts of it, he confessed, did not perfectly please him; but his wishes having been overruled, the question now is, whether the bill shall pass? Though he came southward of the Potomac, the principle of the bill met his approbation. It would be a deplorable thing if this Government should enact a law subversive of the constitution, or that so enlightened a body as the Senate of the United States should, by so great a majority as were in favor of this bill, pass a law so hostile to the liberties of this country, as the opposition to this measure have suggested the bank system to be; and it would be very extraordinary if an officer of this Government who has produced a performance explanatory of the constitution, of such celebrity as to be resorted to as an authority, should be so inconsistent with himself as to propose a law entirely subversive of the principles laid down in his able defence of the constitution.

He then adverted to the objection drawn from that article of the constitution, that no preference shall be given to one port over another. He showed that the clause was inserted for a particular purpose, and could not be cited as a rule not to be deviated from, as a preference was and must necessarily be given to one port over another. He produced numerous instances in point. In consequence of various clauses in the revenue laws, general regulations sometimes operate partially, and commercial arrangements, apparently unequal, produce the good of the community at large.

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In reference to construing the constitution, he observed, that the present moment, when the powers of the Government were assailed from various quarters, he conceived the most improper to contract these powers.

The right to construe the constitution he argued from the principles advanced by Mr. MADISON, in the debate on the power of removability, and read sundry observations from *Lloyd's Register*, made by that gentleman, corroborative of this sentiment. Those arguments, he conceived, applied very aptly to the present subject.

Matters of a fiscal nature necessarily devolve on the General Government, and he urged that every power resulting from the acknowledged right of Congress to control the finances of this country must be as necessarily implied as in the case of the power of removability.

He then alluded to the expediency of a National Bank. The Secretary gave notice, in his first report, that this plan was in contemplation. Nothing was ever read with greater avidity; and though it is now more than a year since this intimation was given, yet no objections have been offered against it either by the States or by individuals—even the State of North Carolina has not mentioned it. [Here Mr. BLOODWORTH (if the reporter did not misunderstand) informed Mr. SMITH that the report had not been seen by the Legislature of North Carolina.] Mr. SMITH said he was sorry for it—and then proceeded to notice some partial quotations, made by Mr. JACKSON, from *Dr. Smith's Wealth of Nations*, against bank systems. He said, he could have wished the gentleman had been more copious in his quotations from that author; if he had, he would have found that that author has fully demonstrated their utility.

He noticed the divisions of opinions on the subject of a National Bank in the city of Philadelphia. He supposed ideas of personal advantages induced these opposing sentiments. He, however, thought this subject should be taken up altogether on general principles; and even if its immediate influence should not extend to the extremes of the Union, if the establishment promises a general preponderating advantage, local considerations must be considered in a secondary point of view. The principal inquiry is, will the institution facilitate the management of the finances? This, he thought, had been made apparent. This is the opinion of the Secretary of the Treasury, after due and mature consideration of the subject; and he certainly enjoys the best means of forming an opinion; he is at the head of the Fiscal Department, and deservedly enjoys the public confidence. Very little has been offered to disprove his sentiments on this part of the question, and the inexpediency of the measure should be clearly proved before the plan is rejected; for an officer who deservedly enjoys the public confidence is entitled to the support of the Legislature in those plans which are expedient and constitutional.

Mr. S. mentioned instances in which Congress exercised power by implication, and observed, that this was necessary to the execution of the duties which devolve on the Government by the constitution. The power to establish a National Bank must reside in Congress, for no individual State can exercise any such power. The right of no particular State is therefore infringed by the institution. It had repeatedly been said, that Philadelphia would derive peculiar advantages from

the Bank of the United States, but, he said, if the present plan should fail, it was a question whether the stockholders of the Bank of North America would not derive greater advantages from the necessity which, in that case, Government would be under of resorting to them for loans. The institution, as before observed, is founded on general principles, and will undoubtedly, in its operations, prove of general utility.

Mr. STONE said, if, upon questions like the present, he had given pain to members he regarded, they might be assured the pain was reciprocal. Let us cherish mutual toleration. We might conceive that each pursued the system which he advocated from the purest motives. We differ in our ideas of Government, and our sense of the sacredness of the written compact. We varied widely in our opinions of the direction of this Government. The great lesson of experiment would show who is right; but we are influenced in our habits of thinking by our local situations, and, perhaps, the distinct interests of the States we represent. He observed, that upon the present occasion, the opinions respecting the constitution seem to be divided by a geographical line, dividing the continent. Hence it might be inferred, that other considerations mixed with the question; and it had been insinuated that it was warped by the future seat of Government. But other causes may be assigned for the diversity of sentiment—the people to the eastward began earliest in favor of liberty. They pursued freedom into anarchy—starting at the precipice of confusion, they are now vibrating far the other way. He said, that all our taxes are paid by the consumers of manufactures; those taxes are all bounties upon home manufactures. The people to the eastward are the manufacturers of this country; it was no wonder that they should endeavor to strengthen the hands of a Government by which they are so peculiarly benefited.

It is a fact that the greatest part of the Continental debt has travelled eastward of the Potomac. This law is to raise the value of the Continental paper. Here, then, is the strong impulse of immediate interest in favor of the Bank. He took notice of the distinction made by the plan of the bill, between Continental and State paper. The State paper, on account of partial payments of interest, still remained in the respective States. But this could not, by the present system, be subscribed; so that the Southern States were deprived of the advantage that might have been given to the only paper they have. But if gentlemen charge us with defending the seat of Government, let them remember that this betrays consciousness of an attack. If they believe that this scheme tends to break the faith of the Union pledged to the Potomac, it is no wonder they suppose we oppose it upon that ground. He would not have mentioned this subject, had it not been hinted at. But let the whole of it come forth; let gentlemen consult their own bosoms; let the public decide the truth of his observations. He hoped he should not be suspected of any bias. That so uniform had been his conduct upon all questions, turning upon principles similar to the present, that every member in the House, he believed, had conjectured rightly of the side he would take, before he had uttered a word upon the subject. When implication first raised its head in this House, he started from it as a serpent which was to sting and poison the constitution. He felt in unison with his country. The fears, the opinions, the jealousies of individuals and of States, had been explained by a gentleman from Virginia, (Mr. MADISON.) He should only remark, that all those who opposed the Government dreaded this doctrine; those who advocated it, declared that it could not be resorted to; and all combined in opinion that it ought not to be tolerated. Never did any country more completely unite in any sentiment than America in this, "that Congress ought not to exercise, by implication, powers not granted by the constitution." And is it not strange? For the admission of this doctrine destroys the principle of our Government at a blow; it at once breaks down every barrier which the Federal constitution had raised against unlimited legislation. He said, that necessity was the most plausible pretext for breaking the spirit of the social compact, but the people of this country have anticipated that pretext. They have said to the Ministers of this country, "we have given you what we think competent powers, but if experience proves them inadequate, we will enlarge them; but, in the mean time, dare not usurp those which we have reserved."

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It is agreed on all hands, that the power to incorporate the subscribers to a banking company, is not expressly granted, and although gentlemen have agreed that it is implied—that it is an incident, that it is a means for effectuating powers expressly granted, yet they are not agreed as to the particular power to which this is an incident. They admit, that the sweeping clause in the constitution confers no additional power. But if he understood the gentlemen, several of them were of opinion that all governments, instituted for certain ends, draw to them the means of execution as of common right. This doctrine would make ours but a short constitution. [Here he read the preamble and then said:] Here is your constitution! Here is your bill of rights! Do these gentlemen require any thing more respecting the powers of Congress, than a description of the ends of government? And if, of right, they can carry these into effect, will they regard the means, though they be expressly pointed out? But I would ask if there is any power under heaven which could not be exercised within the extensive limits of this preamble?

The Convention might have stopped here; and there was no need, according to the doctrine of the gentleman, to point out any of the means for the ends mentioned in the preamble. That portion of the constitution which by all America has been thought so important, according to their logic, would become a dead letter; but the preamble, in fair construction, is a solemn compact, that the powers granted shall be made use of to the ends thereby specified.

He then reprobated, in pointed terms, the latitude of the principles premised. He said the end of all government is the public good; and if the means were left to legislation, all written compacts were nugatory. He observed, that the sober discretion of the Legislature, which, in the opinions of gentlemen, ought to be paramount, was the very thing intended to be curbed and restrained by our constitution.

He then declared, that our form of government not only pointed out the ends of government, but specified the means of execution. He said, we may make war—this would draw to it the power of raising an army and navy, laying taxes, establishing a judiciary, &c. But the spirit of the constitution, in this respect, had been well explained by Mr. MADISON, and he should not recapitulate.

He said, a gentleman from South Carolina (Mr. SMITH) had remarked that all our laws proceeded upon the principle of expediency—that we were the judges of that expediency—as soon as we gave it as our opinion that a thing was expedient, it became constitutional. What then remains of your constitution, except its mode of organization? We may look into it to refresh our memories respecting the times, places, and manner of composing the Government; that, as to the powers of Congress, were he of that gentleman's opinion, he would never look into it again. Gentlemen see the difficulties of their theories, and are obliged to confess that these incidental powers are not easily defined. They rest in the sober discretion of the Legislature.

One gentleman (Mr. AMES) has said, no implication ought to be made against the law of nature, against rights acquired, or against power pre-occupied by the States; that it is easier to restrain than to give competent powers of execution. Now these notions are hostile to the main principle of our Government, which is only a grant of particular portions of power, implying a negative to all others. It has been shown that the ends of government will include every thing. If gentlemen are allowed to range in their sober discretion for the means, it is plain that they have no limits. By the cabalistic word *incident*, your constitution is turned upside down, and instead of being a grant of particular powers, guarded by an implied negative to all others, it is made to imply all powers. But, strange to tell, America forgot to guard it by express negative provisions. Is there any difference in effect between lodging general powers in a government, and permitting the exercise of them by subtle constructions? He said there was a difference. In the one case the people fairly gave up their liberty, and stood prepared; in the other, they were unexpectedly tricked out of their constitution.

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The preceding remarks showed how dangerous is the doctrine of implication, and upon what small data ingenuity can raise the most dangerous superstructure. He should now take a view of these precedents, in the former and present Congress, which are relied on to justify the present measure.

1st. The Bank of North America. Here he stated the distressful and critical situation of America at the period of its establishment; he remarked, that it was at the time of the declension of the Continental money. He showed that there were no powers in the Confederation to which (even according to the reasoning of the other side) this power could be incidental, but what required the vote of nine States; that the ordinance passed by a vote of seven States, which showed that necessity alone gave birth to that measure. He showed the dissimilarity of the situations of the former and this Congress, and the difference in their powers, and, consequently, in the dangers to be apprehended from the encroachment of either.

2d. The redemption of our prisoners at Algiers. This comes within the power to regulate trade. If, said he, we are not capable of redeeming, by the best means in our power, our citizens, our trade may be entirely ruined; and hence, the law which would be made for their redemption would be necessary and proper. But, by the constitution, the Executive may make treaties; these may be general, or for a particular object, and the Legislature may effectuate them by grants of money.

3d. We have bought certificates, and not destroyed them. This, they say, is implied from the power of paying the debts.

He asked if, before the purchase, the certificates were debts due from the United States? And demanded, if, by the purchase, they were divested of that quality? In my judgment, when a debt is fairly cancelled, it is as much like a payment as need be.

4th. We had no right, except by implication, to give a salary to the Vice President. He had voted against the salary, and had been for a *per diem* allowance, because he thought the Vice President was viewed by the constitution only as the President of the Senate. But this example fails most palpably, as Congress, in the compensations, are not confined by the constitution either to a particular sum or mode of payment.

5th. Congress have made corporations, and exercised complete legislation in the Western Territory. He said, to answer this case, nothing more was necessary than to read the clause in the constitution which gives to Congress expressly the power to make all the rules and regulations for them.

It seemed to him as if gentlemen were inverting the order of things, by making powers where there were none, and attempting to prove express grants to the implications.

6th. Our regulations respecting freighters and owners, and between captains and seamen. He had not those regulations correctly in his memory, but he believed them proper and necessary regulations of commerce.

7th. It has been said we have exclusive jurisdiction in places belonging to Congress, and within the ten miles square. We could erect a bank in any of those places; its influence would extend over the continent; the principle upon which we founded this power could not be confined to a particular time or a spot of land. Gentlemen ridicule the idea that the exercise of a pervading influence and a general principle should be limited by any particular number of years, or be confined within a fort. He said, the power of exclusive legislation in those places was expressly granted, and, under its influence, the Congress might exercise complete and exclusive legislation

within those limits; that the power was confined to the places. But if the general powers of this constitution are to be governed by the same rules of construction, and we are to have no regard to place, it follows that Congress can exercise exclusive legislation over this continent. He was astonished at this doctrine. It would be equally reasonable to say, that France, because within the limits of her own dominions, and over her own property, she exercised exclusive legislation, that hence she had a right to legislate for the world.

8th. The power of removal of officers by the President alone. He said, it was known he had opposed that doctrine. He left it to be defended by those who had voted for it. But he hoped Mr. Smith, of South Carolina, and some other gentlemen, who had opposed it, would review the arguments they had used upon that occasion.

He observed, after taking a view of these precedents on the danger of laying down improper principles in legislation, how eagerly men grasped at the slightest pretexts for exercise of power. He shuddered to think what a broad and commanding position this Bank will form for further encroachments.

A gentleman from Massachusetts (Mr. SEDGWICK) has said, that whenever a power is granted, all the known and usual means of execution are always implied. The idea had been properly examined by Mr. GILES, but he would ask, if incorporating the subscribers to a bank was the known and usual means of borrowing money, especially when the subscribers were not obliged to loan; or of collecting taxes, when no taxes were levied on the bank.

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But gentlemen tell us, that if we tie up the constitution too tightly, it will break; if we hamper it, we cannot stir; if we do not admit the doctrine, we cannot legislate at all. And with a kind of triumph, they say that implication is recognized by the constitution itself in the clause wherein we have power to make all laws, to carry, &c. He said, he was ready to meet the gentlemen upon this ground. This clause was intended to defeat those loose and proud principles of legislation which had been contended for. It was meant to reduce legislation to some rule. In fine, it confined the Legislature to those means that were necessary and proper.

He said, it would not be pretended that it was necessary and proper for the collection of taxes. Indeed, one gentleman (Mr. AMES) had attempted to show that the payments in specie could not be made, if by chance a great quantity of debt suddenly accumulated in a particular place. But it might be remembered, that this necessity, if it arrived, was created by the Legislature, and that would be strange reasoning which broke a good constitution to mend a bad law. No taxes are to be collected by this bill.

It would not be necessary and proper as a means of borrowing money, because, first, we do not want to borrow money, and, if we did, this law, though it may be the probable, is not the necessary mean; for if it was the interest of the stockholders, they might, and he believed would, refuse to loan. He said, that the institution might be defended upon more plausible grounds, if the Bank had been taxed; or if a condition to loan money to the public had been part of the plan. Upon what ground, then, do gentlemen stand? They can only say, that they have implied a great and substantive power in Congress, which gives to Government, or to individuals, the influence of fifteen millions of dollars, irrevocably, for twenty years, with a power of making by-laws, &c., because there is a probability that this institution may be convenient and agreeable in the operations of Government. He asked, upon parallel principles, what might Congress not do? He said, that the gentleman from Virginia, (Mr. MADISON,) pursuing the doctrine into all the forms in which it might appear, had struck upon several cases which were very pointed—an incorporation of manufacturers with exclusive privileges; merchants with the same; a national religion. This a gentleman (Mr. AMES) has said was unfair and extravagant reasoning; and yet, in five minutes, the gentleman's own reasoning led him to ask, with warmth, if Congress could not join stocks with a company to trade to Nootka? And he condescended to doubt, if the privileges given to such a company might not be exclusive. He saw clearly, himself, that his theory led to the latter conclusion; for if expediency, if convenience, if facility, if fears of war, if preparations for events which might never happen, can justify an incorporation upon the present plan, the same suggestions, the same logic, will legalize incorporations with exclusive privileges. The deductions of the gentleman from Virginia are sound and right, and cannot be fairly controverted. Congress may then do any thing. Nay, if the principles now advocated are right, it is the duty of the Legislature of the Union to make all laws; not only those that are necessary and proper to carry the powers of the Government into effect, but all laws which are convenient, expedient, and beneficial to the United States. Then where is your constitution! Are we not now sitting, in our sober discretion, a General Government, without the semblance of restraint? Yes, said he, we have still a constitution, but where is it to be found? Is it written? No. Is it among the archives? No. Where is it? It is found in the sober discretion of the Legislature—it is registered in the brains of the majority!

He proceeded. I say there is no necessity, there is no occasion, for this Bank. The States will institute banks which will answer every purpose. But a distrust of the States is shown in every movement of Congress—will not this implant distrust also in the States? Will you gain by this contest? This scheme may give, and I am convinced will give, partial advantages to the States. In the fair administration of our Government, no partial advantages can be given; but, by this bill, a few stockholders may institute banks in particular States, to their aggrandizement and the oppression of others. This Bank will swallow up the State banks; it will raise in this country a moneyed interest at the devotion of Government; it may bribe both States and individuals. He said, gentlemen asked who would be offended or hurt by this plan? Have we heard any complaints against it? Have the newspapers reprobated it? These questions had no influence on his mind. He said it was one of those sly and subtle movements which marched silently to its

object; the vices of it were at first not palpable or obvious; but when the people saw a distinction of banks created—when they viewed with astonishment the train of wealth which followed individuals, whose sudden exaltation surprised even the possessors—they would inquire how all this came about? They will then examine into the powers by which these phenomena have arisen, and they will find—they will reprobate the falsehood of the theories of the present day.

He said, that gentlemen had told us of the sudden irruptions of enemies. When those necessities arrive, it is time enough to make use of them to break your constitution. But, gentlemen say, upon emergencies the Bank will loan money. We differ in opinion. I think when we want it most, the Bank will be most unable and unwilling to lend. If we are in prosperity, we can borrow money almost any where; but in adversity, stockholders will avoid us with as much caution as any other capitalists.

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But a gentleman (Mr. AMES) tells us not to be alarmed, the Bank will not eat up liberty—he said he was not afraid. He was not under any apprehensions that all the little influence that Congress possessed would destroy the great spirit of American liberty. The body of the people would laugh at and ridicule any attempt to enslave them; but a conduct which had that tendency might arouse alarming passions. He said, there existed at this moment ill-blood in the United States, which to quiet he would readily agree to enter into a foreign war. America with us, we might defy the world. There was but one people he was afraid of offending. This was America. He was not afraid of foreign enemies, but the resentment of our own country is always a subject of serious apprehension. He observed, that there were other parts of this important and diffusive subject which he might have touched, but he had fatigued himself and the House.

Mr. SMITH (of South Carolina) said, as he had been greatly misunderstood by the gentleman last up, he wished to explain the position he had laid down. He had never been so absurd as to contend, as the gentleman had stated, that whatever the Legislature thought expedient, was therefore constitutional. He had only argued that in cases where the question was, whether a law was necessary and proper to carry a given power into effect, the members of the Legislature had no other guide but their own judgment, from which alone they were to determine whether the measure proposed was necessary and proper to carry the powers vested in Congress into full effect. If, in such cases, it appeared to them, on solemn deliberation, that the measure was not prohibited by any part of the constitution, was not a violation of the rights of any State or individual, and was peculiarly necessary and proper to carry into operation certain essential powers of the Government, it was then not only justifiable on the part of Congress, but it was even their duty to adopt such measure. That, nevertheless, it was still within the province of the Judiciary to annul the law, if it should be by them deemed not to result by fair construction from the powers vested by the constitution.

MONDAY, February 7.

Bank of the United States.

The House resumed the consideration of the bill for incorporating the Bank of the United States.

The question being on the passage of the bill,

Mr. GILES.—In the course of discussing the present important question, it has been several times insinuated that local motives, and not a candid and patriotic investigation of the subject upon its merits, have given rise to that difference of opinion which has been heretofore manifested in this House. I shall not examine the truth of this observation, but merely remark, that the causes which may have produced the arguments against the proposed measure, whatever they may be, can neither add to, nor take from, their merit or influence, and, of course, the insinuations might have been spared without injury to the subject; but so far as the observation may have been intended to apply to myself, I can truly say, that if a bias were to influence my conduct, it would rather direct it to favor, than to oppose the proposed measure. This bias would arise from two causes: the one from the respect which I entertain for the judgments of the majority who advocate the measure; the other of a more serious nature. I have observed with regret a radical difference of opinion between gentlemen from the Eastern and Southern States, upon the great Governmental questions, and have been led to conclude, that the operation of that cause alone might cast ominous conjecture on the promised success of this much valued Government. Mutual concessions appear to be necessary to obviate this effect, and I have always been pleased in manifesting my disposition to make advances; but from the most careful view of the arguments in favor of the proposed measure considered under this impression, they do not seem to me sufficient to establish the propriety of its adoption, and I am therefore impelled, by the joint influence of duty and opinion, to be one in the opposition.

A gentleman from Massachusetts (Mr. AMES) prefaced his observations with this remark, that it is easier to point out defects and raise objections to any proposed system, than to defend it from objections, and prove its affirmative propriety, and warned the House against the effects of arguments of this nature, urged in opposition to the measures now under consideration. I agree with the gentleman in this idea in general, but we should reflect that in the present case the address of the arguments in favor of the measure is made to one of the strongest affections of the human mind, the love of dominion; and hence we may justly conclude, that they will be received and relished with their full and unabated influence. This reflection appears to me to be at least a counterpoise to that remark.

The advocates of this bill have been called on, and I conceive with propriety, to show its

constitutionality and expediency, both of which have been doubted by those of the opposition. In support of the first position, a multitude of arguments have been adduced, all of which may be reducible to the following heads; such as are drawn from the constitution itself; from the incidentality of this authority to the mere creation and existence of government; from the expediency of the measure itself; and from precedents of Congress; to which may be added a similar exercise of authority by Congress, under the former Confederation.

Observations arising from the constitution itself, were of two kinds. The right of exercising this authority is either expressed in the constitution, or deducible from it by necessary implication. One gentleman only, from Massachusetts, (Mr. SEDGWICK,) has ventured to assert, that, discarding the doctrine of implication, he could show that the right to exercise the authority contended for was expressly contained in the constitution. This, I presume, must have been a mistake in language, because the difference between an express and an implied authority appears to me to consist in this—in the one case, the natural import of the words used in granting the authority would of themselves convey a complete idea to the mind of the authority granted, without the aid of argument or deduction; in the other, to convey a complete idea to the mind, the aid of argument and deduction is found necessary to the usual import of words used; and that gentleman proceeded with a labored argument to prove, that the authority was expressly granted, which would have been totally useless, if his assertion had been just.

[Mr. SEDGWICK rose to explain; he never conceived the authority granted by the express words of the constitution, but absolutely by necessary implication from different parts of it.]

I shall not contend as to the assertion, but shall proceed to consider the arguments in favor of the measure upon the doctrine of implication; which, indeed, are those only which deserve consideration.

In doing this, I shall consider the authority contended for to apply to that of granting charters to corporations in general, for I do not recollect any circumstance, and I believe none has been pretended, which could vary this case from the general exercise of that authority. To establish the affirmative of this proposition, arguments have been drawn from the several parts of the constitution; the context has been resorted to. "We, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity," &c. It has been remarked, that here the ends for which this Government was established are clearly pointed out; the means to produce the ends are left to the choice of the Legislature, and that the incorporation of a bank is one necessary mean to produce these general ends. It may be observed, in reply, that the context contemplates every general object of Government whatever; and if this reasoning were to be conclusive, every object of Government would be within the authority of Congress, and the detail of the constitution would have been wholly unnecessary, further than to designate the several branches of the Government which were to be intrusted with this unlimited, discretionary choice of means, to produce these specified ends. The same reasoning would apply as forcibly to every clause of the constitution, restraining the authority of Congress to the present case, or to any one in which the constitution is silent. The only candid construction arising from the context appears to me to be this; it is designed, and it is the known office of every member to point out the great objects proposed to be answered by the subsequent regulations of which the constitution is composed. These regulations contain the means by which these objects are presumed to be best answered. These means consist in a proper distribution of all Governmental rights between the Government of the United States and the several State governments, and in fixing limits to the exercise of all authorities granted to the Government of the United States. The context, therefore, gives no authority whatever, but only contemplates the ends for which certain authorities are subsequently given. Arguments drawn from this source appear to be ineffectual in themselves, and the reliance of gentlemen upon them indicates a suspicion and distrust of such as may be drawn from other parts of the constitution. The advocates of the bill have turned away from this context, and have applied to the body of the constitution in search of arguments. They have fixed upon the following clauses, to all or some one of which they assert the authority contended for is clearly incidental; the right to lay and collect taxes, &c., &c.; to provide for the common defence and general welfare, &c.; to borrow money, &c.; to regulate commerce with foreign nations, &c. The bill contemplates neither the laying nor collecting taxes, and, of course, it cannot be included in that clause; indeed, it is not pretended, by the bill itself, to be at all necessary to produce either of those ends; the furthest the idea is carried in the bill, is, that it will tend to give a facility to the collection.

The terms "common defence and general welfare" contain no grant of any specific authority, and can relate to such only as are particularly enumerated and specified. "To borrow money." Gentlemen have relied much upon this clause; their reasoning is, that a right to incorporate a bank is incidental to that of borrowing money, because it creates the ability to lend, which is necessary to effectuate the right to borrow. I am at a loss to discover one single relation between the right to borrow, and the right to create the ability to lend, which is necessary to exist between principal and incident. It appears to me that the incidental authority is paramount to the principal, for the right of creating the ability to lend is greater than that of borrowing from a previously existing ability. I should, therefore, rather conclude that the right to borrow, if there be a connection at all, would be incidental to the right to grant charters of incorporation, than the reverse of that proposition, which is the doctrine contended for by the advocates of the measure. The same reasoning which would establish a right to create the ability to lend, would apply more strongly to enforce the will after the ability is created; because the creator would

have a claim of gratitude at least upon the created ability, which if withheld, perhaps, with justice might be insisted on. "To regulate commerce with foreign nations." This is by no means a satisfactory ground for the assumption of this authority; for if it be deemed a commercial regulation, there is a clause in the constitution which would absolutely inhibit its exercise. I allude to that clause which provides that no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; and it seems to be admitted, that one principal effect to be produced by the operation of this measure will be to give a decided commercial preference to this port over every other in the United States.

Gentlemen finding it difficult to show that necessary relation and intimate connection between the authority contended for, and any one of the specified authorities before mentioned, which would be essential to the establishment of their doctrine, have referred to what has been generally called the sweeping clause, and have made deductions from the terms "necessary" and "proper;" they have observed that certain specified authorities being granted, all others necessary to their execution follow without any particular specification. This observation may in general be true, but its fallacy here consists in its application to this particular case. It cannot be applied until the exercise of this authority be proved to be necessarily connected with some one of the previously enumerated authorities, and here the argument, as well as the fact, fails.

The authority contended for seems to me to be a distinct substantive branch of legislation, and, perhaps, paramount to any one of the previously enumerated authorities, and should therefore not be usurped as an incidental subaltern authority.

I am confirmed in this opinion from the indistinct, confused conceptions of gentlemen who advocate the measure. They rely upon the incidentality of this authority to some one of those particularly specified, and yet have applied it as an incident to several distinct, unconnected subjects of legislation; and then, distrusting their own conclusions, or as if the inquiry would be too troublesome or minute, they leave this ground, and assert that it is incidental to the result of the whole combined specified authorities. Gentlemen must, therefore, view this right through different optics, at different times; or, what I rather believe to be the fact, they have no distinct view of it at all, the right having no existence.

A gentleman from Massachusetts, (Mr. SEDGWICK,) finding the usual import of the terms used in the constitution to be rather unfavorable to the doctrines advanced by him, has favored us with a new exposition of the word "necessary." He says that "necessary," as applicable to a mean to produce an end, should be construed so as to produce the greatest quantum of public utility. I have been taught to conceive that the true exposition of a necessary mean to produce a given end was that mean without which the end could not be produced.

The gentleman's reasoning, however, if pursued, will be found to teem with dangerous effects, and would justify the assumption of any given authority whatever. Terms are to be so construed as to produce the greatest degree of public utility. Congress are to be the judges of this degree of utility. This utility, when decided on, will be the ground of constitutionality. Hence any measure may be proved constitutional which Congress may judge to be useful. These deductions would suborn the constitution itself, and blot out the great distinguishing characteristic of the free constitutions of America, as compared with the despotic Governments of Europe, which consist in having the boundaries of governmental authority clearly marked out and ascertained.

The exclusive jurisdiction over ten miles square has been adverted to by one gentleman (Mr. AMES) as a specified authority, to which the one contended for is suggested to be incidental. He has reasoned in this manner: Congress possess jurisdiction over ten miles square, &c.; Congress may therefore establish a bank within the ten miles square, and, as principle is not applicable to place, Congress may exercise the same authority any where else. This seems to me to be an ingenious improvement upon sophistical deduction; the gentleman, however, should have reflected that the ground upon which he built the right to exercise this authority was that of exclusive jurisdiction, and to extend the principle it is necessary to extend the right of exclusive jurisdiction; without this, the basis of his argument fails, and the superstructure, however beautiful, must follow; for the principle, if at all deducible from that source, is expressly confined to place, and cannot operate beyond it.

I shall now consider the second resource, whence the constitutional right of exercising the proposed authority is derived; its incidentality to the mere creation and existence of government. It has been observed, that in all governments there are certain rights tacitly granted, and certain other rights retained; that it is impossible, in framing a constitution, to enumerate every minute governmental right, and that such an attempt would be chimerical and vain. And hence the incidentality of this authority to the mere existence of government is inferred. These observations seem to me to apply to a government growing out of a state of society, and not to a government composed of chartered rights from previously existing governments, or the people of those governments. I have been taught to consider this as a Federal, not as a consolidated Government, and am not prepared or disposed at present to relinquish that idea. A gentleman from New York (Mr. LAWRENCE) has remarked, that the Government is consolidated *quo ad* the powers granted, and of course *quo ad* their incidents; but he should first have shown that the authority contended for is one of those granted, or incidental to some one of them, before the application can be made. The observation can have no tendency to establish either of those positions. What effect would this doctrine, if admitted, have upon the State governments? And how would it be relished by them? Their dignity and consequence will not only be prostrated by it, but their very existence radically subverted. A third resource of deducing this constitutional authority is resorted to—the expediency of the proposed measure itself. I presume the great object of the constitution was to distribute all governmental rights between the several State Governments and the Government of

the United States; the expediency, therefore, of the exercise of all constitutional rights, as they relate to State or General Governments, is properly contemplated and decided by the constitution, and not by the Governments among which the distribution is made. A gentleman from South Carolina (Mr. SMITH) has said, that the expediency and constitutionality of the proposed measure cannot be considered separately, because the constitutionality grows out of the expediency. This is but candidly unveiling the subject of that sophistical mask which has been ingeniously thrown over it by some gentlemen; for all the arguments adduced in favor of the measure, from whatever source they arise, if pursued, will be found to rush into the great one of expediency, to bear down all constitutional provisions, and to end themselves in the unlimited ocean of despotism.

Several gentlemen have said, that this authority may be safely exercised, since it does not interfere with the rights of States or individuals. I think this assertion not very correct; if the States be constitutionally entitled to the exercise of this authority, it is an intrusion on their rights to do an act which would eventually destroy or impede the freest exercise of that authority; for it is totally immaterial whether the effect be produced by the operation of this, or by an inhibition in express terms. The States may not only incorporate banks, but may of right prohibit the circulation of bank paper within their respective limits; the act, therefore, if it be intended to have an effectual operation, will certainly infringe this right, or exist at the mercy of the State governments. This reasoning, however, places the subject in another point of view a little singular. It contemplates the authority contended for as vacant ground, and justifies the tenure by the mere title of occupancy. In almost all the remarks in favor of the measure, gentlemen seem to have forgotten the peculiar nature of this Government. It being composed of mere chartered authorities, all authority not contained within that charter would, from the nature of the grant, have been retained to the granting party; and I will venture to assert, that this opinion was the *sine qua non* of the adoption and existence of this Government; but if this opinion had been doubtful, Congress themselves have made an express declaration in favor of this construction to the proposed amendments to the constitution. Gentlemen have inferred a constitutional right to exercise the authority contended for from a fourth resource—the former usages and habits of Congress. In affirmance of this argument, several acts of Congress have been referred to—the power of removal from office, the government of the Western Territory, the cession from North Carolina, the purchase of West Point, &c. I shall not examine into the propriety of these several acts, though I conceive it would not be difficult to show, that they differ materially, upon constitutional grounds, from the one now proposed. I shall only remark, that, if Congress have heretofore been in the usage and habit of disregarding and violating the constitution, it is high time that that habit and usage be corrected. I hope and trust that the people of the United States will not tamely see the only security of their rights and liberties invaded and violated, but also see one violation of it with impunity boldly urged as an argument to justify another.

An instance of a similar exercise of authority by the Congress which existed under the former Confederation, has been mentioned in favor of its exercise by the present Congress. The argument has been, that as the powers of the present Congress are greater than those of the former Congress, and the former were competent to the exercise of this right, the present must be more so. It is to be remarked, that that act was the child of necessity, and that Congress doubted its legitimacy, and the act itself was never confirmed by a judicial decision; and it should be also remarked, that the same Congress did not pretend to possess the right to punish those who should counterfeit the paper of the Bank, and recommended it to the States to confirm the act which they had done, and to pass laws for the purpose of punishing those who should counterfeit the paper, and it is a little remarkable that this circumstance, which is one of the most essential to the existence and operation of this act, is withheld from our view. But as I think arguments drawn from this source wholly foreign to the subject, I shall make no further remark upon them.

I shall now suggest a few observations respecting the expediency of the proposed measure. In doing this, I shall not say any thing as to the utility of banks in general, nor as to the effects of the banks of England, Scotland, Holland, &c. I possess not sufficient practical or theoretical knowledge to justify the inquiry; I shall only point out a few circumstances, which are peculiarly attached to the government we are now administering, which might vary the application of general rules, drawn from governments of a different nature, and which possess the unquestioned right of granting charters of incorporation.

In the first place, the right of exercising that authority by the Government is at least problematical, it is nowhere granted in express terms; the Legislature, therefore, can have no competent security against a judicial decision but a dependent or a corrupt court. I presume that a law to punish with death those who counterfeit the paper emitted by the Bank will be consequent upon the existence of this act. Hence a judicial decision will probably be had of the most serious and awful nature; the life of an individual at stake on the one hand, an improvident act of the Government on the other. A distrust arising from this cause will for ever keep the Bank in jeopardy, and the very first trial of this nature will probably subject the Bank to a run which it will be unable to withstand; for all stockholders will require the greatest possible security for their money, and a distrust of such an institution will be its destruction. This observation seems to me to have peculiar force, from the great proportion of paper to that of gold and silver, upon which the Bank is proposed to be founded. The peculiar relation between the General and State Governments, will naturally produce a contest for governmental rights, until long experience shall settle the precise boundaries between them. The present measure appears to me to be an unprovoked advance in this scramble for authority, and a mere experiment how far we may

proceed without involving the opposition of the State Governments. It should be remarked that this Government is in its childhood; it is therefore unfitted for such bold and manly enterprises, and policy would dictate that it should wait at least until it may have become more matured or invigorated. Two modes of administering this Government present themselves; the one with mildness and moderation, by keeping within the known boundaries of the constitution, the other, by the creation and operation of fiscal mechanism; the first will ensure us the affections of the people, the only natural and substantial basis of Republican Governments; the other will arise and exist in oppression and injustice, will increase the previously existing jealousies of the people, and must be ultimately discarded, or bring about a radical change in the nature of our Government. Having suggested these observations upon the measure in general, I shall now proceed to point out a few objections to the details of the bill. I think the authority given to the Bank to purchase and hold lands objectionable; in the first place I doubt the constitutional right of Congress to invest such an authority; the lands within the United States are holden of the individual States, and not of the United States; and that tenure appears to me to be the true ground upon which the right to exercise that authority grows. I believe it is admitted, that although Congress may naturalize a foreigner, they cannot authorize him to purchase lands; and I think the case at least as strong, when they first create an artificial person, and then invest the authority; besides, if we have any reference to the experience of other countries, we shall find it dangerous to allow incorporated bodies to hold lands at all. The exercise of that right produced great oppression in England, and nothing but the masterly activity of an absolute prince could apply a competent remedy. A gentleman from Massachusetts (Mr. SEDGWICK) has denied that the Bank is invested with this right. It is true it is confined to the mode of purchasing by mortgage, but that is the most effectual mode of purchasing, and the most ruinous to the landholder.

I will merely mention one other objection without a comment—the authority given to make laws not contrary to law or its own constitution; but the most objectionable clause is that which limits its duration, and pledges the faith of the United States that no other bank shall be established in the mean time, however dangerous and offensive the present measure might prove in its operation, and whatever may be the utility and advantage in any other scheme of banking which experience may suggest. Such a stipulation cannot be justified but from the most pointed necessity, and from the maturest deliberation. When I search for the necessity of this measure, it escapes me; it is not pretended in the bill itself; the chief stimulus which I can discover to the existence of this measure, is to give artificial impulse to the value of stock. This is not a sufficient justification; the subject has not been sufficiently considered, and I therefore hope it may be postponed to some future session of Congress; many evils may be avoided by such a conduct, none can result from it.

Mr. GERRY said, he should principally confine himself to the objections of the gentleman first up from Virginia, (Mr. MADISON,) not from a disrespect to the observations of other gentlemen in the opposition, but because he considered their arguments as grafts on the original stock of those urged by the gentleman alluded to, and if the trunk fell, its appendages must fall also.

The objects of the bill were to render the fiscal administration successful, and to give facility to loans on sudden emergencies, and to benefit trade and industry in general; and that these were objects of high importance had not been denied, neither had it been asserted that they ought not, if possible, to be attained.

It is objected, however, that the mode proposed by the bill is unconstitutional, and the bill itself defective.

The mode proposed is a National Bank; to establish which he thought Congress were as competent as either House were to adjourn from day to day.

It is said that Congress have no power relating to this subject, except what is contained in the clauses for laying and collecting taxes, imposts, excises, &c.; for borrowing money, and for making all laws necessary and proper for carrying these powers into effect; and that these do not authorize the establishment of a National Bank.

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To ascertain this, the gentleman from Virginia proposes a candid interpretation of the constitution, which we shall agree to, and he offers to assist us with his rules of interpretation, for his good intentions in doing which we give him full credit; but as he acknowledges that he has been long decided against the authority of Congress to establish a bank, and is therefore prejudiced against the measure; as his rules, being made for the occasion, are the result of his interpretation, and not his interpretation of the rules; as they are not sanctioned by law exposition, or approved by experienced judges of the law, they cannot be considered as a criterion for regulating the judgment of the House, but may, if admitted, prove an *ignis fatuus* that may lead to destruction.

We wish not, however, by establishing our own rules of interpretation, to enjoy the privilege which is denied to the gentleman, but will meet him on fair ground, by applying rules which have the sanction mentioned; and as the learned *Judge Blackstone* has laid down such, it is presumed the gentleman from Virginia will not contend for a preference, or refuse to be tried by this standard.

The Judge observes: "That the fairest and most rational method to interpret the will of the legislator is by exploring his intentions at the time when the law was made by signs the most natural and probable; and these signs are either the words, the context, the subject-matter, the effect and consequence, or the spirit and reason of the law." With respect to words, the Judge observes, that "they are generally understood in their usual and most ordinary signification, not so much regarding the grammar as their general and popular use."

The gentlemen on different sides of the question do not disagree with respect to the meaning of the terms *taxes, duties, imposts, excises, &c.*, or of *borrowing money*, but of the word *necessary*: and the question is, what is the general and popular meaning of this term? Perhaps the answer to the question will be truly this, that in a general and popular one the word does not admit of a definite meaning, but that this varies according to the subject and circumstances. With respect to the subject for instance, if the people, speaking of a garrison besieged by a superior force, and without provisions, or a prospect of relief, should say it was under the necessity of surrendering, they would mean a physical necessity, for troops cannot subsist long without provisions; but if speaking of a debtor, the people should say he was frightened by his creditor and then reduced to the necessity of paying his debts, they would mean a legal, which is very different from a physical necessity; for although the debtor, by refusing payment, might be confined, he would be allowed subsistence, and the necessity he was under to pay his debts would not extend beyond his confinement. Again, if it should be said that a client is under the necessity of giving to his lawyer more than legal fees, the general popular meaning of necessity would, in this instance, be very different from that in the other; the necessity would neither be physical nor legal, but artificial, or, if I may be allowed the expression, a long-robe necessity.

The meaning of the word "*necessary*," varies also according to circumstances; for although Congress have power to levy and collect taxes, duties, &c., to borrow money, and to determine the time, quantum, mode, and every regulation necessary and proper for supplying the Treasury, yet the people would apply a different meaning to the word "necessary" under different circumstances. For instance, without a sufficiency of precious metals for a medium, laws creating an artificial medium would be generally thought necessary for carrying into effect the power to levy and collect taxes; but if there was a sufficiency of such metals, those laws would not generally be thought necessary. Again, if specie was scarce, and the credit of the Government low, collateral measures would be by the people thought necessary for obtaining public loans: but not so, if the case was reversed. Or, if part of the States should be invaded and overrun by an enemy, it would be thought necessary to levy on the rest heavy taxes, and collect them in a short period, and to take stock, grain, and other articles from the citizens without their consent, for the common defence; but in a time of peace and safety, such measures would be supposed unnecessary. Instances may be multiplied in other respects; but it is conceived that these are sufficient to show that the popular and general meaning of the word "necessary," varies according to the subject and circumstances.

The second rule of interpretation relates to the *context*, and the Judge conceives that "if words are still dubious, we may establish their meaning by the context; thus the preamble is often called in to help the construction of an act of Parliament." The constitution, in the present case, is the great law of the people, who are themselves the sovereign Legislature, and the preamble is in these words: "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America."

These are the objects for which the constitution was established, and in administering it we should always keep them in view. And here it is remarkable, that although the common defence and general welfare are held up in the preamble among the primary objects of attention, they are again mentioned in the eighth section of the first article, whereby we are enjoined in levying taxes, duties, &c., particularly to regard the common defence and general welfare; indeed common sense dictates the measure; for the security of our property, families, and liberty—of every thing dear to us, depends on our ability to defend them. The means, therefore, for attaining this object, we ought not to omit a year, month, or even a day, if we could avoid it; and we are never provided for defence unless prepared for sudden emergencies. Should Government be surprised in this case, it would be as dishonorable as for a general to be surprised in a state of warfare, and the event to the community may be much more fatal. If provision then for sudden emergencies is indispensable, it must be evident that it will depend in a great measure on the ability of the Government to command, at all times, for this purpose, a sufficient sum of money, which is justly denominated the sinews of war; and how is this to be effected? By emissions of bills of credit? During the Revolution, bills of credit, it must be acknowledged, have done wonders; they have, in conflict with the banks, Treasury, and public credit of Great Britain, risen superior to them all, and have since died a natural death. We have honored them with a funeral pile; we now bid peace to their manes, and devoutly hope that bills of credit will for ever be extinct in the United States. Are we to depend, then, on taxes for commanding money in cases of urgent necessity? These, as has been shown by other gentlemen, will be too slow in their operations, unless, indeed, we should levy a tax for drawing into and locking up in the Treasury three or four millions of dollars; a law which would be universally considered as unnecessary and improper.

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By loans, and loans only, can provision be made for sudden emergencies; but if loans should be made previously to an emergency, the people would be unnecessarily burdened by the interest thereof, and most of the other evils would ensue that would arise from previous taxes; and if they were to be made at an emergency, without previous arrangements, of whom are we to borrow? Of individuals? These cannot be depended on, as has been fully proved by our own experience at the commencement of the Revolution. Are we to apply to the banks already established in the States for loans? These can no more be depended upon than individuals; for stockholders having not more attachment to Government than other citizens, would, in cases of public danger, attend to the preservation of their property by other means than loaning it to Government. And moreover, the united capitals of all the banks existing in the Union would be insufficient for

Government, for they do not amount to a million and a half of dollars, and only a part in this could, in any case, be reasonably expected on loan.

Are we to apply to foreign banks or individuals? These, as has been shown, are too remote; and if not, we have not been able, without the assistance of an ally, to obtain foreign loans during the war, and perhaps the power on whose assistance we may rely would be hostile to us. Such dependence, then, as has been stated, would necessarily leave us in a deplorable state; and it must be evident that a previous arrangement to aid loans in cases of sudden emergency is necessary and proper in the general and popular use of the term, inasmuch as any other measure that Congress can adopt would be inadequate to the purpose of common defence; and what previous arrangement can we make so proper as that of a National Bank? If gentlemen in the opposition know of any, let them produce it, and let the merits of it be investigated; for it is unreasonable to propose a rejection of this plan without producing a better. The plan proposed by the Secretary of the Treasury, which is now the subject of discussion, does honor, like all his other measures, to his head and heart; it will be mutually beneficial to the stockholders and to Government, and consequently so to the people. The stockholders by this plan will be deeply interested in supporting Government; because three-quarters of their capital, consisting of funded certificates, depend on the existence of Government, which therefore is the prop of their capital, the main pillar that supports the bank. Again, the credit of Government, which is immaterial to the other banks, is essential to the National Bank, for the annual interest of three-quarters of its capital, which must form a great share of its profits, will depend altogether on the credit of Government, and produce, on the part of the stockholders, the strongest attachment to it. On the other hand, it will be the interest of Government to support the Bank, as well on account of the benefits which the public will generally derive from the institution, and the profits arising from the shares of Government in the stock which will be hereafter noticed, as of the supplies of money which it will be for the interest of the Bank to furnish in cases of urgent necessity. Whenever these exist, Congress may lay a tax for supplying the Treasury, and anticipate it with certainty by means of the National Bank. It being then our duty to provide for the common defence in cases of emergency, the provision must evidently be made by taxes, loans, or by arrangements for obtaining the latter on the earliest notice; and previous taxes and loans being oppressive, improper, and unnecessary, the arrangements for aiding loans become indispensable, and a bank consequently necessary and constitutional.

The third rule of the Judge, relative to the "subject-matter" of a law, it is unnecessary to apply, because the members agree in their ideas relative to the meaning of the terms taxes, duties, loans, &c.

The fourth rule, which relates to "effects and consequences," is important; and here the learned Judge observes that "as to effects and consequences, the rule is, where the words bear none, or a very absurd signification, if literally understood, we must a little deviate from the received sense of them." In the present case, the gentlemen in the opposition generally, as well as the gentleman first up from Virginia, give the whole clause by which Congress are authorized "to make all laws necessary and proper," &c., no meaning whatever; for they say, the former Congress had the same power under the Confederation without this clause as the present Congress have with it. The *Federalist* is quoted on this occasion, but although the author of it discovered great ingenuity, this part of his performance I consider as a political heresy. His doctrine, indeed, was calculated to lull the consciences of those who differed in opinion with him at that time; and having accomplished his object, he is probably desirous that it may die with the opposition itself. The rule in this case says, that where the words bear no signification, we must deviate a little; and as this deviation cannot be made by giving the words less than no meaning, it must be made by a more liberal construction than is given by gentlemen in the opposition. Thus their artillery is turned on themselves, for their own interpretation is an argument against itself.

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The last mentioned rule relates to the spirit and reason of the law, and the Judge is of opinion "that the most universal and effectual way of discovering the true meaning of a law, when the words are dubious, is by considering the reason and spirit of it, or the cause which moved the Legislature to enact it". The causes which produced the constitution were an imperfect union, want of public and private justice, internal commotions, a defenceless community, neglect of the public welfare, and danger to our liberties. These are known to be the causes not only by the preamble of the constitution, but also from our own knowledge of the history of the times that preceded the establishment of it. If these weighty causes produced the constitution, and it not only gives power for removing them, but also authorizes Congress to make all laws necessary and proper for carrying these powers into effect, shall we listen to assertions that these words have no meaning, and that this constitution has not more energy than the old? Shall we thus unnerve the Government, leave the Union, as it was under the Confederation, defenceless against a banditti of Creek Indians, and thus relinquish the protection of its citizens? Or shall we, by a candid and liberal construction of the powers expressed in the constitution, promote the great and important objects thereof? Each member must determine for himself; I shall without hesitation choose the latter, and leave the people and States to determine whether or not I am pursuing their true interest. If it is inquired where we are to draw the line of a liberal construction, I will also inquire where the line of restriction is to be drawn? The interpretation of the constitution, like the prerogative of a sovereign, may be abused; but from hence the disuse of either cannot be inferred. In the exercise of prerogative the minister is responsible for his advice to his sovereign, and the members of either House are responsible to their constituents for their conduct in construing the constitution. We act at our peril; if our conduct is directed to the attainment of the great objects of Government, it will be approved, and not otherwise; but this cannot operate as a reason to prevent our discharging the trusts reposed in us.

Let us now compare the different modes of reasoning on this subject, and determine which is right, for both cannot be.

The gentleman from Virginia (Mr. MADISON) has urged the dangerous tendency of a liberal construction; but which is most dangerous, a liberal or a destructive interpretation? The liberty we have taken in interpreting the constitution, we conceive to be necessary, and it cannot be denied to be useful in attaining the objects of it; but whilst he denies us this liberty, he grants to himself a right to annul a part, and a very important part of the constitution. The same principle that will authorize a destruction of part, will authorize the destruction of the whole of the constitution; and if gentlemen have a right to make such rules, they have an equal right to make others for enlarging the powers of the constitution, and indeed of forming a despotism. Thus, if we take the gentleman for our pilot, we shall be wrecked on the reef which he cautions us to avoid.

The gentleman has referred us to the last article of the amendments proposed to the constitution by Congress, which provides that the powers not delegated to Congress, or prohibited to the States, shall rest in them or the people; and the question is, what powers are delegated? Does the gentleman conceive that such only are delegated as are expressed? If so, he must admit that our whole code of laws is unconstitutional. This he disavows, and yields to the necessity of interpretation, which, by a fair and candid application of established rules of construction to the constitution, authorizes, as has been shown, the measure under consideration.

The usage of Congress has also been referred to; and if we look at their acts under the existing constitution, we shall find they are generally the result of a liberal construction. I will mention but two. The first relates to the establishment of the Executive Departments, and gives to the President the power of removing officers. As the constitution is silent on this subject, the power mentioned, by the gentleman's own reasoning, is vested in the States or the people; he, however, contended for an assumption of the power, and when assumed, urged that it should be vested in the President, although, like the power of appointment, it was by a respectable minority in both Houses conceived that it should have been vested in the President and Senate. His rule of interpretation then was therefore more liberal than it is now. In the other case, Congress determined by law, with the sanction of the President, when and where they should hold their next session, although the constitution provides that this power should rest solely in the two Houses. The gentleman also advocated this measure, and yet appears to be apprehensive of the consequences that may result from a construction of the constitution which admits of a National Bank. But from which of these measures is danger to be apprehended? The only danger from our interpretation would be the exercise by Congress of a general power to form corporations; but the dangers resulting from the gentleman's interpretations, in the cases alluded to, are very different; for what may we not apprehend from the precedent of having assumed a power on which the constitution was silent, and from having annexed it to the Supreme Executive? If we have this right in one instance, we may extend it to others, and make him a despot. And here I think it necessary to declare, that such is my confidence in the wisdom, integrity, and justice of the Chief Magistrate, as that I should be at ease, if my life, liberty, and property were at his disposal; but this is a trust which I am not authorized to make for my constituents; and as his successors in office will possess equal powers, but may not possess equal virtues, caution with respect to them is necessary. Again, what may be the result of the precedent relating to the session of Congress? If we had a right by law to determine where the next Congress should hold their session, one Congress may oblige another to sit in Kentucky, or in the intended State Yazoo, under the protection of a Choctaw chief, or his Excellency, Governor Tallan. It must therefore be evident that the usage of Congress in both instances is against the gentleman, and that the dangers from the precedent of establishing a bank are comparatively small to those resulting from the other measures referred to.

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The gentleman from Virginia has endeavored to support his interpretation of the constitution by the sense of the Federal Convention; but how is this to be obtained? By applying proper rules of interpretation? If so, the sense of the Convention is in favor of the bill; or are we to depend on the memory of the gentleman for a history of their debates, and from thence to collect their sense? This would be improper, because the memories of different gentlemen would probably vary, as they had already done, with respect to those facts; and if not, the opinions of the individual members who debated are not to be considered as the opinions of the Convention. Indeed, if they were, no motion was made in that Convention, and therefore none could be rejected for establishing a National Bank; and the measure which the gentleman has referred to was a proposition merely to enable Congress to erect commercial corporations, which was, and always ought to be, negatived.

The gentleman's arguments respecting the sense of the State Conventions have as little force as those relating to the Federal Convention. The debates of the State Conventions, as published by the short-hand writers, were generally partial and mutilated; in this, if the publications are to be relied on, the arguments were all on one side of the question; for there is not in the record, which is said to contain the Pennsylvania debates, a word against the ratification of the constitution; although we all know that arguments were warmly urged on both sides.

The gentleman has quoted the opinions, as recorded in the debates of this State and North Carolina, of two of our learned judges; but the speech of one member is not to be considered as expressing the sense of a convention; and if it was, we have no record which can be depended on of such speeches. Indeed, had even this been the case, the Union was at that time divided into two great parties, one of which feared the loss of the Union if the constitution was not ratified unconditionally, and the other the loss of our liberties if it was. The object on either side was so

important as perhaps to induce the parties to depart from candor, and to call in the aid of art, flattery, professions of friendship, promises of office, and even good cheer; and when these failed, the *Federal Bull* was published, denouncing political death and destruction to anti-federal infidels. Under such circumstances, the opinions of great men ought not to be considered as authorities, and in many instances could not be recognized by themselves.

Mr. G. then observing that the sense of the States respecting a bank would be best ascertained by their legislative acts, showed, from the journals of Congress, that when restrained by the Confederation from exercising any powers but what were expressly delegated, Congress had, without any authority, established a bank whose capital might extend to ten millions of dollars; and had not only pledged the faith of the Union not to erect any other, but had recommended it to the States to prohibit any State establishment of the kind, and had also determined that the bank bills should be receivable in the taxes and duties of every State. That the States did not remonstrate against, or tacitly acquiesce in, but actually supported the measures of Congress relative to the bank, whilst the war continued, and after the peace. That this was the strongest evidence the States could give that they thought the measure salutary, and had no objection to it on the ground of its being unconstitutional. He then urged, that if the States and the people at large had no objection to a bank in that case, they could not in this; and inquired whether there was any evidence of their disapprobation of such an institution in the debates of their Conventions or propositions for amendments? To this he answered in the negative, and urged, that whilst the Conventions were silent on the subject, and had no objections to such a measure, several of them had proposed amendments to the constitution for restraining Congress from establishing commercial corporations; which evinced their disapprobation of such institutions, and admitted at the same time, in some degree, the power of Congress, under the existing constitution, to form them.

Mr. G. then showed, that as a monopoly had been urged as an objection to the bill, no such consequence could result from it; for the bill does not restrain State or private banks, or even individuals, from negotiations of a similar nature with those permitted to the stockholders; nor does it restrain the States from forming similar corporations. This plan has not a feature of monopoly, and the gentlemen who oppose it contend for a bank which, according to its original institution, was founded in monopoly.

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He then answered the arguments urged against the authority of Congress to enable corporations to hold lands, when they had no power themselves of purchasing and holding land; and showed, that although Congress are restrained from purchasing lands, (except in certain cases,) and from exercising over the same exclusive legislation, yet that they may hold lands obtained by execution, conquest, and by other means as well as by those clauses of the constitution which relate to lands now belonging to the Union; and that Congress had often invested others with powers which they themselves could not exercise.

He then noticed the argument, that, by a law of Virginia, notes payable to the bearer, or order, would not circulate in that State, and observed that this law could not be supposed to extend to bank notes; and if it did, it would be null and void, because the constitution of the Union, and laws, made in pursuance thereof, were paramount to the laws and constitutions of the several States. Having considered the arguments against the constitutionality of the bill, he entered into the policy and utility of the measure.

TUESDAY, February 8.

Bank of the United States.

The House resumed the consideration of the bill for incorporating the Bank of the United States.

The question still being on the passage of the bill,

Mr. VINING apologized for rising to offer his sentiments on this subject, which had been already so ably discussed; but considering the nature of the objections as arising from constitutional principles, it had acquired an importance which would justify his troubling the House with some remarks.

He began by noticing the leading argument of Mr. MADISON respecting the sense of the Continental Convention on the power proposed to be exercised by Congress in this bill. He showed that the opinion of the gentleman, in this instance, was, if not singular, different from that of his contemporaries; at least a similar objection had not been started by those gentlemen of the Senate, who had been members of the Convention; but granting that the opinion of the gentleman from Virginia had been the full sense of the members of the Convention, their opinion at that day, he observed, is not a sufficient authority by which for Congress at the present time to construe the constitution.

Mr. V., in explaining the powers proposed by the bill to be given to the corporation of the Bank, adverted to the particular power of "making rules and regulations not contrary to law." He showed that this term law means the common law; and alluded to the inquiry of Mr. MADISON, as to what law was intended by this clause, who, in answering his own question, said, "that if the laws of the United States were intended, the power contemplated was dangerous and unconstitutional, as those laws were very few in number."

Mr. V. observed, that the restriction contended for by the gentleman as the result of his objection, would annihilate the most essential rights and privileges of the citizens of the United

States. He then observed, a corporation is nothing more than constituting a body with powers to effect certain objects in a combined capacity, which an individual may do in his individual capacity, agreeable to the usage and customs of common law.

Adverting to the act by which the United States became a free and independent nation, he said, from that declaration, solemnly recognized at home and abroad, they derive all the powers appertaining to a nation thus circumstanced, and consequently the power under consideration. He traced the origin of corporations to the time of Numa, the first of which was for agricultural purposes; they were afterwards extended to other objects; and from that day to this, all civilized and independent nations have been in the practice of creating them; and what do they amount to but this—enabling a number of persons, in a combined capacity, to do that to a more certain effect than an individual may do; but subject to the control of common law, in all its regulations and transactions.

On the doctrine of construction, as applied to the constitution, he observed, that on some occasions the constitution is like the sensitive plant, which shrinks from the smallest touch; on others it is like the sturdy oak, which braves the force of thunder. He referred to the act containing the power of removability; in which the utmost latitude of construing the constitution was contended for and adopted; and, said he, the funding system cannot be defended on any other principle than of implication.

He then inquired, of what right does this incorporation deprive a single citizen? And can an act possibly meet the disapprobation of a single person which does not infringe his rights, and which puts money into his pocket? I think not. He insisted that the power of Congress alone was equal to establishing a bank competent to creating a currency which shall pervade all parts of the Union; the paper of the State banks cannot circulate beyond the bounds of the particular States.

From the restrictions to the Government contended for by the opposers of the bill, he compared the constitution to a horse finely proportioned in every respect to the eye, and elegantly caparisoned, but deficient in one, and the most essential requisite, that of ability to carry the owner to his journey's end; he had rather, he said, mount the old Confederation, and drag on in the old way, than be amused with the appearance of a Government so essentially defective.

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Mr. MADISON observed, that the present is a question which ought to be conducted with moderation and candor; and, therefore, there is no occasion to have recourse to those tragic representations which have been adduced. Warmth and passion should be excluded from the discussion of a subject which ought to depend on the cool dictates of reason for its decision.

Adverting to the observation of Mr. SMITH, (of South Carolina,) "that it would be a deplorable thing for the Senate of the United States to have fallen on a decision which violates the constitution," he inquired, What does the reasoning of the gentleman tend to show but this, that from respect to the Senate this House ought to sanction their decisions? And from hence it will follow, that the President of the United States ought, out of respect to both, to sanction their joint proceedings; but he could remind the gentleman of his holding different sentiments on another occasion.

Mr. M. then enlarged on the exact balance or equipoise contemplated by the constitution, to be observed and maintained between the several branches of Government; and showed, that except this idea was preserved, the advantages of different independent branches would be lost, and their separate deliberations and determinations be entirely useless.

In describing a corporation, he observed, that the powers proposed to be given are such as do not exist antecedent to the existence of the corporation; these powers are very extensive in their nature, and to which a principle of perpetuity may be annexed.

He waived a reply to Mr. VINING's observations on the common law, [in which that gentleman had been lengthy and minute, in order to invalidate Mr. MADISON's objections to the power proposed to be given to the Bank, to make rules and regulations, not contrary to law.] Mr. M. said the question would involve a very lengthy discussion; and other objects more intimately connected with the subject remained to be considered.

The power of granting charters, he observed, is a great and important power, and ought not to be exercised unless we find ourselves expressly authorized to grant them. Here he dilated on the great and extensive influence that incorporated societies had on public affairs in Europe. They are powerful machines, which have always been found competent to effect objects on principles in a great measure independent of the people.

He argued against the influence of the precedent to be established by the bill; for though it has been said, that the charter is to be granted only for a term of years, yet he contended, that granting the powers on any principle is granting them in *perpetuum*; and assuming this right on the part of the Government involves the assumption of every power whatever.

Noticing the arguments in favor of the bill, he said, it had been observed that "Government necessarily possesses every power." However true this idea may be in the theory, he denied that it applied to the Government of the United States.

Here he read the restrictive clause in the constitution; and then observed, that he saw no pass over this limit.

The preamble to the constitution, said he, has produced a new mine of power; but this is the first instance he had heard of, in which the preamble has been adduced for such a purpose. In his opinion, the preamble only states the objects of the Confederation, and the subsequent clauses designate the express powers by which those objects are to be obtained; and a mean is proposed

through which to acquire those that may be found still requisite, more fully to effect the purposes of the Confederation.

It is said, "there is a field of legislation yet unexplored." He had often heard this language; but he confessed he did not understand it. Is there a single blade of grass—is there any property in existence in the United States, which is not a subject of legislation, either of the particular States, or of the United States? He contended that the exercise of this power, on the part of the United States, involves, to all intents and purposes, every power which an individual State may exercise. On this principle, he denied the right of Congress to make use of a bank to facilitate the collection of taxes. He did not, however, admit the idea, that the institution would conduce to that object. The bank notes are to be equal to gold and silver, and consequently will be as difficult to obtain as the specie. By means of the objects of trade on which gold and silver are employed, there will be an influx of those articles; but paper being substituted, will fill those channels which would otherwise be occupied by the precious metals. This, experience shows, is the uniform effect of such a substitution.

The right of Congress to regulate trade is adduced as an argument in favor of this of creating a corporation; but what has this bill to do with trade? Would any plain man suppose that this bill had any thing to do with trade?

He noticed the observation respecting the utility of banks to aid the Government with loans. He denied the necessity of the institution to aid the Government in this respect. Great Britain, he observed, did not depend on such institutions; she borrows from various sources.

Banks, it is said, are necessary to pay the interest of the public debt. Then they ought to be established in the places where that interest is paid; but can any man say, that the bank notes will circulate at par in Georgia? From the example in Scotland, we know that they cannot be made equal to specie, remote from the place where they can be immediately converted into coin; they must depreciate in case of a demand for specie; and if there is no moral certainty that the interest can be paid by these bank bills, will the Government be justified in depriving itself of the power of establishing banks in different parts of the Union?

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We reason, and often with advantage, from British models; but in the present instance there is a great dissimilarity of circumstances. The bank notes of Great Britain do not circulate universally. To make the circumstances parallel, it ought to have been assumed as a fact, that banks are established in various parts of Great Britain, at which the interest of the national debt is paid; but the fact is, it is only paid in one place.

The clause of the constitution which has been so often recurred to, and which empowers Congress to dispose of its property, he supposed referred only to the property left at the conclusion of the war, and has no reference to the moneyed property of the United States.

The clause which empowers Congress to pass all laws necessary, &c., has been brought forward repeatedly by the advocates of the bill; he noticed the several constructions of this clause which had been offered. The conclusion which he drew from the commentary of the gentleman from Massachusetts, (Mr. GERRY,) was, that Congress may do what they please; and recurring to the opinion of that gentleman in 1787, he said the powers of the constitution were then dark, inexplicable, and dangerous; but now, perhaps, as the result of experience, they are clear and luminous!

The constructions of the constitution, he asserted, which have been maintained on this occasion, go to the subversion of every power whatever in the several States; but we are told, for our comfort, that the judges will rectify our mistakes. How are the judges to determine in the case; are they to be guided in their decisions by the rules of expediency?

It has been asked, that if those minute powers of the constitution were thought to be necessary, is it supposable that the great and important power on the table was not intended to be given? Mr. M. interpreted this circumstance in a quite different way, viz: if it was thought necessary to specify in the constitution those minute powers, it would follow that more important powers would have been explicitly granted, had they been contemplated.

The Western Territory business, he observed, was a case *sui generis*, and therefore cannot be cited with propriety. West Point, so often mentioned, he said, was purchased by the United States, pursuant to law, and the consent of the State of New York is supposed, if it has not been expressly granted; but, on any occasion, does it follow that one violation of the constitution is to be justified by another?

The permanent residence bill, he conceived, was entirely irrelative to the subject; but he conceived it might be justified on truly constitutional principles.

The act vesting in the President of the United States the power of removability has been quoted; he recapitulated, in a few words, his reasons for being in favor of that bill.

The Bank of North America he had opposed, as he considered the institution as a violation of the Confederation. The State of Massachusetts, he recollected, voted with him on that occasion. The Bank of North America was, however, the child of necessity; as soon as the war was over, it ceased to operate as to Continental purposes. But, asked he, are precedents in war to justify violations of private and State rights in a time of peace? And did the United States pass laws to punish the counterfeiting the notes of that bank? They did not, being convinced of the invalidity of any such law; the bank, therefore, took shelter under the authority of the State.

The energetic administration of this Government is said to be connected with this institution. Mr. M. here stated the principles on which he conceived this Government ought to be administered;

and added, other gentlemen may have had other ideas on the subject, and may have consented to the ratification of the constitution on different principles and expectations; but he considered the enlightened opinion and affection of the people the only solid basis for the support of this Government.

Mr. M. then stated his objections to the several parts of the bill. The first article he objected to was the duration. A period of twenty years was, to this country, as a period of a century in the history of other countries; there was no calculating for the events which might take place. He urged the ill policy of granting so long a term, from the experience of the Government in respect to some treaties, which, though found inconvenient, could not now be altered.

The different classes of the public creditors, he observed, were not all put on an equal footing by this bill; but in the bill for the disposal of the Western Territory this had been thought essential. The holders of six per cent. securities will derive undue advantages. Creditors at a distance, and the holders of three per cent. securities, ought to be considered, as the public good is most essentially promoted by an equal attention to the interest of all.

I admit, said he, that the Government ought to consider itself as the trustee of the public on this occasion, and therefore should avail itself of the best disposition of the public property.

In this view of the subject, he objected to the bill, as the public, he thought, ought to derive greater advantages from the institution than those proposed. In case of a universal circulation of the notes of the proposed bank, the profits will be so great that the Government ought to receive a very considerable sum for granting the charter.

There are other defects in the bill, which render it proper and necessary, in my opinion, that it should undergo a revision and amendment before it passes into a law. The power vested by the bill in the Executive to borrow of the bank, he thought was objectionable; and the right to establish subordinate banks ought not to be delegated to any set of men under Heaven.

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The public opinion has been mentioned. If the appeal to the public opinion is suggested with sincerity, we ought to let our constituents have an opportunity to form an opinion on the subject.

He concluded by saying, he should move for the previous question.

The previous question, "Shall the main question now be put?" being determined in the affirmative,

Mr. GERRY rose to reply to Mr. MADISON; but the House discovering an impatience to have the main question put, after a few remarks, he waived any further observations.

The yeas and nays were then taken as follows, on the passage of the bill:

YEAS.—Messrs. Ames, Benson, Boudinot, Bourne, Cadwalader, Clymer, Fitzsimons, Floyd, Foster, Gerry, Gilman, Goodhue, Hartley, Hathorn, Heister, Huntington, Lawrence, Leonard, Livermore, P. Muhlenberg, Partridge, Rensselaer, Schureman, Scott, Sedgwick, Seney, Sevier, Sherman, Sylvester, Sinnickson, Smith, (of Maryland,) Smith, (of South Carolina,) Steele, Sturges, Thatcher, Trumbull, Vining, Wadsworth, and Wynkoop—39.

NAYS.—Messrs. Ashe, Baldwin, Bloodworth, Brown, Burke, Carroll, Contee, Gale, Grout, Giles, Jackson, Lee, Madison. Mathews, Moore, Parker, Stone, Tucker, White, and Williamson—20.

MONDAY, February 14.

Commerce with England.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and House of Representatives:

Soon after I was called to the administration of the Government, I found it important to come to an understanding with the Court of London, on several points interesting to the United States; and particularly to know whether they were disposed to enter into arrangements, by mutual consent, which might fix the commerce between the two nations on principles of reciprocal advantage. For this purpose, I authorized informal conferences with their Ministers; and from these, I do not infer any disposition, on their part, to enter into any arrangements merely commercial. I have thought it proper to give you this information, as it might, at some time, have influence on matters under your consideration.

GEO. WASHINGTON.

UNITED STATES, *February 14, 1791.*

THURSDAY, March 3.

Jails of the States.

On motion that the House do come to the following resolution:

Whereas Congress did, by a resolution of the 23d of September, 1789, recommend to the several States to pass laws making it expressly the duty of the keepers of

their jails to receive, and safely keep therein, all prisoners committed under authority of the United States: In order, therefore, to ensure the administration of justice:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in case any State shall not have complied with the said recommendation, the Marshal in such State, under the direction of the Judge of the District, be authorized to hire a convenient place to serve as a temporary jail, and to make the necessary provision for the safe-keeping of prisoners committed under the authority of the United States, until permanent provision shall be made by law for that purpose; and the said Marshal shall be allowed his reasonable expenses incurred for the above purposes, to be paid out of the Treasury of the United States.

It was resolved in the affirmative.

Session Closed.

The business of the session being gone through, on motion,

Resolved, That the thanks of the House of Representatives of the United States be presented to Frederick Augustus Muhlenberg, in testimony of their approbation of his conduct in the chair, and in the execution of the difficult and important trust reposed in him as Speaker of the said House.

It was resolved, unanimously: whereupon

Mr. SPEAKER made his acknowledgments to the House, in manner following:

Gentlemen of the House of Representatives:

This unexpected mark of your approbation of my conduct has made so deep an impression on my mind, that I cannot find words to express the high sense of gratitude I entertain on this occasion.

I have not vanity sufficient to suppose that my feeble, though well-meant, endeavors merit so great a reward; for it was your kind indulgence and support alone which enabled me to go through the duties of the station which you were pleased to assign me; but I shall ever consider this distinguished and honorable testimony as the most fortunate circumstance in my life.

Gentlemen, I most sincerely thank you. May every possible happiness attend you and every individual of this body, and may your zealous endeavors to promote the welfare of our beloved country, which I have so long and so often been a witness to, be crowned with unbounded success.

Ordered, That a message be sent to the Senate, to inform them that this House, having completed the business before them, are now about to adjourn without day, and that the Clerk of this House do go with the said message.

The Clerk accordingly went with the said message, and being returned,

A message was received from the Senate, notifying that the Senate, having completed the legislative business before them, are now about to adjourn; whereupon,

Mr. SPEAKER adjourned the House without day.

SECOND CONGRESS.—FIRST SESSION.

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**HELD AT THE CITY OF PHILADELPHIA, OCTOBER 24, 1791, TO MAY 8,
1792.**

LIST OF MEMBERS.

SENATORS.

New Hampshire.—John Langdon, Paine Wingate.

Vermont.—S. R. Bradley, Moses Robinson.

Massachusetts.—George Cabot, Caleb Strong.

Rhode Island.—Theodore Foster, Joseph Stanton.

Connecticut.—Oliver Ellsworth, Roger Sherman.

New York.—Aaron Burr, Rufus King.

New Jersey.—Philemon Dickinson, John Rutherford.

Pennsylvania.—Robert Morris, James Ross.

Delaware.—Richard Bassett, George Read.

Maryland.—Charles Carroll, John Henry.

Virginia.—Richard H. Lee, James Monroe.

North Carolina.—Benjamin Hawkins, Samuel Johnston.

South Carolina.—Pierce Butler, Ralph Izard.

Georgia.—William Few, James Gunn.

REPRESENTATIVES.

New Hampshire.—Nicholas Gilman, S. Livermore, Jeremiah Smith.

Vermont.—Nathaniel Niles, Israel Smith.

Massachusetts.—Fisher Ames, S. Bourne, Elbridge Gerry, Benjamin Goodhue, George Leonard, T. Sedgwick, George Thatcher, Artemas Ward.

Rhode Island.—Benjamin Bourne.

Connecticut.—James Hillhouse, Amasa Learned, Jonathan Sturges, Jonathan Trumbull, Jeremiah Wadsworth.

New York.—Egbert Benson, James Gordon, John Laurance, C. C. Schoonmaker, Peter Sylvester, T. Tredwell.

New Jersey.—Elias Boudinot, Jonathan Dayton, Aaron Kitchell.

Pennsylvania.—William Findlay, Thomas Fitzsimons, Andrew Gregg, Thomas Hartley, Daniel Heister, Israel Jacobs, John W. Kittera, Frederick A. Muhlenberg.

Delaware.—John Vining.

Maryland.—Philip Key, William Pinkney, Joshua Seney, Updine Sheredine, Samuel Sterrett, William Vans Murray.

Virginia.—John Browne, William B. Giles, Samuel Griffin, Richard Bland Lee, James Madison, Andrew Moore, John Page, Josiah Parker, A. B. Venable, Alexander White.

North Carolina.—John B. Ashe, Timothy Bloodworth, William B. Grove, Nathaniel Macon, John Sevier, John Steele, Hugh Williamson.

South Carolina.—Robert Barnwell, Daniel Huger, William Smith, Thomas Sumter, Thomas Tudor Tucker.

Georgia.—Abraham Baldwin, Anthony Wayne, Francis Willis.

PROCEEDINGS IN THE SENATE.

MONDAY, October 24, 1791.

This being the day fixed by law for the annual meeting of Congress, at the first session of the second Congress, the following members of the Senate appeared, produced their credentials, and took their seats:

JOHN ADAMS, Vice President and President of the Senate.

JOHN LANGDON and PAINE WINGATE, from New Hampshire.

CALEB STRONG and GEORGE CABOT, from Massachusetts.

THEODORE FOSTER and JOSEPH STANTON, jr., from Rhode Island.

ROGER SHERMAN, from Connecticut, in the place of WILLIAM S. JOHNSON, resigned.

AARON BURR, from New York.

PHILEMON DICKINSON and JOHN RUTHERFORD, from New Jersey.

ROBERT MORRIS, from Pennsylvania.

GEORGE READ, from Delaware.

SAMUEL JOHNSTON and BENJAMIN HAWKINS, from North Carolina.

PIERCE BUTLER and RALPH IZARD, from South Carolina; and

WILLIAM FEW, from Georgia.

Ordered, That Messrs. Butler, Morris, and Dickinson, be a committee to wait on the President of the United States, and inform him that a quorum of the Senate is assembled, and ready to receive any communication he may be pleased to make to them.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled and ready to proceed to business; and that they have notified the President of the United States that they are ready to receive such communications as he may be pleased to make to them.

Mr. IZARD, from the joint committee appointed to wait on the President of the United States, agreeably to the resolution of the two Houses, of this day, reported that they had executed the business, and that the President of the United States proposed to-morrow, at 12 o'clock, to meet

the two Houses of Congress in the Senate Chamber.

TUESDAY, October 25.

Ordered, That the Secretary inform the House of Representatives that the Senate are ready to meet them in the Senate Chamber, to receive any communications the President of the United States may be pleased to make to the two Houses of Congress; and that the usual seats will be assigned them.

The House of Representatives having accordingly taken their seats, the PRESIDENT OF THE UNITED STATES came into the Senate Chamber, and addressed both Houses of Congress as followeth:^[39]

Fellow-Citizens of the Senate, and of the House of Representatives:

I meet you upon the present occasion with the feelings which are naturally inspired by a strong impression of the prosperous situation of our common country, and by a persuasion, equally strong, that the labors of the session which has just commenced will, under the guidance of a spirit no less prudent than patriotic, issue in measures conducive to the stability and increase of national prosperity.

Numerous as are the Providential blessings which demand our grateful acknowledgments, the abundance with which another year has again rewarded the industry of the husbandman is too important to escape recollection.

Your own observations in your respective situations will have satisfied you of the progressive state of agriculture, manufactures, commerce, and navigation. In tracing their causes, you will have remarked, with particular pleasure, the happy effects of that revival of confidence, public as well as private, to which the Constitution and laws of the United States have so eminently contributed; and you will have observed, with no less interest, new and decisive proofs of the increasing reputation and credit of the nation. But you, nevertheless, cannot fail to derive satisfaction from the confirmation of these circumstances, which will be disclosed in the several official communications that will be made to you in the course of your deliberations.

The rapid subscriptions to the Bank of the United States, which completed the sum allowed to be subscribed in a single day, is among the striking and pleasing evidences which present themselves, not only of confidence in the Government, but of resource in the community.

In the interval of your recess, due attention has been paid to the execution of the different objects which were specially provided for by the laws and resolutions of the last session.

Among the most important of these, is the defence and security of the Western frontiers. To accomplish it on the most humane principles was a primary wish.

Accordingly, at the same time that treaties have been provisionally concluded, and other proper means used to attach the wavering, and to confirm in their friendship the well-disposed tribes of Indians, effectual measures have been adopted to make those of a hostile description sensible that a pacification was desired upon terms of moderation and justice.

These measures having proved unsuccessful, it became necessary to convince the refractory of the power of the United States to punish their depredations. Offensive operations have therefore been directed, to be conducted, however, as consistently as possible with the dictates of humanity. Some of these have been crowned with full success, and others are yet depending. The expeditions which have been completed were carried on under the authority, and at the expense, of the United States, by the militia of Kentucky; whose enterprise, intrepidity, and good conduct are entitled to peculiar commendation.

Overtures of peace are still continued to the deluded tribes, and considerable numbers of individuals belonging to them have lately renounced all further opposition, removed from their former situations, and placed themselves under the immediate protection of the United States.

It is sincerely to be desired, that all need of coercion in future may cease; and that an intimate intercourse may succeed, calculated to advance the happiness of the Indians, and to attach them firmly to the United States.

In order to this, it seems necessary—

That they should experience the benefits of an impartial dispensation of justice.

That the mode of alienating their lands, the main source of discontent and war, should be so defined and regulated as to obviate imposition, and, as far as may be practicable, controversy concerning the reality and extent of the alienations which are made.

That commerce with them should be promoted under regulations tending to secure an equitable deportment towards them, and that such rational experiments

should be made, for imparting to them the blessings of civilization, as may from time to time suit their condition.

That the Executive of the United States should be enabled to employ the means to which the Indians have been long accustomed for uniting their immediate interests with the preservation of peace.

And that efficacious provision should be made for inflicting adequate penalties upon all those who, by violating their rights, shall infringe the treaties, and endanger the peace of the Union.

A system corresponding with the mild principles of religion and philanthropy towards an unenlightened race of men, whose happiness materially depends on the conduct of the United States, would be as honorable to the national character as conformable to the dictates of sound policy.

Pursuant to the authority contained in the several acts on that subject, a district of ten miles square, for the permanent seat of the Government of the United States, has been fixed, and announced by proclamation; which district will comprehend lands on both sides of the river Potomac, and the towns of Alexandria and Georgetown. A city has also been laid out, agreeably to a plan which will be placed before Congress. And, as there is a prospect, favored by the rate of sales which have already taken place, of ample funds for carrying on the necessary public buildings, there is every expectation of their due progress.

The completion of the census of the inhabitants, for which provision was made by law, has been duly notified, (excepting one instance in which the return has been informal; and another, in which it has been omitted or miscarried,) and the returns of the officers who were charged with this duty, which will be laid before you, will give you the pleasing assurance, that the present population of the United States borders on four millions of persons.

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Gentlemen of the Senate:

Two treaties which have been provisionally concluded with the Cherokees and Six Nations of Indians, will be laid before you for your consideration and ratification.

Gentlemen of the House of Representatives:

In entering upon the discharge of your legislative trust, you must anticipate, with pleasure, that many of the difficulties, necessarily incident to the first arrangements of a new Government, for an extensive country, have been happily surmounted by the zealous and judicious exertions of your predecessors, in co-operation with the other branch of the Legislature. The important objects which remain to be accomplished, will, I am persuaded, be conducted upon principles equally comprehensive, and equally well calculated for the advancement of the general weal.

It is particularly pleasing to me to be able to announce to you that the revenues which have been established promise to be adequate to their objects, and maybe permitted, if no unforeseen exigency occurs, to supersede, for the present, the necessity of any new burdens upon our constituents.^[40]

An object which will claim your early attention is a provision for the current service of the ensuing year, together with such ascertained demands upon the Treasury as require to be immediately discharged, and such casualties as may have arisen in the execution of the public business, for which no specific appropriation may have yet been made; of all which a proper estimate will be laid before you.

Gentlemen of the Senate, and of the House of Representatives:

I shall content myself with a general reference to former communications for several objects, upon which the urgency of other affairs has hitherto postponed any definitive resolution. Their importance will recall them to your attention; and, I trust that the progress already made in the most arduous arrangements of the Government will afford you leisure to resume them with advantage.

There are, however, some of them of which I cannot forbear a more particular mention. These are: the Militia, the Post Office and Post Roads, the Mint, Weights and Measures, and a provision for the sale of the vacant lands of the United States.

The disorders in the existing currency, and especially the scarcity of small change, a scarcity so peculiarly distressing to the poorer classes, strongly recommend the carrying into immediate effect the resolution already entered into concerning the establishment of a Mint. Measures have been taken pursuant to that resolution for procuring some of the most necessary artists, together with the requisite apparatus.

A provision for the sale of the vacant lands of the United States is particularly urged, among other reasons, by the important considerations, that they are pledged as a fund for reimbursing the public debt; that, if timely and judiciously

applied, they may save the necessity of burthening our citizens with new taxes for the extinguishment of the principal; and that, being free to discharge the principal but in a limited proportion, no opportunity ought to be lost for availing the public of its right.

G. WASHINGTON.

UNITED STATES, *October 25, 1791.*

THE PRESIDENT OF THE UNITED STATES having retired, and the two Houses being separated,

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Ordered, That Messrs. BURR, CABOT, and JOHNSTON, be a committee to prepare and report the draft of an Address to the President of the United States, in answer to his Speech delivered this day to both Houses of Congress.

Ordered, That the Speech of the President of the United States, delivered this day, be printed for the use of the Senate.

WEDNESDAY, October 26.

RUFUS KING, from the State of New York, and JOHN HENRY, from the State of Maryland, attended.

THURSDAY, October 27.

The following message was received from the President of the United States:

Gentlemen of the Senate and of the House of Representatives:

I lay before you a copy of a letter, and of sundry documents, which I have received from the Governor of Pennsylvania, respecting certain persons who are said to have fled from justice out of the State of Pennsylvania, into that of Virginia; together with a report of the Attorney General of the United States upon the same subject.

I have received from the Governor of North Carolina a copy of an Act of the General Assembly of that State, authorizing him to convey to the United States the right and jurisdiction of the said State over one acre of land in Ocracock Island, and ten acres on the Cape Island, within the said State, for the purpose of erecting light-houses thereon, together with the deed of the Governor, in pursuance thereof, and the original conveyances made to the State by the individual proprietors, which original conveyances contain conditions that the light-house on Ocracock shall be built before the first day of January, 1801, and that on the Cape Island, before the eighth day of October, 1800. And I have caused these several papers to be deposited in the office of the Secretary of State.

A statement of the Returns of the Enumeration of the Inhabitants of the United States, which have been received, will at this time be laid before you.

G. WASHINGTON.

UNITED STATES, *October 27, 1791.*

Mr. BURR reported, from the committee appointed to prepare an Address to the President of the United States, in answer to his Speech to both Houses of Congress at the opening of the session.

Ordered, That to-morrow be assigned to take the report into consideration.

FRIDAY, October 28.

Agreeably to the order of the day, the Senate proceeded to take into consideration the Address reported by the committee, in answer to the Speech of the President of the United States, on the 24th instant, to both Houses of Congress; which report was agreed to, as follows:

To the President of the United States:

SIR: The Senate of the United States have received with the highest satisfaction the assurances of public prosperity contained in your Speech to both Houses. The multiplied blessings of Providence have not escaped our notice, or failed to excite our gratitude.

The benefits which flow from the restoration of public and private confidence are conspicuous and important; and the pleasure with which we contemplate them is heightened by your assurance of those further communications which shall confirm their existence and indicate their source.

While we rejoice in the success of those military operations which have been directed against the hostile Indians, we lament with you the necessity that has produced them; and we participate the hope that the present prospect of a general peace, on terms of moderation and justice, may be wrought into complete and permanent effect; and that the measures of Government may equally embrace the security of our frontiers and the general interests of humanity. Our solicitude to obtain which, will insure our zealous attention to an object so warmly espoused by the principles of benevolence, and so highly interesting to the honor and welfare of the nation.

The several subjects which you have particularly recommended, and those which remain of former sessions, will engage our early consideration. We are encouraged to prosecute them with alacrity and steadiness, by the belief that they will interest no passion but that for the general welfare; by the assurance of concert, and by a view of those arduous and important arrangements which have been already accomplished.

We observe, sir, the constancy and activity of your zeal for the public good. The example will animate our efforts to promote the happiness of our country.

Ordered, That the Address to the President of the United States, in answer to his Speech, be presented by the Vice President, attended by the Senate; and that the committee which reported the Address wait on the President of the United States, and desire to be informed at what time and place he will receive the same.

MONDAY, October 31.

JAMES MONROE, from the State of Virginia, attended, and took his seat.

MOSES ROBINSON, from the State of Vermont, produced his credentials, and took his seat in the Senate.

Mr. BURR, from the committee appointed on the 28th to wait on the President of the United States, reported, that it would be agreeable to the President of the United States to receive the Address of the Senate, in answer to his Speech to both Houses of Congress, on Monday next at 12 o'clock.

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Whereupon, the Senate waited on the President of the United States at his own house, and the VICE PRESIDENT, in their name, communicated to him the Address agreed to on the 28th instant, to which the PRESIDENT OF THE UNITED STATES was pleased to make the following reply:

GENTLEMEN: This manifestation of your zeal for the honor and the happiness of our country derives its full value from the share which your deliberations have already had in promoting both.

I thank you for the favorable sentiments with which you view the part I have borne in the arduous trust committed to the Government of the United States; and desire you to be assured that all my zeal will continue to second those further efforts for the public good which are ensured by the spirit in which you are entering on the present session.

G. WASHINGTON.

The Senate returned to the Senate Chamber.

FRIDAY, November 4.

STEPHEN R. BRADLEY, from the State of Vermont, appeared, produced his credentials, and took his seat.

WEDNESDAY, November 9.

OLIVER ELLSWORTH, from the State of Connecticut, attended, and took his seat.

THURSDAY, November 10.

JAMES GUNN, from the State of Georgia, attended, and took his seat.

FRIDAY, January 6.

CHARLES CARROLL, from the State of Maryland, attended, and took his seat.

MONDAY, January 9.

RICHARD BASSETT, from the State of Delaware, attended, and took his seat.

MONDAY, March 5.

The following Message was received from the President of the United States:

Gentlemen of the Senate, and of the House of Representatives:

Knowing the friendly interest you take in whatever may promote the happiness and prosperity of the French nation, it is with pleasure that I lay before you the translation of a letter which I have received from his Most Christian Majesty, announcing to the United States of America his acceptance of the constitution presented to him in the name of his nation.

G. WASHINGTON.

UNITED STATES, *March 5, 1792.*

[Translation.]

Very dear, Great Friends and Allies:

We make it our duty to inform you that we have accepted the constitution which has been presented to us in the name of the nation, and according to which France will be henceforth governed.

We do not doubt that you take an interest in an event so important to our kingdom, and to us; and that it is with real pleasure we take this occasion to renew to you assurances of the sincere friendship we bear you. Whereupon, we pray God to have you, very dear, great friends and allies, in his just and holy keeping.

Written at Paris, the 19th of September, 1791.

Your good friend and ally,

LOUIS.

MONTMORIN.

THE UNITED STATES OF NORTH AMERICA.

TUESDAY, March 13.

The Senate resumed the consideration of the motion made yesterday on the Message from the President of the United States, transmitting a copy of a letter from his Most Christian Majesty to the United States of America.

A motion was made and seconded to postpone this motion, in order to take up the following:

"Resolved, That the President of the United States be informed that the Senate have received with satisfaction the official intelligence that the King of the French has accepted the constitution presented to him by the National Assembly, and are highly gratified by every event that promotes the freedom and prosperity of the French nation and the happiness and glory of their King."

It passed in the negative; yeas 6, nays 21—as follows:

YEAS.—Messrs. Bassett, Cabot, Ellsworth, King, Strong, and Wingate.

NAYS.—Messrs. Bradley, Burr, Butler, Carroll, Dickinson, Few, Foster, Gunn, Hawkins, Henry, Johnston, Izard, Langdon, Lee, Monroe, Morris, Read, Robinson, Rutherford, Stanton, and Sherman.

The original motion, being amended, was agreed to. Whereupon, it was

Resolved, That the President be requested to make known to the King of the French, that the Senate of the United States have received with the highest satisfaction the official communication of his acceptance of the constitution which, it is their earnest wish, may establish, on a solid basis, the freedom and prosperity of the French nation, and the happiness and glory of the Monarch presiding over it.

WEDNESDAY, March 14.

Ordered, That the resolution of the Senate, on the Message of the President of the United States, enclosing the letter from his Most Christian Majesty, be signed by the Vice President, and laid before the President of the United States, by the Secretary.

MONDAY, March 26.

A motion was made by Mr. MONROE, seconded by Mr. LEE, as follows:

"Resolved, That it be a standing rule, that the doors of the Senate Chamber remain open whilst the Senate shall be sitting in their Legislative capacity, except on such occasions as in their judgment may require secrecy; and that this rule shall commence and be in force on the first day of the next session of Congress;" and it passed in the negative—yeas 8, nays 17, as follows: [Pg 314]

YEAS.—MESSRS. Butler, Carroll, Foster, Hawkins, Johnston, King, Lee, and Monroe.

NAYS.—MESSRS. Bassett, Bradley, Cabot, Dickinson, Ellsworth, Few, Gunn, Henry, Izard, Langdon, Read, Robinson, Rutherford, Sherman, Stanton, Strong, and Wingate.

WEDNESDAY, April 18.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a President *pro tempore* as the constitution provides, and the Hon. RICHARD HENRY LEE was duly elected.

Ordered, That the Secretary wait on the President of the United States, and lay before him an attested copy of this proceeding, and that he notify the House of Representatives of the election of a President *pro tempore*.

THURSDAY, April 19.

Resolved, That the President *pro tempore* of the Senate, as a member, retain his right to vote upon all questions.

TUESDAY EVENING, May 8.

A message from the House of Representatives informed the Senate that the House of Representatives, having completed the business before them, are about to adjourn.

In conformity to the resolution of the 4th instant, the President *pro tempore* adjourned the Senate to the first Monday in November next, being the time appointed by law for the next annual meeting of Congress.

SECOND CONGRESS.—FIRST SESSION.

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PROCEEDINGS AND DEBATES

IN

THE HOUSE OF REPRESENTATIVES.

MONDAY, October 24, 1791.

This being the day appointed by law for the meeting of the present Congress, the following members appeared, produced their credentials, and took their seats:

From New Hampshire, NICHOLAS GILMAN, SAMUEL LIVERMORE, and JEREMIAH SMITH.

From Massachusetts, FISHER AMES, SHEARJASHUB BOURNE, ELBRIDGE GERRY, BENJAMIN GOODHUE, GEORGE THATCHER, and ARTEMAS WARD.

From Rhode Island, BENJAMIN BOURNE.

From Connecticut, JAMES HILLHOUSE, JONATHAN STURGES, JONATHAN TRUMBULL, JEREMIAH WADSWORTH, and AMASA LEARNED.

From New York, JAMES GORDON, JOHN LAURANCE, PETER SYLVESTER, and THOMAS TREDWELL.

From New Jersey, ELIAS BOUDINOT.

From Pennsylvania, THOMAS FITZSIMONS, DANIEL HEISTER, and FREDERICK AUGUSTUS MUHLENBERG.

From Delaware, JOHN VINING.

From Maryland, JOSHUA SENEY, and SAMUEL STERRETT.

From Virginia, JOHN BROWN, WILLIAM B. GILES, SAMUEL GRIFFIN, JAMES MADISON, ANDREW MOORE, and ALEXANDER WHITE.

From North Carolina, JOHN STEELE, and HUGH WILLIAMSON.

From South Carolina, DANIEL HUGER, WILLIAM SMITH, and THOMAS TUDOR TUCKER.

From Georgia, FRANCIS WILLIS.

A quorum of the members being present, the House proceeded to ballot for Speaker, when it appeared that JONATHAN TRUMBULL, from Connecticut, was elected.

On being conducted to the chair, Mr. TRUMBULL addressed the House as follows:

GENTLEMEN: I find myself unable to express to you the full sense I have of the distinguished honor you have done me in the choice of your Speaker.

The diffidence I feel in my abilities to discharge, with propriety, the duties of the chair, is almost insuperable in my own mind. But, encouraged by the known candor of this honorable body, and depending, as I think I may confidently do, on the kind assistance of each individual in it, I shall enter on its duties, with full assurances to you, gentlemen, that I shall endeavor to conduct myself with that impartiality, integrity, and assiduity, which become the conspicuous station in which you have been pleased to place me.

The House then proceeded to ballot for a Clerk, when there appeared a unanimous vote for JOHN BECKLEY.

The oath to support the constitution was then administered to the members present, and the oath of office to the Speaker and Clerk.

Ordered, That the Speaker appoint committees until the House shall otherwise determine.

A message was received from the Senate, informing the House that a quorum of that body is assembled and ready to proceed to business; and that the Senate have informed the President of the United States that they are ready to receive any communications he may be pleased to make to them.

Resolved, That Mr. SMITH, of South Carolina, Mr. LAURANCE, and Mr. WHITE, be a committee on the

part of this House, to act jointly with the committee from the Senate, to wait on the President.

Ordered, That a committee be appointed to prepare and report Standing Rules and Orders of proceeding for the House. Messrs. MUHLENBERG, TUCKER, WILLIAMSON, AMES, and SMITH, of New Hampshire, were named.

JOSEPH WHEATON was appointed Sergeant-at-Arms; and GIFFORD DALLEY, Doorkeeper, and THOMAS CLAXTON, assistant Doorkeeper.

Resolved, That two Chaplains, of different denominations, be appointed to Congress for the present session, to interchange weekly.

Mr. SMITH, from the joint committee appointed to wait on the President of the United States, reported that the President would make a communication to both Houses to-morrow at twelve o'clock, in the Senate Chamber.

A message from the Senate announced the agreement of that body to the resolution of this House for the appointment of two Chaplains, and had elected the Right Reverend Bishop WHITE, on their part.

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TUESDAY, October 25.

The following members appeared, presented their credentials, and took their seats: ABRAHAM CLARK, JONATHAN DAYTON, and AARON KITCHELL, from New Jersey; and ISRAEL JACOBS, from Pennsylvania.

The House proceeded to ballot for a Chaplain, when a majority of the votes were found in favor of the Rev. Mr. BLAIR.

A message being received from the Senate, stating that they were ready to receive the communication from the President of the United States, the Speaker, attended by the members of the House, withdrew to the Senate Chamber for the purpose of receiving the same.

On the return of the members, the Speaker laid before the House a copy of the Speech delivered by the President, (which will be found in the proceedings of the Senate.)

The Speech was committed to a Committee of the Whole to-morrow.

WEDNESDAY, October 26.

President's Speech.

The House then went into Committee of the Whole, on the President's Speech, Mr. MUHLENBERG in the chair.

The Speech being read, Mr. VINING moved a resolution, of which the following is the purport:

Resolved, That it is the opinion of this committee that an Address should be presented to the President of the United States by the House of Representatives, in answer to his Speech, to congratulate him on the prosperous situation of the United States, expressive of the approbation of the House of the wise and prudent measures he has pursued during their recess, in the execution of the duties committed to his charge: promising speedy attention to the important and momentous objects recommended to their consideration, and expressing their approbation of the humane and effectual steps taken, under his direction, for the defence of the Western frontiers."

This resolution was objected to by MESSRS. LAURANCE, SEDGWICK, SMITH, (of South Carolina,) and LIVERMORE, upon the principle, that it expressed the sense of the House upon points which required further information and investigation before the House could, with propriety, determine. It was difficult to say, before proper documents were laid before the House, whether the measures adopted for the defence of the Western frontiers were the most prudent that could be adopted. It was impossible positively to assert, that the President, in the execution of the duties assigned him in carrying into effect the excise act, had done all for the best. Every member that spoke agreed in expressing his individual opinion, that no doubt the President had acted with his wonted prudence and wisdom in the execution of the trusts reposed in him; but also agreed that it was improper, indeed, it was no compliment paid to the President, to approve, before a formal examination.

In answer to these objections it was observed, that so far as circumstances had been made known to the members, relative to the steps taken by the President during the recess of the Federal Legislature, so far they claimed the approbation of the House; and that the opinion of the House was only meant to be given as far as they were informed. It was urged, that the answer of the House should be a candid expression of their feelings; feelings which the prosperous situation of the country undoubtedly called forth, and which the issue of the measures adopted could not fail to excite.

Several modifications were proposed to the resolution, which was finally agreed to, as follows:

Resolved, That it is the opinion of this committee that a respectful Address ought to be presented by the House of Representatives to the President of the United States, in answer to his Speech to both Houses of Congress at the commencement of this session, containing assurances that this House will take into consideration the various and important matters recommended to their attention."

Mr. MADISON, Mr. LAURANCE, and Mr. SMITH, (of South Carolina,) were appointed a committee to prepare an Address, pursuant to the resolution.

THURSDAY, October 27.

Mr. MADISON, from the committee appointed, reported an Address to the President of the United States, in answer to his Speech to both Houses of Congress; which was read, and ordered to be committed to a Committee of the whole House immediately.

Address to the President.

The House accordingly resolved itself into a Committee of the whole House on the said Address; and, after some time spent therein, Mr. MUHLENBERG reported that the committee had had the said Address under consideration, and made no amendment thereto. Whereupon, it was

Resolved, unanimously, That this House doth agree to the said Address, in the words following:

SIR: In receiving your Address, at the opening of the present session, the House of Representatives have taken an ample share in the feelings inspired by the actual prosperity and flattering prospects of our country; and whilst, with becoming gratitude to Heaven, we ascribe this happiness to the true source from which it flows, we behold with an animating pleasure the degree in which the Constitution and laws of the United States have been instrumental in dispensing it.

It yields us particular satisfaction to learn the success with which the different important measures of the Government have proceeded; as well those specially provided for the last session, as those of preceding date. The safety of our Western frontier, in which the lives and repose of so many of our fellow-citizens are involved, being peculiarly interesting, your communications on that subject are proportionally grateful to us. The gallantry and good conduct of the militia, whose services were called for, is an honorable confirmation of the efficacy of that precious resource of a free State. And we anxiously wish that the consequences of their successful enterprises, and of the other proceedings to which you have referred, may leave the United States free to pursue the most benevolent policy towards the unhappy and deluded race of people in our neighborhood.

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The amount of the population of the United States, determined by the returns of the census, is a source of the most pleasing reflections, whether it be viewed in relation to our national safety and respectability, or as a proof of that felicity in the situation of our country, which favors so unexampled a rapidity in its growth. Nor ought any to be insensible to the additional motive suggested by this important fact to perpetuate the free Government established with a wise administration of it, to a portion of the earth which promises such an increase of the number which is to enjoy those blessings within the limits of the United States.

We shall proceed with all the respect due to your patriotic recommendations, and with a deep sense of the trust committed to us by our fellow-citizens, to take into consideration the various and important matters falling within the present session; and, in discussing and deciding each, we shall feel every disposition, whilst we are pursuing the public welfare, which must be the supreme object with all our constituents, to accommodate, as far as possible, the means of attaining it to the sentiments and wishes of every part of them.

Mr. MADISON, from the committee appointed to wait on the President of the United States, to know when and where it will be convenient for him to receive the Address of this House, in answer to his Speech to both Houses of Congress, reported that the committee had waited on the President, who signified to them that it would be convenient to him to receive the said Address at twelve o'clock to-morrow, at his own house.

FRIDAY, October 28.

The SPEAKER, attended by the House, then withdrew to the house of the President of the United States, and there presented to him the Address of this House, in answer to his Speech to both Houses of Congress; to which the President made the following reply:

Gentlemen:

The pleasure I derive from an assurance of your attention to the objects I have recommended to you is doubled by your concurrence in the testimony I have borne to the prosperous condition of our public affairs.

Relying on the sanctions of your enlightened judgment, and on your patriotic aid, I shall be the more encouraged in all my endeavors for the public weal, and particularly in those which may be required on my part for executing the salutary measures I anticipate from your present deliberations.

G. WASHINGTON.

MONDAY, October 31.

Several other members, to wit: from Vermont, NATHANIEL NILES and ISRAEL SMITH; from Maryland,

UPTON SHERIDINE; from North Carolina, WILLIAM BARRY GROVE; and from South Carolina, ROBERT BARNWELL; appeared, produced their credentials, and took their seats in the House.

TUESDAY, November 1.

ANTHONY WAYNE, member from Georgia, and JOSIAH PARKER, from Virginia, took their seats this day.

THURSDAY, November 3.

Two other members, to wit, RICHARD BLAND LEE and JOHN PAGE, from Virginia, appeared, produced their credentials, and took their seats in the House.

FRIDAY, November 4.

Another member, to wit, EGBERT BENSON, from New York, appeared, produced his credentials, and took his seat in the House.

MONDAY, November 7.

Several other members, to wit: from Pennsylvania, WILLIAM FINDLAY; from North Carolina, JOHN BAPTIST ASHE; and from Georgia, ABRAHAM BALDWIN; appeared, produced their credentials, and took their seats in the House.

TUESDAY, November 8.

Another member, to wit, ANDREW GREGG, from Pennsylvania, appeared, produced his credentials, and took his seat in the House.

John Torrey.

The House resolved itself into a Committee of the whole House on the Report of the Secretary of War on the petition of John Torrey, administrator of Major Joseph Torrey, deceased.

Mr. AMES objected to the motion for accepting the Report of the Secretary of War. He said, it must be apparent that he was placed by accident in a relation to the subject in debate, which he should not have adopted of choice. With very little knowledge of the parties and their connections, and the interests that would be involved by the decision, he seemed to be considered as standing sponsor for the petitioner. He might justify this active support of the petition, by assigning motives which were common to other gentlemen; but as they have continued silent, I will assign a reason for speaking, which is peculiar to myself. Nothing excites a person to a more fervid defence of his opinions, than the supposed discovery that they are misunderstood, and the force of the reasons on which he had formed them unduly estimated.

Congress promised half-pay to the officers who should continue in service *to the end of the war*. This was afterwards made a commutation for half-pay. Major Torrey continued in service till September, 1783, when he died. The question is, did he continue in service to the end of the war? The provisional articles of peace were signed on the 30th November, 1782; but they were to remain without force till terms of peace should be agreed upon between Great Britain and France. This took place on the 30th January, 1783, and the ratifications were exchanged on the 3d February, 1783, at Paris. The provisional treaty between Great Britain and America was then *a treaty of peace*, and according to the words of that treaty was *concluded*. Accordingly, on the 11th April, 1783, Congress by a proclamation made known those facts, and the stipulations made, in regard to the periods when hostilities should cease, by the contracting parties to the treaty. Hostilities did cease, and before the end of April, 1783, all America was in perfect peace. The late hostile nations shook hands, our vessels sailed in safety, and by sea and land reconciliation succeeded to hostility.

But did all this put an end to the war? The children in the street would answer this question: they would say, it is peace when it is not war. Of all facts, the most notorious seems to be the state of war; and it is the fact that the war was at an end, (and not any after resolve of Congress,) that the commutation of Major Torrey was made to hinge upon. When the meaning of a bargain is disputed, it is usual to search out the intention of the contracting parties when it was made. Supposing, instead of interpreting a resolve of Congress, any twelve of this body had to try a case between two private persons; suppose that a man had given his note of hand for a sum to be paid at the *end of the war*. Would twelve of this House, or would any jury in the country say that the war continued longer than hostilities? In private life, a man would think it touched his character to refuse paying his note in such case. Surely a government ought to perform its promise with as much delicacy and exactness. Congress did not promise the half-pay, and afterward the commutation, on the condition that a man should serve till they should think proper to say the war was at an end. He depended on the stubborn *fact* that it did end, which no resolution of Congress could change; and not on the refining opinion when the officers might safely be discharged—for that we see might be differently formed, according to the different views of policy and safety at the time. An officer having this promise of Congress, has a right to this commutation on the cessation of hostilities, in pursuance of the treaty. If this is disputed, the meaning of the words, "*the end of the war*," should be decided as it was understood at the time of

the promise. Will any one believe that the 3d November, 1783, was the term, after the state of war and all the treaties which put an end to it, had been long passed? If any doubt still remains, writers on the law of nations should be consulted. For the officer may justly claim an execution of the promise according to law; that is the umpire between Government and the people. On appealing to the law of nations, we find that war is defined to be "the state in which a nation prosecutes its right by force." "Peace is opposed to the state of war—an accommodation is proposed and conditions agreed on, and thus peace puts an end to war." "When the powers at war agree to lay down their arms, the agreement is the treaty of peace." "The general and necessary effects of peace, are the reconciliation of enemies and the cessation of hostilities; it restores the two nations to their natural state." Would any jury in this country say, that the matter of fact and the principles of law were not in favor of the petition? Apply these maxims of law to the case. The provisional articles of November, 1782, were of themselves nothing, it is true, but they were to constitute the treaty of peace, whenever Great Britain and France had agreed on the terms of peace. As these two powers did agree on the 30th January, and ratified the terms on the 3d February, 1783, *then* the provisional articles, to use the very words of the preamble, did *constitute the treaty of peace*; it was *then* a *concluded* thing; and peace in fact took place in the several parts of the world on the appointed days.

It has been said, that the preliminaries were no more than a suspension of arms—that the state of war still continues, until a *definitive* treaty. To this it is answered, that preliminaries bind the national faith; if violated, the perjured faithless nation would kindle a new war. By the law of nations there is not such a distinction as that which is alleged, between preliminary and definitive treaties. Let the authorities for such a distinction be produced by those who make it. But they do not exist—a truce does not put an end to a war—a truce is, however, a suspension of war for a specified term. At the end of this term, the war begins again, of course, without any fresh declaration. But a suspension of hostilities for an indefinite period, is not a truce, but a peace; especially if it is added, that it is agreed upon by the belligerent nations in consequence of a settlement of their disputes, and if it happens in fact that the war is not revived. Those who make so much of a definitive treaty, and so light of preliminaries, should consider that, on their own system, the former is a kind of defeasance which annuls the latter. But when the definitive treaty is signed, the preliminaries, which before were liable to be annulled, now become of force, and the treaty, now become indefeasible, takes its date from the preliminaries. Though this mode of reasoning has not much weight on my mind, it ought to have some with those who have set up the distinction which it is adduced to overthrow.

These are the reasons on which I have formed my opinion that the war ended in fact in April, 1783, when hostilities ceased by mutual agreement of the powers at war. My opinion is supported by authority much more reputable than any I can give to it. The law courts in this country have decided it judicially; cases of captured vessels, and the question of interest on British debts, have produced decisions in every State of the Union, unless I am misinformed, that the war ended in March or April, 1783. The courts in England, and in every country where the war spread, on trials of property, have made similar decisions. Major Torrey died in September, 1783; shall this body decide against the settled rule of all the law courts?

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It remains to remove some objections:

It is alleged, that Congress have by various resolves fixed the period of the war, and have declared that the 3d November, 1783, is the term. If they had declared that it should be computed from the end of the world, it would not alter the truth of the fact. *After* declarations ought not to be received to change their own promises. But a declaration, or a dozen of them, made for another purpose, and not to declare the meaning of the contract, cannot on any principle be received to interpret it. It is not necessary, however, to contend against those resolves of Congress. They are irreconcilable with the former engagement to Major Torrey. In undertaking to reconcile them, I feel that I impose a task on myself, which is made heavy by the prepossessions of many of my friends; I believe the minds of gentlemen are perfectly fair, and well-disposed to doing the petitioner justice. But I hope I shall not be thought to intend any offence, when I remark that certain ideas, such as that this claim is cut off by resolves of Congress, and that on allowing it, confusion would take place in the business of the public offices, were started with the discussion, and they have remained so woven into the texture of the debate, that I think it hard to unravel them. It was soon manifested that there was a general disposition to vote against the petition. This opportunity for debate seems to have been accorded as of grace, rather than as a means of removing any existing doubts of their own. Having adopted these opinions, this is rather a form of refusal than a mode of inquiring; and it seems to have been chosen with every circumstance of decency, and with all possible steadfastness of purpose. Yet I will proceed to state, that the point whether the war was at an end when hostilities ended in April, 1783, being already considered fully, we are to look for other reasons than such as relate to the commutation, to explain the resolves of Congress which continued the service of the officers beyond the end of the war, and as late as November, 1783. A mistake seems to have crept in here. It seems to be supposed that the officers were engaged to serve to the end of the war, just long enough to secure their commutation. But the commutation depended on one thing—the term of their service on another. The former was their right at the end of the war; but they were to remain in service till dismissed, unless they should think fit sooner to resign. They held their commissions during the pleasure of Congress. Though when the war ended they had a right to the commutation, they had no right to say their service was at an end. They did not choose to resign: Congress, for wise reasons, did not choose to dismiss them. A foreign army was still in New York. They were sent home on furlough, but drawing pay, and liable to be called into the field. Congress, in their resolves, did not say that it was not peace, but in effect that it was unsafe

to disarm. Gentlemen are not well agreed among themselves as to the end of the war. Some fix it at the definitive treaty of September 3, 1783; others at November 3. Their conclusions agree as illy with their principles; for if the definitive treaty put an end to the war, how can the same gentlemen say that the war was kept alive, on the journals of Congress, till November, 1783? Here, then, were Peace and War subsisting quietly together during two months.

The fears of making confusion by opening a door to many applications, seem to be groundless. A man must have died between the end of hostilities and November, 1783, to place a claim on the like footing. The living have had their commutations; they cannot come: and no other officer died in that period, as far as I can learn. I have inquired, and cannot find at the office of the Secretary of War any precedent which militates with this claim, or any reason to suppose that any similar one will be offered. The case is a new one; it stands alone, and probably ever will, and it must be decided on its own merits. Believing the fact to be indisputable that Major Torrey served to the end of the war, confiding in the principles of the law of nations, and the settled decisions of the Judicial Courts, I have endeavored to explain my ideas with perspicuity, and to impress them with force. I have said more than questions touching an individual will often be found to merit; but when public principles are construed to the prejudice of private rights, the debate cannot be treated too seriously.

Mr. BOUDINOT said, he differed in opinion from the gentleman in his construction of the business. He did not coincide in the idea that the decision of the present question should be on a strictly judicial principle. The petition is founded on certain resolutions and laws of Congress; and as there are certain established rules which have been observed in settling with every other officer similarly circumstanced, Congress cannot now with propriety break through those rules; to these they ought to adhere, till by the decision of some judicial court it shall appear that they are contrary to the rules of justice. [Here Mr. AMES requested Mr. BOUDINOT to point out the rules to which he referred.] Mr. B. referred to the report now under consideration, which was founded on a resolution of Congress, that the time for which the army was engaged should expire in November, 1783. This has been made a rule in all the settlements with the officers of the army.

The terms of the contract, between the officers and the United States, depended, he said, on the decision of the sovereign power; that was authorized alone to determine when the war should cease. That power was vested in the then existing Congress, who, although they entered into provisional articles in November, 1783, did not, however, think proper immediately to disband their armies or put an end to the war, as it was yet uncertain whether those provisional articles would be ratified by Great Britain, or a treaty of peace concluded between Great Britain and France; a circumstance which was necessary before those articles could be definitively binding. It was only when the definitive treaty was made, that Congress determined the period of the war. The army, when finally disbanded and paid up to that day, acknowledged, by accepting their pay, that it was then only the war ended; and, as far as was in their power, assented to the principle which he maintained, that the provisional articles had not before put an end to the war. Suppose that, on the arrival of the definitive treaty, Congress had not agreed to the terms, would the war have then been considered as at an end? Would not Congress have been in the same situation as before the signing of the provisional articles? It was necessary that Congress should, by a definitive act, determine when the war ceased. Congress had passed such an act; and the House at present cannot with propriety enter into a resolution to alter the period. The argument of inconvenience ought also to have some weight with the House; for if any alteration were now to be made in the law, it must have a retrospect to all the widows and children of deceased officers, who have received half pay for years past. Besides, many officers who have not hitherto considered themselves as entitled to half pay, would, in consequence of such an alteration, have a right to apply for it.

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Mr. LAURANCE said, he doubted not the gentleman who supported the petition was fully satisfied as to the justice of the claim which he advocated with so much ardor; he begged leave to state his opinion, however, on the subject, in which he should differ from that gentleman.

The contract with the officers of the late army was, that those should be entitled to certain benefits who served to the end of the war. But Major Torrey was not thus circumstanced, as he died previous to the period when the war ceased, and left neither widow nor orphan to receive the benefit of the provisions allowed by law; his case is not contemplated by any existing resolution of Congress.

It is well known that hostilities ceased at the time of publishing the provisional articles which formed the basis for the treaty of peace; but can any man say that every soldier had a right on that event to demand a discharge? Surely not. The provisional articles had the peace in contemplation, but the army was not to be discharged till the articles of the definitive treaty were ratified by the belligerent powers. The army of the United States was, therefore, only furloughed, and Congress retained the power of recalling them into service; and had the officers and soldiers been recalled from their furloughs to take the field, it would have been a continuance of the same war; but if the definitive treaty had been signed, and hostilities had commenced the very next day, it would have been a new war, and would have been prosecuted on entirely new principles. The second article of the provisional treaty looks forward to a *future* period for a conclusion of the war; and he inferred, that the definitive articles being ratified, and the ratifications exchanged, alone constituted a termination of the war. Mr. L. added some observations on the legal ideas of Mr. Ames, in which he also differed from that gentleman; and concluded by expressing his approbation of the Report of the Secretary of War.

Mr. AMES's remarks were further combated by Mr. WILLIAMSON, Mr. DAYTON, Mr. HILLHOUSE, Mr. WADSWORTH, Mr. CLARK, and Mr. WHITE.

Mr. WAYNE was opposed to the report, and stated certain particulars to show that the army was not furloughed by Congress because it was apprehended there would be any further demand for their services, but because it was inconvenient to give them an absolute discharge at that period.

The motion for accepting the Secretary's Report was carried by a large majority.

WEDNESDAY, November 9.

Two other members, to wit: from Maryland, WILLIAM VANS MURRAY; and from South Carolina, THOMAS SUMTER; appeared, produced their credentials, and took their seats in the House.

The Speaker laid before the House a letter from the Governor of Maryland, enclosing a letter to him from WILLIAM PINKNEY, a member returned to serve in this House for the said State, containing his resignation of that appointment; also a return of JOHN FRANCIS MERCER, elected a member to serve in this House, in the room of the said WILLIAM PINKNEY: which were read, and ordered to be referred to the standing Committee of Elections.

THURSDAY, November 10.

The Census.

The House again resolved itself into a Committee of the whole House on the Schedule of the Enumeration of the Inhabitants of the United States.

Mr. LAURANCE had previously moved, that until the next enumeration the number of Representatives should be one for every thirty thousand persons.

Mr. DAYTON moved to strike out "thirty," before "thousand." This amendment was under consideration.

Mr. GERRY observed, that in all the decisions of the Legislature, we ought to follow as far as possible the opinion of the great body of the people. If this opinion should be found to be against the ratio of thirty thousand, the amendment ought to be adopted; but if we refer to the amendments, proposed by the Conventions to the constitution, we shall find that five States are in favor of one Representative to every thirty thousand persons, till the number should amount to two hundred. None of the propositions now moved as amendments to the motion of the gentleman from New York, amount to that number. Several others of the Conventions were of opinion that the representation was too small to secure the liberties of this country. This Government, said he, is a Government of representation; the people may control their Representatives, but their influence is small in respect to the Senate and the Executive, and still less over the officers of Government. On what then do the people depend for checking encroachments, or preventing abuses? On their Representatives? If these should be too few, or if they should fail them, they never can redress their grievances without having recourse to violence. If the number is small, a majority may be the more easily corrupted. On the other hand, too large a number will be attended with difficulties; a medium then is most eligible. An adequate number is absolutely necessary; and to show that one to thirty thousand would not produce more than an adequate number, he referred to the ratio of representation in England and France, in which there was a greater proportion of Representatives than in the Legislature of the United States.

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He then adverted to the objection arising from the additional expense; but, he observed, after Congress shall have passed a few more of the most important acts, it is not probable that the public business will in future require that the sessions should be for more than four months annually; this would reduce the expense greatly, in the first instance; and, agreeably to a calculation, an addition of forty-seven members to the present number, would make the aggregate expense but about one-eighteenth part more than at present, supposing the sessions to be four months long. But he considered the objection on account of the expense as merely speculative.

Although Congress is not positively bound by the constitution to give one member for every thirty thousand inhabitants, yet he would ask, whether the citizens of the United States did not expect that this ratio would be adopted? and whether they would not consider it as an abuse of power, if Congress, instead of one to thirty thousand, should settle the representation at one to forty thousand? Eight States have already adopted the first article of the proposed amendments to the constitution: and if the House should either settle the number of the Representative body, as it now stands, or reduce it, or establish it at one hundred, perhaps they might, before the end of the session, be obliged to repeal their act—as they would be bound by the amendment, as soon as it is ratified by a sufficient number of States. If gentlemen thought it probable that the proposed amendment would be ratified by the several States, they ought already to consider it as a rule for their conduct, and be restrained by it, from giving less than one Representative for thirty thousand inhabitants. After the representation amounts to one hundred, Congress will, no doubt, have a right to fix it there, until it is increased by the ratio of one to forty thousand: but that is a power which, he presumed, Congress will not exercise; but that they then will establish some ratio, by which the increase of representation shall keep pace with the increase of population, until the House consists of two hundred members.

Mr. BOUDINOT was convinced of the propriety of striking out the word "thirty." The House ought to consider what would be an adequate number for doing the business of the Union; and that number ought not to be exceeded, except to answer some very valuable purpose. Business would

proceed with difficulty, if the representation was so numerous as it would become by the ratio of one to thirty thousand. The present representation of the United States is in a ratio very different from that of one to thirty thousand; and yet he thought it fully adequate. From a rough calculation, the ratio of thirty thousand would produce one hundred and thirteen members; thirty-five thousand would give ninety-seven; and forty thousand would produce eighty-one. If the number once settled was to rest there, he would not be over anxious to oppose the increase; but if gentlemen would take into view the increase consequent on the next enumeration, they would find that the number will by far exceed the due bounds.

He thought the people of the United States would be duly represented, and to their entire satisfaction, if the ratio was set higher than thirty thousand; nor could he imagine that such an exact proportion, between the Representatives and the represented, was at all requisite to secure their liberties, or to do the necessary business of Government. This indeed might be the case, if the power vested in Congress was proportionate to their number; but, since the House would possess the same powers, whether it consisted of a greater or a smaller number, he thought the people equally secure in either case. The ratio of thirty-five thousand, which would produce ninety-seven members, would, in his opinion, be a very proper one. If, however, the people should think otherwise, they had it in their power to correct the mistake, by ratifying the proposed amendment. Their not having as yet ratified it, was to him an argument that they thought the ratio too low; or, at least, that they considered the question as doubtful. Some of the States, he observed, have postponed the consideration of the amendment; and eight only have as yet agreed to it. On the whole, the House might safely adopt the ratio of one to thirty-five thousand; for that the increasing population of the United States would ever supply a representation sufficiently numerous to answer every good purpose.

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Mr. CLARK observed, that his objection was not merely on account of the pay of the members, but an increase in the representation would bring an additional expense on the people, by increasing the number of public officers; as almost every man would wish to see his friend provided for. The liberties of America could be in no danger from the present ratio of representation. The doors of the House are open, and the people know what their Representatives are doing.

Mr. STEELE was in favor of the motion for striking out *thirty*. In discussing the important subject before the committee, he observed that there were two inquiries to be attended to: What is the proper number to constitute a Representative body for the United States, and what ratio will leave the fewest fractions in the respective States? One member to thirty thousand, he conceived, would give too numerous a representation. According to the present number of inhabitants, it will almost double the present number; it will divide and diminish the responsibility, make the House too unwieldy, retard public business, and increase the public expenses unnecessarily. An adequate representation, he thought, would be comprised within a much smaller number.

Gentlemen have called our attention to the House of Commons of Great Britain, and the National Assembly of France; but God forbid that we should draw our precedents from such examples as may be cited from European representation.

He was opposed to thirty thousand as the ratio: it would, in fractions, throughout the United States, leave above three hundred and sixty-nine thousand citizens unrepresented. Thirty-five thousand he thought the most eligible number, as it would leave the fewest fractions.

Mr. LAURANCE agreed that an adequate number was the great object to be attended to; but he contended that the original motion would give this number more completely than a larger ratio: and it ought to be considered, that, before the next enumeration, it will not be probably more than one to fifty thousand. As to the increase of expense, he observed that the great objects being accomplished, the future sessions will be short; besides which, the compensation of the members may be diminished. But he considered a necessary increase in the expense to be fully counterbalanced by affording greater security to the liberties of the people. The firmness of a government depends on a strong Executive; but this Executive should be founded on a broad bottom; and the broader the basis, the more secure is the public freedom under a vigorous Executive.

The existence of the Union may depend on the fullness of the representation. The inequality in the proportional increase of the number of inhabitants in different States, ought also to be taken into consideration; for it is very probable that in a short time, while some of the smaller States had a Representative for every thirty thousand, others would not have one to forty thousand. He was governed by general principles, and not by any calculations of fractional numbers: the constitution contemplates the ratio he had proposed, and therefore he hoped the motion for striking out would not obtain.

Mr. GOODHUE observed, that the situation and circumstances of the Government of the United States are so different from those of France or Great Britain, that no parallel could be drawn respecting them. Nor is there an absolute similarity between this Government and those of the State Governments. The objects of legislation which come under the cognizance of Congress, are but few compared with those which engage the British House of Commons and the National Assembly of France. A much larger representation for them, and in our State Legislatures, is therefore more proper, than is necessary for us in the General Government. He doubted the opinion that a large representation was less liable to corruption than a small one: some facts appear to confirm the former sentiment. He did not consider the expense as a material objection, if an increase of the number be necessary to doing more ample justice, or for the greater security of the liberties of the people; but, as he thought this was by no means the case, he was in favor of striking out "thirty," in order to insert a larger number.

Mr. BARNWELL agreed with the gentleman last up. He should vote for striking out "thirty," in order to substitute the largest number that had been mentioned. Mr. B. entered into an abstract and philosophical discussion of the principle of representation in Government. The leading sentiment was, that a large proportion of Representatives is not necessary to obtain the best objects of legislation, in expressing the will of the people, or to secure the liberties of the constituent body. The great point, he observed, was, to combine the greatest portion of honesty with a due degree of activity. That number which would comprise a due proportion of these, would be competent to all the purposes of legislation, whether the number for which it legislates is ten thousand, or five hundred thousand. On this principle, he was decidedly against a large number, and in favor of a small one. Adverting to the British House of Commons and the National Assembly of France, with respect to the former, he said, their corruption is, in a great degree, owing to their numbers: as to the latter, he observed, that the National Assembly had acted, in his opinion, politically and wisely. They set out with a large representation, in conformity to the sentiments of the people at the moment; but, on experience, finding the number too great, they have reduced it from twelve hundred to about two hundred and fifty. He believed that the general sense of the people was against a large representation in Congress; the inconveniences experienced from numerous bodies in the State Legislatures have led several of the States to lessen the number. He instanced Georgia, South Carolina, and Pennsylvania.

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Mr. BALDWIN was opposed to the motion. One Representative for thirty thousand appeared to him by no means a great representation. The opinion that, of late, had been so often advanced from the press, and in public discussion, for reducing the Representative branch in Government to a small number, he held to be full of dangerous error. He was sensible that the terms great and small were so merely relative in their signification, that it was difficult precisely to understand each other in the use of them. Perhaps they may most properly, both of them, be considered as extremes. No doubt representation, which of late seems to be used as the character of Republican Government, is a great improvement upon Democracy, or legislation by the whole body of the people. He could conceive that a representation might be so large as to partake of the evils of assembling the whole body of the people; but it was a very improbable and not a dangerous extreme: the other extreme was full of danger. These observations acquire much force, when applied particularly to the Governments of this country: enfeeble the representative part of them, and you sap the very principles of life. They stand on a different basis from the Governments which have gone before them, and may justly be said to be new experiments in government; time, as yet, has scarcely given room to judge of the probable issue; but this we may pronounce with much certainty—Let the principles of representation languish, and they have no chance of success.

It had not been found practicable to ground representation in the Federal Constitution upon any other principle than that of numbers; but extent of territory is unquestionably one of the natural principles on which it rests, and should if possible be regarded. One for thirty-four or thirty-five thousand may be deemed a proper representation in the Kingdom of France, or of Great Britain. The four millions which compose the United States, compactly settled where there was great sameness in the country, and pretty equally distant from a common centre, would be properly represented by a smaller number than in their present sparse settlement. But still further: the settlement of the United States is a fillet stretched along the sea-coast for seventeen hundred miles, comprehending as great a variety of climate and interests as one of the other quarters of the globe. It is difficult to conceive of a situation which calls for a greater extension of the principle of representation.

It has been said, that one for thirty thousand will make too large and unwieldy a body. He was sensible that was a point that did not admit of being determined by any conclusive reasoning; it was a mere matter of opinion; sound judgment only is to be used, time and experience will come on and confirm or correct the opinion. In such a case, it is wise to inquire how this has been judged of by others who have had a Representative body. In France, one thousand two hundred was not thought too great a representation in forming their National Assembly; and the number established by their new constitution for their stated Legislature was not two hundred and fifty, as the member last up had stated, but, if he had not been misinformed by the publications in this country, it was nearly seven hundred and fifty.

In the Kingdom of Great Britain, five hundred is not thought too great a representation: and can one hundred and thirteen, which is the greatest number contended for, be considered in this country as a huge and impracticable mass of representation?

It had ever appeared to him to be among the strongest marks of our youth and inexperience, that we grow wise too suddenly. He was afraid this instantaneous wisdom which sprung up so at once, and set at nought, or removed to the extreme of absurdity and folly, the deliberate and tried opinions of the most profound and enlightened among men, in circumstances peculiarly favorable to honest decision, will itself be left by time on that extreme.

The Federal Government, it must be admitted, is in fact pretty highly seasoned with prerogative; practice has already evinced the necessity, in many instances, of increasing it, by devolving much of the Legislative power upon the Executive Department, arising from the difficulty of making particular provisions and details in our laws, and accommodating them to the various interests of so extensive a country.

The other branch of the Legislature has many traits of a perpetual—at least of a very solid constituent part of the Government. He did not mention these as imperfections in the Government; they are perfections, if the other parts can be in due proportion: but it is surely a sound reason against taking positive measures at this time to diminish the Representative

branch. For his own part, he was not well satisfied as to the intention. If there is any reason to apprehend that the Government will depart from the point on which it was first placed, he could scarcely suppose that any one could be honestly alarmed with the fear that the departure would be towards Democracy. He concluded, by expressing his hopes that the representation to the next Congress would be fixed at one for thirty thousand, as it had hitherto been, and that the motion for striking out would not prevail.

FRIDAY, November 11.

JOHN W. KITTERA, from Pennsylvania, appeared, produced his credentials, and took his seat in the House to-day. [Pg 324]

MONDAY, November 14.

A petition of James Jackson, of the State of Georgia, was presented to the House and read, complaining of the undue election and return of ANTHONY WAYNE, one of the members returned to serve in this House for the said State.

Ratio of Representation.

The House again resolved itself into a Committee of the whole House on the Schedule of the Enumeration of the Inhabitants of the United States.

Mr. FINDLAY declared himself to be in favor of one Representative for every thirty thousand persons. The opinion of the people should be the guide of the committee; that opinion, he conceived, to be in favor of the ratio he had mentioned.

The representation ought as nearly as possible to express not only the will, but to participate in the wishes and interests of the people. A large representation embraces these interests more fully, and is more competent to giving and receiving information. The objects of legislation are such as come home to the doors, to the feelings of every man; the Government ought therefore to secure the confidence of the people by a large representation. The expense he considered as trifling compared to the benefits—and the people expect and are willing to pay for being well governed, and having their liberties secured. An increased representation is an additional security against corruption. As to delays occasioned by a numerous body, he observed that the Representatives were chosen to deliberate and to mature every subject before decision; he instanced the advantages derived from the numerous representations in France and in Ireland; the former had framed a constitution in two years for twenty-six millions of citizens, and provided for securing the liberties of their country—and the latter had proved a successful barrier against the encroachments of the arbitrary power of England. He concluded, by asserting that the voice of the people was in favor of the amendment proposed to the constitution, which would give one Representative to every thirty thousand persons.

Mr. GILES said this subject had struck him in two points of view: whether Congress are not precluded from exercising any discretion on the subject? and whether, if they are not, it is expedient for them to exercise this discretion at this time? The ratio of representation is a constitutional, and not a Legislative act. He referred to the constitution, in which it is said that there shall be one Representative to every State; and, secondly, that until the enumeration, the number should be as therein appointed to each State. After the enumeration, the number is mentioned below which it shall not be placed; but there is a negative power to increase the ratio, and from this negative power, a positive discretionary power is inferred. But, he observed that Congress had precluded itself from a right to exercise this discretionary power, by sending out to the several State Legislatures an amendment on this very subject. This amendment he considered in a serious point of view; and had this idea been attended to at the commencement of the discussion, he conceived that it would have prevented the opinion from being brought forward whether it was expedient that any change in the ratio of the representation should take place. The idea of one to thirty thousand, he considered as fully settled in the minds of the people; and a change on the part of the Government would indicate a changeable disposition, and a mutability of counsels, which is but another name for weakness.

Mr. G. then took a view of the objects of legislation to the State Assemblies, and of those of the General Government. In the former, above one thousand persons are employed, though their attention is confined to their internal police. Those of the General Government, on the other hand, are on the great objects of the whole finance of the Union, a sum of more than eighty millions of dollars, &c., &c.

It is said that we shall want abilities, but I should be sorry if a representation of ten times the present number of this House should comprise the abilities of a single State.

He assigned different causes than numbers, for the corruption in the British House of Commons; among these were the frequent mortgages of the funds, and the immense appropriations at the disposal of the Executive, the mode of their elections, &c. A large number is not so easily corrupted as a small body.

An inequality of circumstances, he then observed, produces revolutions in Government, from Democracy to Aristocracy and Monarchy. Great wealth produces a desire of distinctions, rank, and titles. The revolutions in property in this country have created a prodigious inequality of circumstances. Government has contributed to this inequality; the Bank of the United States is a

most important machine in promoting the objects of this moneyed interest. This bank will be the most powerful engine to corrupt this House. Some of the members are directors of this institution; and it will only be by increasing the representation that an adequate barrier can be opposed to this moneyed interest. He next adverted to certain ideas which he said had been disseminated through the United States; and here he took occasion to observe, that the Legislature ought to express some public disapprobation of these opinions. The strong Executive of this Government ought to be balanced by a full representation in this House. He hoped the motion to strike out thirty thousand would not obtain.

Mr. BOUDINOT closed the debate of this day by a few remarks, reinforcing his former observations in favor of an increased ratio.

TUESDAY, November 15.

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Ratio of Representation.

The House again resolved itself into a committee of the whole House on the Schedule of the Enumeration of the Inhabitants of the United States.

Mr. PAGE addressed the Chair as follows:

Mr. CHAIRMAN: I can no longer refrain from expressing my sentiments respecting the question before the committee; not only because I wish if possible to remove the error which I think several members, for whom I have the highest respect, have fallen into, but because I feel myself more interested in the question than I ever was in any one I have had to decide on.

Sir, it gave me pain to find those worthy members calculating and coldly applying the rules of arithmetic to a subject beyond the power of numbers to express the degree of its importance to their fellow-citizens. I was distressed, sir, to find that, in their honest zeal for securing order, despatch of business, and dignity in respectability of members in the General Legislature, they used arguments which have been applied in other countries to the establishment of insolent aristocracies—in some, tyrannical despotisms—and in others, kings; those countries which were most on their guard with a semblance of a free Government.

Sir, the errors I wish to correct are these. They think that because it is *proposed*, by a *proposed* amendment to the constitution, to authorize them to interfere in the business of ascertaining and fixing the ratio of representation to the population of the States, that Congress ought, without any hesitation, to enter on that business; but I humbly conceive that Congress, as this is a delicate question in which their own weight and importance must unite with the weight and substantial interest of their constituents, ought to listen to the suggestions of delicacy, and leave its discussion to a disinterested convention of the States. I say it appears to me no small error to quit the plain path of legislation, marked out for us by the constitution, needlessly to wander into the field of political speculation respecting its supposed defects.

Let me, therefore, advise to leave the restriction of the numbers of members of this House to the people, or to some future Congress, which can see more plainly than can now be described, the evils of a too numerous representation. By so doing, we shall avoid, if not an improper measure, at least a rash step—at least we shall stand clear of a charge of indelicacy, and deprive our enemies of the triumph they expected in the completion of their predictions, that Congress would never propose any amendments to the constitution but such as would be subservient to their own views and aggrandizement. Let us not give the enemies of our new Government cause to exult, and its friends to sigh and mourn. Let us not give our friends occasion to repeat what many have said, that so many of our citizens have been led away by theoretical writers on government, as to render it problematical whether the American States are not at this time as much indebted to the National Assembly for its remains of Republican principles, as France was to Congress, in 1776, for their first ideas of that liberty which they now enjoy. Let us not, in this moment of general exultation of the friends to the rights of man, take a step which may damp their joy, and lead them to fear that Americans, who were foremost in the glorious career of liberty, have stopped short.

But, not to take up the precious time of this House with relations of facts to show what was and is the opinion of our fellow-citizens on this interesting subject, I will only state a few arguments which have weight with me as being in themselves evident truths, viz: Our constitution being framed by the people, and introduced to us in their name, and Congress being the creatures of their will, spoken into existence by the word of their power, for Congress to lessen *their* weight, to diminish their importance, and to exclude them from as full a share in their own Government as can be consistent with the nature of it, and indeed from that share which they claim, must be impolitic and dangerous.

But, granting that the people wished not a greater share in the General Government than is proposed by the amendment, as it is impossible, in a country like the United States, that one man can be sufficiently informed of the opinions, wishes, and real interests of thirty-five thousand of his fellow-citizens, and therefore laws might be enacted contrary to the opinions, wishes, and interests of the people, in which they might nevertheless acquiesce, sacrificing their interests for the sake of peace and quiet to the wills of their Representatives, one thirty-five-thousandth part of their own number, what friend to his country would wish to see such a dangerous influence on the one hand, and such a blind submission on the other? How long could an enlightened people remain in such a state of insensibility and torpor? And what might not be the consequence of their awakening from their lethargy? If not an expensive revolution, an expensive repeal of laws.

And here I will remark, that the smallest number of Legislators, and they, too, well selected for their wisdom and respectability, if unacquainted with their constituents, might pass well-framed laws, founded on the wisdom of other countries, and yet find them disagreeable to their constituents, and be under a necessity of repealing them; but this could not be the case, if the people had in that Legislature a sufficient number of Representatives on whose fidelity, attachment, and disinterestedness they could rely. This, sir, is a truth worthy of our attention—an ignorance of which, or inattention thereto, I suspect has been the occasion of much political evil in the world. Happily for France, the people had such a number of Representatives in the National Assembly as could engage their feeling, inform their judgment, attach their interest, and establish their confidence in their fidelity and disinterestedness; had that number been much smaller, it is probable France would never have been delivered from oppression by their exertions.

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I know, sir, that many friends of our constitution thought that the convention did not pay a sufficient attention to the interests of their constituents, when they restrained them from having more than one Representative for every thirty thousand citizens. I know that there is a report that the people are indebted to their President, even for this share in their Government; and I believe, sir, if this report be true, that whatever has been so justly said of him, as compared to Fabius, to Hannibal, to Alexander, may be forgotten, when this instance of his wisdom, disinterestedness, and attachment to the interests of his fellow-citizens, will be more and more known and applauded, and be for ever engraved on the hearts of their posterity. Shall we, then, Mr. Chairman, the direct Representatives of the people, be less attentive to their interest, and that too respecting their share in the deliberations of their own House of Representatives, than the President of their convention was? I trust not.

I will not pretend to say, however, whether in an Assembly where attempts are frequently made to carry into effect the projects of monarchical or aristocratical juntos, the virtuous struggles of patriotic members may not produce mob-like disorders; but in an Assembly like Congress, where I should suppose no such question can be agitated; none which may not be discussed with temper and decency, such disorder need not be apprehended. I should suppose there would be less clanger of animosities and disorderly debates in Congress, amongst twelve hundred members, than in the British Parliament, if it consisted but of one hundred. Where we have all but one and the same great object in view, the happiness of our country, (not the interests of a particular body of men born with privileges insulting to the feelings and rights of freemen, nor the whims of an individual, born to trample on his fellow-creatures,) we can have no cause to be dissatisfied with one another.

Surely, sir, unless these gentlemen suppose the members of Congress void of sense, or of every idea of decency and propriety, they cannot suppose that even five hundred members would not be easily restrained within the bounds of order.

Mr. CLARK said, he did not rise to trouble the House with a lengthy discourse, for he had always believed that long speeches answer no valuable purpose. He meant only to offer a few remarks on what had been said in opposition to his former observations, and he hoped that, although the gentlemen contend for the ratio of 30,000 as the only basis whereon to found the liberties of the people, he should not be stigmatized with the name of an aristocrat for voting in favor of a large ratio. Hitherto he had not borne that character, and he could not suppose himself yet infected, unless he had caught the disorder since he became a member of the present House. Much has been said about the influence of the bank, and that bank directors are members of the House of Representatives. The bank (said he) is public property, and therefore he could not see the force of the gentleman's arguments respecting the dangerous influence of that institution, unless it was that he was displeased at the distribution of the shares, so much of the stock being held at New York and to the eastward, and so little at Conococheague. In the same predicament he viewed the other objections respecting the influence of speculators; for he did not know that any members of the House were speculators, neither could he see any danger from bribery.

In reply to Mr. FINDLAY'S observation, that more wisdom would be brought into the House by increasing the ratio, he asked whether this would not also bring in more folly? For the probability is, that the ratio of both wisdom and folly will increase with the increase of numbers, and likewise of honesty and dishonesty; and with respect to the smallness of the district, or that it was safer for a small number to send a member than a greater, he was of a different opinion, as he believed that if ever the practice of bribery should come into play in America, it would be easier for a Representative to purchase a small district than a large one. If ever the liberties of the people are endangered, it will not be by the smallness of the representation, but by the corruption of electors and elections. This is the door which Congress should guard in the strictest manner, and that will secure the people against corruption in the House.

A gentleman from Georgia has observed, that the disposition of a great many millions of dollars has been in the hands of a quorum of this House, of whom it requires only seventeen to form a majority. On this Mr. C. observed, that the old Congress, which was composed of a much smaller number, were intrusted with the disposal of larger sums, although there were sometimes only two members from the largest State, Virginia, and no complaints were heard of their conduct.

But there is an argument which ought to have weight in the present question. The Senate, although a much smaller body than this House, are fully competent to judge of our proceedings, and of the safety of the country. Indeed, (said Mr. C.,) it appears very evident to me that we are not in want of a larger number in the House of Representatives to debate any question, if it be considered how much has already been said on the subject now before us.

Mr. VINING expressed much surprise that the subject, which to him appeared perfectly definable, should have occasioned the debate to travel so widely from the line marked out by the constitution. The pendulum seems to vibrate between the numbers 81, 96, and 113; and should that pendulum rest on any one of them in preference to the others, he could not suppose that it would affect the liberties of America. Why, therefore, all this extraneous argument about a point of so easy decision? We are sent here to administer the Government, the first principles of which are already fixed, so that neither branch can encroach on the other. The Senate, the House of Representatives, the President, have each defined powers; and whilst those remain, I shall always believe the liberties of America are invulnerable.

Under this impression, Mr. Chairman, I shall vote for striking out 30,000, in order to accommodate the question to a medium. But I shall do this on different principles from some other gentlemen; notwithstanding, I at the same time confess that the ratification of the first amendment to the constitution ought to govern us in deciding this question. The spirit of the amendment appears to me clearly to imply that we should not suffer the number of Representatives to exceed one for 30,000. I am here, not as a person who shall exercise discretionary opinions, but judge by the letter of the constitution. And in this case we may increase the number, but we cannot make it less after the enumeration. In the mean time, until that enumeration is complete, the representation remains as it has been hitherto, which I believe may be about one member to every 40,000 or 41,000.

If we go upon theory only, I would enlarge the representation to its greatest extent, and hand down the principle to futurity, in letters of gold, that a very great representation—that Democracy is the very best Government that can possibly be devised, provided it were practicable to give it stability. Next to a government as free as theory could extend, we have the freest in the world—a Government of representation, which will increase with the population of the country, and the ten new States will always preserve an equilibrium; but if you increase it to an extreme, you may render it tumultuous, although it may be safe.

I cannot, however, see the propriety of comparing this to the Government of Great Britain, although that is called a Government of Representation, consisting of two Houses of Parliament, one of which is elective, the Lords are hereditary, and the King can do no wrong; and it has hitherto been, I believe, the next best Government, after our own, in the world. And yet we know with how much reluctance Ireland obtained a participation of the trade and commerce of Great Britain; although a FLOOD bellowed forth with the voice of liberty like a Demosthenes, still nothing could induce the British Ministry to give way, until the *volunteers* effected it. And have we not the volunteers, sir, in this country to protect our rights? Yes, sir, the American volunteers are perfectly competent to this service.

I am under no apprehensions from the stockholders of the bank, or the speculators in the funds; for it is their interest to have a wise and good representation. The people who are employed in the more simple path of agriculture, removed at a great distance, are not more interested in the security of the Government than the more informed stockholder. As an example of the discernment of the great commercial people of London and Bristol, I need only mention their choice of a FOX and a BURKE, for until a late day Mr. Burke was the champion of the people and the friend of liberty.

If our Senate should take any unwarrantable stride towards aristocracy, have we not the power to check them? No President can very well attempt it at any time hereafter; and we are perfectly secure in the present time from all suspicion of corruption.

Mr. HILLHOUSE said he had ever been a friend to a Republican form of Government, and God forbid, that he should ever give his vote for any measure that should endanger the liberties of his country. He was in favor of an energetic government, as that alone can secure the blessings of liberty. As to the dread of corruption in this House, which some gentlemen appeared to entertain, he thought there was no foundation for such an apprehension; at least as the idea refers to one or two hundred Representatives—two hundred he contended, were as easily corrupted as one. But the corruption contemplated was a mere matter of opinion; no facts, he presumed, existed in this country to justify a positive assertion; and as to foreign countries, it seems to be conceded that a larger number than any that has been mentioned is susceptible of undue influence. He then adverted to the restrictions on the President of the United States, and the Senate, in respect to the means of corrupting the Legislature. The constitution has also made provision to secure the independence of the members, &c. He then urged some difficulties which would be occasioned by a small ratio. He observed that the population of some of the States is nearly stationary: if a small ratio is now established, the consequence will be, when it is augmented, that the representation of those States must be diminished. This would be a measure that would be greatly disliked. With respect to the proposed amendment, he thought it was entirely out of the question, till it was ratified by three-fourths of the States. A very numerous representation would tend to weaken, if not destroy the State Governments, and, in the issue, would destroy the General Government. For, said he, they mutually depend on each other for support.

Mr. KITCHELL was in favor of a numerous representation. He thought the amendment proposed to the constitution ought to be the guide to the House on this occasion. He did not draw his ideas of what should constitute a proper representation, from the examples cited from foreign countries; nor was he actuated by an apprehension of corruption, as more applicable to a small number than to a large one; but when he considered the various objects, views, denominations, professions, callings and interests of the citizens of the United States, he was fully convinced that a large representation was necessary to embrace the wishes and answer the expectations of the people. He should, therefore, vote against the motion for striking out thirty thousand.

Mr. GERRY took a general survey of the arguments against the proposed ratio of one to thirty thousand. In noticing the objection from the instability of the State Legislatures, he said it was not owing to their numbers, but to the mode in which they are elected. Were the Senates and Executives of the several States chosen as those of the General Government, there would have been as much stability and consistency in their transactions, as in those of the Government of the Union. A gentleman had said that the proposed amendments to the constitution had been adopted with reluctance by some of the States which had accepted them. He called on the gentleman to produce his authorities for this assertion. A relative proportion between the members of the House and the Senate had been suggested; this idea had no foundation in the constitution. And he further observed, that the constitution has so completely guarded and secured the rights and independence of the Senate, that he could not conceive of the apprehensions of gentlemen, who appear to think that an increase of the members of this House will overwhelm that branch of the Legislature. In all events, the privileges of that body will remain the same. The States, it is said, have reduced their Representative Assemblies. This, so far from being an argument against the proposed ratio, was directly in favor of it. The diminution of the State Legislatures has been occasioned by the idea which the people entertain of the increasing importance of the General Government. The objects of legislation to both Governments are nearly similar; they relate to those important concerns which interest the feelings of every citizen of the United States; all the difference lies in the magnitude of their respective spheres of action. Hence, it must evidently be the wish and expectation of the people, that their interests in every point of view, should be fully and adequately represented in this House.

The resolution being again read, in the following words:

"Resolved, That the number of Representatives shall, until the next enumeration, be one for thirty thousand."

The question was taken thereupon and agreed to by the House; yeas 35, nays 23, as follows:

YEAS.—Abraham Baldwin, Egbert Benson, John Brown, William Findlay, Thomas Fitzsimons, Elbridge Gerry, William B. Giles, James Gordon, Andrew Gregg, Samuel Griffin, Daniel Heister, Daniel Huger, Israel Jacobs, Aaron Kitchell, John W. Kittera, John Laurance, Amasa Learned, Richard Bland Lee, James Madison, Andrew Moore, Frederick Augustus Muhlenberg, William Vans Murray, John Page, Josiah Parker, Joshua Seney, Upton Sheridine, Thomas Sumter, Peter Sylvester, Thomas Tredwell, Thomas Tudor Tucker, Abraham Venable, Jeremiah Wadsworth, Anthony Wayne, Alexander White, and Francis Willis.

NAYS.—Fisher Ames, John Baptist Ashe, Robert Barnwell, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Abraham Clark, Nicholas Gilman, Benjamin Goodhue, William Barry Grove, James Hillhouse, Samuel Livermore, Nathaniel Macon, Nathaniel Niles, Theodore Sedgwick, Jeremiah Smith, Israel Smith, William Smith, John Steele, Jonathan Sturges, George Thatcher, John Vining, and Artemas Ward.

Ordered, That a bill or bills be brought in pursuant to the said resolution; and that Mr. PAGE, Mr. MURRAY, and Mr. MACON do prepare and bring in the same.

TUESDAY, November 22.

A memorial of the committee of the counties of Washington, Westmoreland, Fayette, and Alleghany, in the State of Pennsylvania, was presented to the House and read, stating their objections to an act, passed at the last session, imposing a duty on spirits distilled within the United States, and praying that the same may be repealed. Referred to the Secretary of the Treasury for his information.

Representative from Maryland.

The House resolved itself into a Committee of the whole House on the report of the standing Committee of Elections, to whom was referred the Letter from the Executive of the State of Maryland, containing the resignation of WILLIAM PINKNEY, a member returned to serve in this House for the said State; and also a certificate of the election of JOHN FRANCIS MERCER, in the room of the said WILLIAM PINKNEY.

The law of the State of Maryland regulating elections being called for, was produced and read; by which it appeared that the Governor and Council of that State were authorized to fill up vacancies in the representation of that State in Congress.

Some objections having been offered against accepting the report,

Mr. SENEY observed, that the case appeared to him to be so plain that he was surprised to find gentlemen objecting to an acceptance of the report of the committee. He then stated the whole process of the business, in the resignation of Mr. PINKNEY and the election of Mr. MERCER, in which the law of the State had been strictly adhered to. He concluded by saying, that two cases in point had already occurred in the State of Connecticut, and no difficulty respecting them had taken place in the House.

Mr. GILES said, that he was a member of the select committee which had made the report; and from an accurate attention to all the circumstances of the case, he was led to think the report a very improper one. From recurring to the constitution, he was of opinion that a resignation did not constitute a vacancy. The constitution speaks only of vacancies in general, and does not

contemplate one as resulting from a resignation. Adverting to the British House of Commons, he observed that in that body there could be no resignation. This is an established principle. The people having once chosen their representatives, their power ceases, and consequently the body to which the resignation ought to be made no longer exists. From the experience of the British Government in this respect, he argued against a deviation from this rule. He showed from the constitution, that the Executives of the States who are empowered to fill vacancies, are not at all authorized to declare the existence of such vacancies; for, if they are to judge in the case, the whole power is invested in them of determining the whole business of vacancies—an idea that materially and essentially affects the privileges of the members of the House. He remarked that, even by the law of Maryland, the requisite steps had not been pursued by the Executive of that State. He concluded by saying that, if the principles he had advanced were just, he hoped the report would not be accepted.

Mr. SMITH (S. C.) had had his doubts on the report; but on more mature consideration he was convinced that on account of the inconvenience which would result from rejecting it, and from other considerations, it was proper to adopt it, but not without a full discussion. He then stated some particulars to show that the vacancy which had occurred on this occasion could not properly be called a resignation. Mr. PINKNEY had never taken his seat, nor the requisite oath. He said that there was no analogy between the Parliament of Great Britain and this House; the mode of issuing the writs originally, and of filling up vacancies, is essentially different. No part of the constitution prohibits a member from resigning, and for convenience it ought to be concluded that he may resign. The public interest may suffer extremely in cases of sickness or embarrassments, which may prevent a member from attending. This argument from the body's not existing to whom the resignation ought to be made, will apply to the President of the United States, whose resignation is expressly mentioned in the constitution. The objection urged from the Executives of the States judging of vacancies, he conceived had no great force, for Congress would finally judge in every case of election. It is uncertain how the practice of the British Parliament originated. *Blackstone* says nothing of resignations. When a member wants to resign in that Legislature, he gets appointed to some fictitious office which disqualifies him from sitting in the House. He thought it best to establish some precedent, rather than oblige members who may wish to resign to have recourse to some familiar method, by accepting of some appointment in the State which is incompatible with a seat.

Mr. MURRAY said he was in favor of accepting the report, both on account of propriety and conveniency. Vacancies may happen from various causes—by resignation, by death, or by expulsion—the Executive of the State is the proper judge in the first case. He stated certain differences between a resignation after a person has taken his seat, and a resignation before that event. In the former case Congress will of course give notice to the Executive of the State; in the latter, the Executive alone can take cognizance of the resignation. He stated the extreme inconveniency which would result from the ideas of the gentleman from Virginia, as it would respect the State of Georgia. He then stated several particulars to show that Mr. PINKNEY was not a member of the House agreeably to the constitution, and therefore the House cannot proceed with him as one. He said that we ought to be willing to derive information from the experience of every country; but he conceived that no precedents could be drawn that would apply in the present case from a country which had none, to one which had a constitution that so clearly defined and guarded the rights of the citizens. The custom which had been mentioned as obtaining in that country, arose from a wish to prevent a frequency of elections. From what had been offered by the gentleman from South Carolina, and the ideas he had suggested, he hoped the committee would be induced to accept the report.

Mr. WILLIAMSON said, that it appeared to him that the constitution contemplates that a member may resign. He read the clause, which says that no member of the Legislature shall accept of an office made *during the time* for which he was chosen—from hence he inferred that resignations were clearly contemplated.

Mr. GERRY said that he had heard nothing to show that Mr. PINKNEY had ever accepted of his appointment, and therefore it ought to have been expressed that he had declined; but, granting he had resigned after accepting his appointment, he asserted that nothing had been offered to prove that resignations might not take place in one House as well as in the other; and the constitution plainly expresses that a Senator may resign. The House of Commons originated with the Kings, who formed that body to control the Lords; and hence arose the prohibition against resignations, as they would weaken the body, and the expense of a new election would fall on the King. With respect to the Executive declaring improper vacancies, he observed that Congress was invested with full power to control the Executives of the States in respect to such declarations.

Mr. SENEY observed upon a distinction made by Mr. GILES between a resignation on the part of a Senator and a Member of the House, he supposed a resignation in either would equally vacate a seat, and that no difference did really exist.

Mr. SEDGWICK observed that, if a power of adjudication was vested in the Executives of the States to determine on a vacancy in cases of resignation, it would involve this consequence, that a power of judging of vacancies in all possible cases would be the necessary result. He thought the proposition involved the most serious effects with respect to the privileges and independency of this House.

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This subject was further discussed the next day, and ended in an acceptation of the report of the committee, which was in favor of Mr. MERCER'S election.

MONDAY, December 5.

The House again resolved itself into a Committee of the whole House on the bill making appropriations for the support of Government, for the year one thousand seven hundred and ninety-two; and, after some time spent therein,

Ordered, That the said bill, with amendments, be recommitted to Mr. LAURANCE, Mr. BALDWIN, and Mr. ASHE.

The Speaker laid before the House a letter from the Secretary of the Treasury, accompanying his report on the subject of manufactures, made pursuant to an order of the House of the fifteenth of January, one thousand seven hundred and ninety; which was read, and ordered to lie on the table.

The Speaker laid before the House a letter from the Treasury of the United States, accompanying his account of receipts and expenditures of the public moneys between the first of July, and the thirtieth of September, one thousand seven hundred and ninety-one; which were read and ordered to lie on the table.

Mr. BENSON laid on the table a resolution for the appointment of a committee to join a committee of the Senate, to consider and report the most eligible manner of carrying into effect a former resolution of Congress respecting the erection of an Equestrian Statue, in honor of General WASHINGTON.

Appropriation Bill.

The House then, pursuant to the order of the day, resolved itself into a Committee of the Whole, and resumed the consideration of the appropriation bill, Mr. MUHLENBERG in the chair.

In proceeding through the bill, the several items were separately considered and agreed to. Some occasional remarks were made; but no material debate took place. One amendment was proposed, by which the bill is made to express the several purposes for which the moneys are appropriated, instead of appropriating sums in gross, with a reference to the Secretary's estimate, for particulars.

The committee having reported the bill and the amendment, the House adopted the same, and recommitted the bill to the select committee, who had originally framed it, with instructions to new-model it pursuant to the sense of the House.

Mr. GERRY presented a resolution in lieu of one which he laid on the table on Friday last, making it the duty of the Secretary of the Treasury to report to the House, on the third Monday of every session, an account of the receipts and expenditures of the public money appropriated during the preceding session, so far as he shall then have it in his power to state particulars; and if he be unable to give an accurate statement of the whole, at the time appointed, he is to complete it as soon afterwards as may be.

TUESDAY, December 6.

Resolved, That Mr. BENSON, Mr. GERRY, and Mr. SMITH, (of South Carolina,) be appointed a committee on the part of this House, jointly, with such committee as shall be appointed on the part of the Senate, to consider and report to Congress the most eligible manner for carrying into effect the resolution of the United States in Congress assembled, of the seventh of August, 1783, directing that an Equestrian Statue of General WASHINGTON should be erected.

MONDAY, December 12.

The following Message was received from the President of the United States.

Gentlemen of the Senate, and of the House of Representatives:

It is with great concern that I communicate to you the information received from Major General St. Clair, of the misfortune which has befallen the troops under his command.

Although the national loss is considerable, according to the scale of the event, yet it may be repaired without great difficulty, excepting as to the brave men who have fallen on the occasion, and who are a subject of public as well as private regret.

A farther communication will shortly be made of all such matters as shall be necessary to enable the Legislature to judge of the future measures which it may be proper to pursue.

GEORGE WASHINGTON.

UNITED STATES, *December 12*, 1791.

FRIDAY, December 16.

The Post Office Bill.

The House again resolved itself into a Committee of the whole House, on the bill "for establishing the Post Office and Post Roads within the United States."

[The following is a condensed view of the arguments made on striking out the section which gives to members the privilege of franking.]

When the bill under consideration is once passed into a law, it is presumable that no gentleman will ever ask a member to frank for him, as he cannot grant the request consistently with his honor; the apprehension entertained of the existence of abuses, and of their increasing with the increase of numbers, would be an argument equally valid against every law; for no law can be framed, as that the people will not find means to evade it. But still the Legislature will have the power of correcting the abuses, as soon as discovered, by passing new laws to check them. The committee who drafted the bill, had before them all the acts of the British Legislature, respecting the post office; they saw the abuses and how they had been remedied; and with such light to guide their steps, they had proceeded in the execution of their task. The privilege of franking they had introduced into the bill, upon mature considerations; to take it away would be leveling a deadly stroke at the liberty of the press; the information conveyed by franks, may be considered as the vital juices, and the channels of the post office as the veins; and if these are stopped, the body must be destroyed; it is treading on dangerous ground, to take any measures that may stop the channels of public information, especially of that which relates to matters in which the people are interested; to check the circulation even of foreign intelligence may be dangerous; but it is highly so, to deprive the people of information respecting the measures of the General Government; nor ought the members to complain of being obliged to read so many letters and petitions as come to their hands in consequence of the exemption from postage. If any gentleman thought this a heavy task, he ought to remember that it was only his duty, and a task which every member had undertaken when he accepted a seat in the House.

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The privilege of franking was granted to the members, not as a personal advantage, (for in fact it proved rather a burden), but as a benefit to their constituents, who, by means of it, derive information from those who are best qualified to give it, as they are the persons chosen to administer the General Government. The members also receive useful information through the same channel. When the impost law and the excise law were under consideration, many persons who were better acquainted with the operation of such laws, transmitted to the House much valuable information on those subjects; and to such information the House ought ever to be open; as, on the other hand, the motives for adopting certain measures, ought always to be explained to influential characters in the different parts of the Union. Such conduct will produce the most salutary effects in reconciling the people to the measures of Government, when the principles upon which every law is framed, are explained to them, as well by the correspondence of the members, as by their debates, published in the newspapers. It is the duty of the members to disperse the newspapers among those people who cannot, perhaps, otherwise obtain them, under the protection of franks. Even along the post roads, the common packets of newspapers are not safe from depredation; but when once they get into the interior parts of the country, there is hardly any chance of their escaping; whereas, under the cover of a frank, they are sure to reach their destination in safety.

If the privilege were confined, during the session, to letters sent from and received at the seat of Government, and the members limited to their own letters, and obliged to write the whole superscription, the increase of the apprehended abuses would be prevented; if it were further restricted, by limiting to those letters only what are sent to or come from the State to which the member belongs, this would convince the people, that the privilege was intended for the benefit, not of the members, but of their constituents.

Further, it was observed, that every argument, which might be adduced in favor of withdrawing the privilege from the members of Congress, might be used with equal force in the cases of President, Vice President, and every other public officer, mentioned in the same section. If the allowance of six dollars per day was a reason for subjecting the members to the payment of postage, every public officer ought also, on the same principle, to pay for his letters, as they were all compensated with equal liberality. If abuses were apprehended from the members, others were as likely to introduce them as they; if an increase of revenue was contemplated, the postage of all letters to and from the President, the Vice President, the Secretaries of State, of the Treasury, of the Department of War, &c., would contribute to that increase; but, on the other hand, those gentlemen must have their compensations increased, if their letters were to be taxed; for they could not be expected to pay for them at their own expense. If the privilege can be guarded against abuse, with respect to those officers, it can also be guarded in the case of members of Congress.

The establishment of the post office is agreed to be for no other purpose than the conveyance of information into every part of the Union; and a greater portion of that had been conveyed into many of the interior parts of the country, by the newspapers sent by the members of the House, than could be conveyed by other means, excepting on the main roads on which stages go. That information had proved highly serviceable to the present Government; for wherever the newspapers had extended, or even the correspondence of the members, no opposition has been made to the laws; whereas, the contrary was experienced in those parts to which the information had not penetrated; and even there, the opposition ceased, as soon as the principles on which the laws had been passed, were made known to the people.

As long as the privilege can be thus used for the general advantages of the citizens, it ought not to be relinquished by the members merely through fear of its being thought a personal privilege; it might be confined to members actually attending the session; they might be obliged to write

the whole superscription, and even to add the date. In short, the wisdom of the House, it was hoped, would prevent all the evils apprehended from it, and retain the advantages.

The question being taken on the motion, for withdrawing the privilege from the members, it passed in the negative; yeas 21, nays 35.

TUESDAY, December 20.

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Post Office Bill.

The House again resolved itself into a Committee of the whole House on the bill for establishing the Post Office and Post Roads within the United States.

Mr. WADSWORTH moved an amendment, to withdraw the privilege of franking from the members of both Houses of Congress.

In support of this motion, it was said, that the grand security which the people of the United States have in their Representatives is, that those Representatives are subject to the same regulations as their constituents. In the article of postage, this was not the case. Congress, in this case, assume to themselves a privilege, which they refuse to the people; they took money from their constituents, and paid none themselves. The people viewed this privilege with a jealous eye, and could not be pleased to see it enjoyed by Congress, whilst neither the members of the State Assemblies, nor even the Governors were indulged in it. Congress enjoys only chartered rights; and all rights not expressly mentioned in the charter, are of course excluded. The constitution is their charter; the Convention, who framed it, had, no doubt, well considered the whole subject of privileges and accurately defined all such as they wished the Legislative body should enjoy distinct from their constituents. In the enumeration of those privileges, there is not a syllable tending to exonerate them from their share of the common burden of postage; they have no constitutional claim to such an immunity, and if they assumed it they would increase the burden on their constituents. The post office, if unable to maintain itself, must derive its support from other sources of revenue. Already the members of both Houses send and receive, during their session, as many letters through the General Post Office as all the other inhabitants of Philadelphia; those letters, if paid at the usual rates, would amount to half the postage of the United States. The number and bulk of the franked letters and packets excluded the newspapers from the mail, and thus prevented the circulation of intelligence; if the evil increased (and there was no probability of its being diminished, except by the utter abolition of the privilege) it would eventually prove the ruin of the post office. The example of Britain showed to what an enormous height the abuse of such a privilege may be carried; and though similar abuses may not as yet have taken place here, yet it could hardly be doubted that many unnecessary letters were daily sent by the post, which never would have been written if subject to postage; those letters are not only unproductive, but an actual expense to the post office, as the postmaster receives a certain percentage on these, as well as upon other letters. The privilege of franking is moreover unequal in its operation; while some members use it only for the purpose of transmitting political information to their constituents, others, absent perhaps during the whole session, use it for very different purposes: to men in trade it was a considerable advantage, amounting probably, in some instances, to a hundred dollars a year. It would be better to take away the privilege entirely, and reduce the general rates of postage one-half, or to allow the members, at the close of each session, to make a charge for all letters on public business, from their constituents, or to make them an allowance in gross to defray the expense of postage; better, even, if necessary, to make an addition to the compensation which the members receive for their services, if the present one be found incompetent to their honorable support.

On the other hand, it was observed, that the privilege of franking was not assumed by the members for their own private accommodation, but for the benefit of their constituents, to transmit to them every necessary information respecting the operations of the General Government, and to receive from them such information as they might have to communicate. Petitions are frequently enclosed to members; and if these were to be subject to the payment of postage, the privilege of petitioning the House, would be in a great measure destroyed. The diminution of revenue which the post office might in some instances suffer from the privilege of franking, ought not to be deemed a sufficient reason for abolishing that privilege; since it is allowed, that the object contemplated in the establishment was the general convenience, and an easy and speedy mode of disseminating public and private intelligence. Revenue was but a secondary consideration. Although the citizens who live at the seat of Government, and have daily opportunities of learning from the newspapers what public measures are going forward, may not be materially affected by the abrogation of the privilege, yet the case would be widely different with those who live at a distance, especially when fiscal operations were on foot; those who are informed, will make a prey of those who are ignorant, and destructive speculation will enrich the few, at the expense of the many. In a government of opinion (which is the Government of America) much greater reliance is to be placed on the confidence of the people than upon any other circumstance: that confidence can only be the result of the fullest information; but if the privilege of franking were taken away, the avenues of information would be, in a great measure, closed, for the members could not undertake, at their own private expense, to transmit intelligence to every part of the Union; yet the citizens have a right to expect information, not only of the acts of Government, but also the principles upon which they were grounded. The abuses of the privilege, that have prevailed in England, do not prevail here; and its abolition would give general dissatisfaction, particularly in the more distant parts of the Union, where

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information would be subject to a very high tax, if circulated through the post office, at the ordinary rates of postage. Of those bundles of letters received and dispatched by members of Congress, many (though far from being unnecessary, as had been said) would perhaps never be written, if they were not to pass free of postage; and thus that free communication of sentiment between the Representative and constituent, which is so essential in a Government like this, would be in a great measure cut off; and the post office would gain little or nothing by it, as those packets of newspapers, bills, reports, &c., would either be sent by private hand, or not sent at all; even here an inequality would prevail, as the people who live near the seat of Government, and all along the main road, could, from the greater frequency of opportunities, receive such packets with more ease and regularity, whilst those in more remote situations could seldom or never receive them, unless by the mail. The expense arising from the percentage to the postmaster on the free letters, is but trifling, as in such cases he receives no more for a packet of two ounces than for a single letter; and as to the idea of allowing the members to make a charge for their letters, this would be no better than receiving with one hand and paying away with the other. If, however, it were found absolutely necessary to take precautions against the abuses that were apprehended, this might be done by limiting the number or weight of letters that should go free by any one post, without entirely preventing the interchange of sentiments between the Representative and his constituents.

The committee then rose, without taking the question on the amendment.

THURSDAY, December 22.

Election of President, &c.

The House resolved itself into a Committee of the whole House on the bill sent from the Senate, entitled "An act relative to the election of a President and Vice President of the United States, and declaring the officer who shall act as President, in case of vacancies in the offices both of President and Vice President."

The bill was read by the Clerk. The first section being again read by the Chairman,

Mr. TUCKER moved to amend this clause by striking out these words, "except in cases in which an extraordinary election of President and Vice President shall take place, as hereinafter specified." This motion was agreed to.

Mr. SEDGWICK made some general observations on the great objects of the bill, and adverting to the term proposed for the choice of Electors of President and Vice President, observed that he had his doubts whether it would not be best to give a longer time. He enlarged on the disagreeable consequences which would probably ensue, in case there should not be a choice by the Electors; as the matter must then be determined by the House, voting according to the constitution, by States. He descanted on the pernicious consequences which might result from the collision of parties, and the working of passions in the breasts of men whose ardor would probably be excited to the greatest degree on such an occasion; every reasonable measure should be adopted to prevent the evils which he deprecated; he therefore moved that the words "thirty days" should be struck out, in order to give the people a longer time to give in their votes for Electors.

Mr. WHITE objected to the motion. He conceived it was calculated to produce the very mischiefs the gentleman appeared to deprecate. If it had been possible, he could have wished that the Electors should meet and give in their votes on the very day of their being chosen; he wished as much as the gentleman to adopt measures to prevent the evils he mentioned; but did not think the motion would conduce to that object; he thought the time should rather be contracted than extended.

Mr. DAYTON also objected to the motion; he thought fourteen days would be a more proper time; it was the design of the constitution, though it is not expressed, that the President should not know the characters to whom he is indebted for his election.

Mr. SEDGWICK observed, that the objections would be very proper was it certainly known that the Electors would always agree in a choice; but this he conceived, it was hardly possible should always be the case; and what will then take place? The election devolves on this House, and the Electors will then be known, and liable to all that intrigue and cabal which has prevailed in other countries. He left it to the consideration of the committee to determine on the immense importance of providing in season against the evils of a contested election, in the case now before them.

Mr. BALDWIN objected to the motion; but said if it was struck out, he should then move to insert a clause which should assign different periods according to the circumstances of the several States, so that the Electors should meet as nearly as possible at the same time in all the States.

Mr. NILES objected to the motion; and the question being put it was negatived.

The clause which makes it the duty of the Executive of the several States to cause the names of the Electors to be certified, was objected to.

Mr. NILES observed that no person could be called upon to discharge any duty on behalf of the United States, who had not accepted of an appointment under their authority. He thought that this was opening the door too wide, and involves a blending of the respective powers and duties of each, which is not warranted by the constitution; and he observed that he should be sorry that

the Government of the United States should attempt to exercise a power which they are not competent to carry into execution. He moved that the clause should be struck out.

Mr. SEDGWICK observed that if Congress were not authorized to call on the Executives of the several States, he could not conceive what description of persons they were empowered to call upon.

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Mr. NILES said he considered this section as degrading to the Executive of the several States; and inquired, what is to be done in case those Executives should refuse to comply with the requisition?

Mr. CLARK said, it appeared to him that the committee was creating difficulties where none before existed. He observed that the choosing these Electors was a privilege conferred on the people, and that this was merely pointing out the mode of exercising this privilege; he thought the clause stood very well and would create no uneasiness whatever.

Mr. HILLHOUSE said, he considered the provision improper. It imposed a duty on the Supreme Executives of the several States, which they might or might not execute; and thus the necessary certificates may not be made. He seconded the motion to strike out the clause, and proposed a substitute making it the duty of the Electors to procure for themselves the necessary certificates.

Mr. LIVERMORE spoke in favor of the clause; he did not consider it either as an undue assumption of power, or degrading to the Executives of the respective States.

Mr. BARNWELL said, a small addition to the clause would in his opinion obviate every difficulty; the words he proposed to insert were—"or such person as the Executive may appoint."

Mr. STURGES moved to strike out "Executive," and insert "the Legislature."

Mr. J. SMITH said, it appeared to him that the proposed alteration would amount to exactly the same thing; for the duty of giving the certificate would eventually devolve on the Executive.

The motion for striking out the clause was negatived.

The ninth section provides, that in case of vacancies in the offices of President and Vice President, the President of the Senate *pro tem.*, or the Speaker of the House of Representatives shall act as President.

Mr. WHITE moved the section should be struck out. He said the House had formerly discussed the subject and could not agree; the first part of the bill is necessary; this is not of immediate importance to be attended to.

Mr. FITZSIMONS said, he supposed the question must be determined some time or other, and he knew of no reason why it should not be decided at this time; to strike out the clause would, in effect, be to declare that the House could not agree.

Mr. WILLIAMSON was in favor of striking out.

Mr. LIVERMORE objected to the motion; he said no two subjects could possibly be more intimately connected; and the provisions of the bill are such as to render the intermission, during which this regency was to take place, as short as possible; he hoped the clause would not be stricken out.

Mr. WHITE added some further objections to the section; he said it was distinct from the bill, and though a majority of the committee were in favor of the characters nominated, yet he thought it would be best to make it the object of another bill, and of an independent discussion.

Mr. SEDGWICK said, he hoped the section would not be struck out, especially if there is a majority of the committee in favor of it. He observed, that last session there was no decision in the case; he conceived it necessary that the business should be now decided on; and adverting to the particular characters named, he said they were as far removed from any influence of the Executive as any persons that could be possibly pointed out.

Mr. BARNWELL was in favor of going into a discussion of the subject at this time. He said there was a large number of the present House who had not heard the observations offered in the last Congress; he supposed the present as proper a time to consider the subject as any that could occur. If gentlemen who are opposed to the section will offer their objections, he should be glad to hear them; if they were conclusive, he should vote to strike out the section. If nothing was offered, he should vote against the motion.

Mr. STURGES mentioned several objections to the section, which in his opinion rendered it unconstitutional; he could not find that the Speaker of the House, or President of the Senate *pro tem.* were officers of the Government in the sense contemplated by the constitution. The compensations of the President and Vice President are settled by the House; the Speaker would have to decide on those compensations; this he said rendered him evidently improper. He further observed that the consequence would be caballing and electioneering in the choice of Speaker.

Mr. WHITE said, the Speaker was not a permanent officer, if he could be considered as one in any point of view; but he was of opinion, that he was no more an officer of the Government than every other member of the House.

The question for striking out the section was negatived.

Mr. STURGES then moved to strike out the words, "the President of the Senate *pro tempore*, and the Speaker of the House of Representatives."

Mr. GILES stated the reasons which he conceived fully proved the unconstitutionality of the clause. The characters referred to he did not think were officers. If they had been considered as

such, it is probable they would have been designated in the constitution; the constitution refers to some permanent officer to be created pursuant to the provisions therein contained. These persons are not permanent; a permanent officer was contemplated; the subject was not to be left to any casualty, if it could possibly be prevented.

Mr. SEDGWICK said, he did not know what officer could with propriety be said to be permanent; offices are held during good behavior in some instances, and in others during pleasure; but it will be impossible to say that any officer is a permanent officer, for the expression is very extensive. He was surprised to hear the idea controverted, that the Speaker of the House, or the President of the Senate *pro tem.*, is not an officer. In common parlance he was sure there was no difficulty in the matter.

Mr. GERRY observed, that some gentleman had said the Speaker is not an officer; but if he is not an officer, what is he? He then read a clause from the constitution, which says that the House shall choose their Speaker *and other officers*. He hoped, however, that the Speaker of the House of Representatives would be struck out, in order to avoid blending the Legislative and Executive branches together. He considered this measure as a political stroke of the Senate; but he hoped that the House would never consent to making their Speaker an amphibious animal. He moved therefore that the words "Speaker of the House of Representatives" should be struck out.

Mr. HILLHOUSE objected to any officer appointed by the Executive being inserted. He said, if that should be the case, the appointments would in most cases be made with reference to that object; and hence important offices would often be filled with improper and incompetent persons. Besides, it was taking away the choice from the people, and thus violating the first principle of a free elective Government. The Senate are appointed by the people, or their Representatives, and hence, in his opinion, filling the vacancy would devolve with the greatest propriety on that body.

Mr. WILLIAMSON was in favor of the motion for striking out both the characters. He observed, that this extensive construction of the meaning of the word officer, would render it proper to point out any person in the United States, whether connected with the Government or not, as a proper person to fill the vacancy contemplated.

Before taking the question upon the amendment, the committee rose.

TUESDAY, January 10.

A memorial of George Turner, one of the Judges in and over the territory of the United States north-west of the Ohio, was presented to the House and read, praying a revision of the ordinance for the government of the said territory, and also an increase of compensation to the Judges thereof. Referred to Mr. LIVERMORE, Mr. LAURANCE, Mr. WHITE, Mr. WILLIAMSON, and Mr. SMITH, (of South Carolina); that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

On a motion made and seconded,

"That the Secretary of War be instructed to lay before this House an accurate statement of all ascertained balances of pay, which appear by the books of the United States to be due to the officers and soldiers of the late Army of the United States, and which still remain either unclaimed, or claimed and unpaid, together with the reasons for withholding payment from those who may have respectively entered claims therefor;"

Ordered, That the said motion be referred to Mr. WADSWORTH, Mr. GILES, and Mr. SMITH, (of New Hampshire;) that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

The House proceeded to fill up the remaining blanks in the bill to establish the Post Office and Post Roads of the United States; which was then read a third time and passed.

Petition of Catharine Greene.

The House resolved itself into a Committee of the whole House, on the Report of the Secretary of the Treasury on the petition of Catharine Greene, relict of the late General Greene.

The object of the petition is to obtain an indemnification from the United States against certain engagements which were entered into by her husband, the deceased Major General Nathaniel Greene, while commanding officer in the Southern department; and for the circumstances on which it is founded, refers to a representation of the 22d August, 1785, which was then made by the said General Greene to Congress.

The petition is accompanied by a number of vouchers, arranged in alphabetical order by the Secretary of the Treasury in his Report; from all which he draws the following conclusion:

"That strong and extraordinary motives of national gratitude for the very signal and important services rendered by General Greene to his country, must serve to give a keener sting to the regret, which ought ever to attend the necessity of a strict adherence to claims of public policy, in opposition to claims founded on useful acts of zeal for the public service, if no means of protecting from indigence and penury the family of that most meritorious officer shall, upon examination, be found admissible."

Mr. WAYNE rose and gave his reasons for supporting the petition, as follows:

Mr. Chairman: It may not be improper to mention the motives that impel me to wish a fortunate issue to the *claim* now under consideration of this committee, which I must also offer as an apology for the part I have taken, or that I may eventually take, in support of the claim. From my first interview with General Greene until the moment of his dissolution, we always lived in the strictest habits of friendship and confidence. He was an officer with whom I had participated in almost every vicissitude of fortune, (in many a well-tryed field,) from the frozen waters of the North to the burning sands of the South. He was a man whose virtues and talents I knew and revered; his noble soul would have revolted at the idea of imposition. He never would have offered in a *claim* to Congress, but upon the purest principles of honor and justice. I was a witness to the pressing necessity that *compelled* him to become the surety, for which indemnity is now claimed. He did what I would have done, (as second in command,) had he been absent at that trying crisis. The claim I *know* to be just, and I am decidedly of opinion that he was drawn into that security from the situation in which he was placed by Congress, as Commander-in chief of the Southern Department. Under these impressions, I beg leave to submit to the consideration of this committee the resolutions now in my hand, and doubt not of their concurrent support.

"Resolved, as the opinion of this Committee, That the estate of the late Major General Nathaniel Greene ought to be indemnified for and on account of the engagements entered into by that General with certain persons in the State of South Carolina, for the purpose of obtaining supplies for the American Army, in the year 1783, and that — be granted to the Executors of the estate of the late Major General Nathaniel Greene, for that purpose.

"Resolved, That a committee be appointed to bring in a bill in conformity to the foregoing resolution."

Mr. BOUDINOT said, there was no greater friend to the memory of General Greene than he was, nor any person more anxious to have justice done to his widow and family; but he was apprehensive that the resolution proposed by the worthy gentleman who had first brought forward this subject was not drawn up in such a manner as to ensure it a passage through both Houses of Congress. He wished, therefore, that it should be so expressed as to prevent any tedious discussion, and at the same time do ample justice. The Report of the Secretary of the Treasury puts the subject on the best footing. The motives which led him to make the contract were, first, the public good; and perhaps, secondly, to serve his friend, Mr. Burnett, because he was his aide-de-camp, and he wished to put him in the way of being established in business after the war; but Mr. Burnett was never in any other way connected with General Greene than as a young man brought up in the family, whom he wished to patronize.

After a few other observations, Mr. BOUDINOT moved to strike out the preamble of the resolution proposed by Mr. WAYNE, and to adopt words nearly in substance as follows:

"Resolved, That it is becoming the dignity of Congress to make compensation for the widow and orphans of the late Major General Greene, who so gloriously served his country; and that they be indemnified for the loss which his estate is likely to sustain by his having entered into certain bonds for supplying the Southern army with rations and clothing, at a time when they were threatening to disperse."

Mr. FINDLAY observed, that on the question as it is now stated, the committee have a choice of three alternatives; the claim may be rejected, a pension or gratuity may be granted to the amount, or the claim of the petition may be granted as a matter of right, upon the footing of its own merits by a special law, as all authorized claims which Congress grant are given. Claims for which the standing laws are competent, do not come before us. I am in favor of the last alternative. I am against rejecting the petition; because, as the facts are stated in the Report of the Secretary of the Treasury, General Greene putting himself in this situation of risk was from the most public-spirited motive; it was to support the public interest at a most important crisis, when the well-being, if not the existence of the Southern army was at stake, as well as the security of the inhabitants. If a commander-in-chief of an army may be ruined in his private affairs by making an unauthorized exertion to save his army or his country, the precedent may be dangerous; it may teach commanders lessons of prudence, which may have ruinous effects. It is true the necessity of the case must be such as will justify the unauthorized measure: from the Report, this appears to have been the case in the subject of the present debate. From the whole state of the facts before us, General Greene appears not to have had his own interest in view in this transaction, if the proof of this only lay between Banks and him. The established character of General Greene, not only as an officer, but as a man of integrity and public spirit, certainly cannot sink when laid in the balance with the secret insinuation of an unprincipled speculator. Such has been my own opinion of General Greene's character, that I would certainly require other proofs than this before I would even indulge suspicions: but it does not rest upon this. We have Banks's own testimony to the contrary, and his partner, and we know it would have been the interest of Banks & Co. to have made the contrary appear: nay, we have such a cloud of witnesses, all concurring to the same point, as appears sufficient to remove doubts from the most scrupulous mind. Unauthorized accounts are admitted in settlements between the United States and the individual States, upon the principles of equity. I consider this as a case of the same nature, and will vote for it agreeably to this precedent. I consider granting the prayer of the petition in this manner, as an act of justice, not only to his estate, but to the memory of his character. But I object to granting the relief in the indirect way of a pension; it is not so safe to the public, nor so honorable to the heirs of General Greene. To the public it is highly dangerous as a precedent; it will operate as an opening wedge to other claims without limitation. Few indeed can have an unauthorized though just claim as commanders-in-chief of an army reduced

to such a dilemma as originated the present question; but merit and distress are not confined to commanders alone; they are to be found in every rank of citizens. The struggles during the late revolution produced abundance of merit; we cannot look around in this House, nor in any large collection of citizens, but our eye meets with those who have claims of merit. We can scarcely be acquainted in any neighborhood, but we must be acquainted with such as have been reduced to distress by their meritorious exertions, either in the camp, in the cabinet, or by granting supplies. How many who have aided the public with their substance, have been obliged to part with the evidences of their meritorious claims for a temporary relief. Many of the aged, many widows and orphans, to my knowledge, labor in penury, and mourn in secret, on the account of such meritorious aids not being recompensed when they ought to have been; though this was owing to the public misfortune, yet the merit and sufferings were not the less. I am very sensible of the great merit of General Greene; it is so well known, and so generally acknowledged, on all hands, as to render it improper for me to enlarge thereon. But, superior as his merit was, if we grant a pension or relief not founded on a just claim, merit of a lower order must be also admitted: there is no distinguishing the shades. I have heard of claims on the footing of merit brought before Congress, supported by such arguments as would induce a stranger to think that nearly all the merit of accomplishing the revolution was centred in the claimant. If merit is to be rewarded by pensions, we shall soon have claimants in abundance. In the exercise of supreme command, difficulties often arise which render exertions necessary for which general rules cannot be provided; these have been generally treated as objects of indemnification. Many claims are now before Congress; they are various in their nature, and no doubt a number of them will be admitted; but from every view I have taken of the claim before us, I think the present as strongly addresses our justice and sympathy as any of them.

Mr. WAYNE thought it necessary to make some observations on what had fallen from the gentleman on his right, (Mr. BOUDINOT.) In order to place this subject in a proper point of view, he begged leave to mention certain circumstances previous to the evacuation of Charleston. Some of the first characters in South Carolina obtained a flag from General Greene, to meet a deputation of merchants and others under a flag from the British lines. Those merchants were anxious to remain after the army, for the purpose of disposing of their stock in trade, and wished for a reasonable time to transact that business; this indulgence was readily granted, for it was thought an object of consequence to retain supplies for the use of the country as well as for the army; and they were permitted to continue in the place for the space of *twelve months* after the abandonment should take effect. Assurances were also given them for the inviolable protection of their persons and property for that period. Thus sanctioned, they were probably induced to speculate upon such stores as the British army could spare, (for that army was redundantly supplied,) whilst the Americans were experiencing almost every possible distress for want of the common necessaries of life. About this time hopes were entertained of the speedy appearance of a superior marine force from the French West Indies, to that of the British; and the operating army under my command was advanced to the quarter-house, in a position to prevent the enemy from embarking with impunity, and to protect the town and its inhabitants from depredation and insult. This manœuvre had the desired effect; it created a jealousy in the British General for the safety of his rear, and General Leslie was, in a manner, compelled to come into a convention, more resembling a *capitulation* than an *abandonment*, for he was under the necessity to "agree not to commit any insult upon the inhabitants, or depredation upon their property, or damage to the city, at or *after* his embarkation." The word *after* caused some demur; but it was insisted upon and complied with, in consequence of the orders I had previously received from General Greene; a measure which at once afforded security to the inhabitants, and a flattering prospect of full supplies, as well for the citizens as for the army.

The gentleman (Mr. BOUDINOT) says—How are we to distinguish between the articles and necessaries that were actually made use of by the army, and of the other goods purchased of the British merchants? This may be fully answered and explained by mentioning this fact: that those merchants took advantage of their situation, and would not dispose of any article suitable for the army unless *their whole stock were purchased together*; having but twelve months to dispose of their goods and collect their debts. Nor could the necessary articles be obtained at the point of the bayonet, as the merchants were protected by a compact made under the sanction of a flag. Nor would they trust the contractor *Banks* with their property, unless General Greene became his security; by which act, in their opinion, the *United States* would be bound in honor to fulfil a contract made by their commanding officer; nor did General Greene come into the measure until compelled by dire necessity, to prevent a mutiny and dissolution of the army. And such was the exhausted situation of the country in the vicinity of Charleston, that the Executive and the Legislature found it expedient to send a distance into the country to obtain supplies for themselves and the refugee families who were returning to the city after the evacuation: in fact, we were under the necessity of taking part of these very provisions, to prevent an instantaneous revolt.

But the gentleman (Mr. BOUDINOT) says that General Greene's private friendship for Major Burnett, who had been his aide-de-camp, was a peculiar inducement for his entering into that security, and that Major Burnett had mortgaged an island to General Greene as a collateral security. This, indeed, was an act of private friendship; but it was a subsequent transaction, and noways connected with the former, nor is it amongst the charges. This was a private purchase by Major Burnett from Mr. John M'Queen, a gentleman well known in South Carolina; and it was thought to be a very advantageous purchase for Major Burnett at the time it was made, (although it has turned out otherwise,) but it was necessary for him to obtain security, previous to receiving *titles*. He applied to General Greene to become his security upon that occasion, which was

complied with; and in that act he certainly displayed a superior degree of private friendship, and such as has already been found extremely injurious to his family; but it is by no means connected with the claim now under consideration.

The danger of establishing a precedent in future, unsupported by previous authority obtained from Congress, is also mentioned as an objection. Mr. Chairman, there never can be any danger of drawing this circumstance into precedent; for the page of history never did before, nor I believe ever will again, produce a similar precedent, *i. e.* an army facing and surmounting every difficulty and danger through a long and bloody contest, badly clothed and worse paid, and frequently destitute of the common necessaries of life. Sir, it is for the honor of General Greene that we contend; and I am warranted in asserting, that he was not interested in the contract of Mr. Banks, otherwise than from the pure and virtuous motives of serving and saving his country. I therefore feel myself interested, and bound in honor to support and defend the character of my departed friend, and to demand this claim as a matter of *right*, and not of *grace*; and I have a confidence that the candor and justice of this committee will induce them to adopt the principles of the resolutions submitted to their consideration.

Mr. SUMTER.—With respect to the resolution as it now stands, I feel myself obliged to oppose it. Nothing that has fallen from the gentleman over the way (Mr. WAYNE) has convinced me that the measure is proper or just. It is necessary to be cautious in the manner of discussing a matter of so much delicacy. I rise, not to make any pointed objections that can in any degree injure the reputation of the officer, whose abilities I respect, or to hurt the feelings of his family or connections. I suppose that no gentleman will decide in favor of the resolution without examining the merits of the case. The committee will have that information which they shall deem to be requisite on the occasion. I am sorry to differ in opinion with the gentleman from Georgia, and am therefore disposed to make sacrifices of my own feelings of past injuries, and will not suffer them to warp my judgment, but will endeavor to decide in conformity with the opinions of the people of the State of South Carolina, and in particular of the district which I have the honor to represent. In going into the investigation of this matter, I will give my reasons why I do not think the country, although in extreme distress, was in that deplorable situation which has been represented; neither was its credit reduced so low but that relief might have been obtained, and that so small an army might have been accommodated, had a proper application been made in time to the Government. The gentleman must therefore be mistaken in stating those circumstances; for if the proper documents be examined, it will appear that the army received very ample supplies from the same source, some months previous to the contract made by Mr. Banks, which must have been in November, or early in December, and previous to the evacuation of Charleston. Whether it was better to adopt the means used by General Greene, or those within the power of the Government, I shall not pretend to determine; but I have no doubt that the Government possessed both the means and the inclination to find supplies. The contract was first made by Banks in November or December, and General Greene did not become the guarantee until the April following; whether there were any reasons for preferring this mode to that of an application to Government, will perhaps appear in the course of the investigation.

Mr. Chairman, this contract has been considered to have operated rather as a misfortune, although it may have afforded a temporary relief; it was the occasion of much complaint, vexation, and distrust, rather than of conciliation; and that this discontent ran through the army is within the knowledge of several officers whose names could be mentioned. It is therefore necessary to bring the matter into the full view of the committee, and to have recourse to the files of the public offices, before we agree to the resolution on the table. At the same time, it is my sincere wish to render justice to the family of the deceased in every reasonable accommodation; but it does not appear to me that the family is reduced to that disagreeable situation which has been represented. The large grants that have been made by the States of Georgia, North and South Carolina, are still in the possession of the heirs of the deceased, and I have been informed that a gentleman offered \$30,000 for that granted by North Carolina, so late as last summer; neither have I heard that any distress has been levied upon any of these estates, or that they are so much affected, in reality, but that the claims made against them are rather of a nominal and visionary nature. But admitting that General Greene was security for the United States, and that the operation had been beneficial, (which I deny;) does it appear that executions have been levied to any considerable amount, or to such an extent as to justify the present application? To me it does not appear this has been the case, neither do I believe that the estate has been reduced in the manner represented; and, whilst I say it, I honestly and sincerely hope it; under which impression, I can never accede to the resolution on the table.

Mr. WADSWORTH.—The gentleman last up has said many things to me utterly unintelligible, and others which directly militate with what has been said by the gentleman from Georgia. He has, however, declared that no real or supposed personal injury shall influence him in giving his opinion or vote. I hope, sir, he will not now feel or resent those real or supposed injuries. I do believe they are not real; and from my long and intimate acquaintance with General Greene, I had good opportunity to know him; a better man I never did know. That he had enemies is not to be wondered at; the nature of his command to the southward was important, critical, and difficult, and he might be constrained to do things that necessity only would justify. If he has injured any man, he has atoned for it; neither the tongue nor pen of malice have been able to affix a stigma on his character. If I ever knew a man whose heart was pure and without guile, it was General Greene. Yet he had enemies; no man deserved them so little. More honest fame is due to no man. And if his fortune is to be sacrificed, and his family beggared, it is a consolation that his good name will last for ever. Being one of his executors, I know something of his affairs; but it was with reluctance I rose, as my attachments to him and concern for his family render it

extremely difficult for me to enter on the subject. The gentleman from South Carolina has told us he is acquainted with the affairs of the estates in the Carolinas, and has said they are without any executions against them, the bonds on good credit, and the family in no danger of poverty, &c. I can hardly allow, sir, that he is acquainted with the affairs of General Greene, even in South Carolina and Georgia; but if he is, I will ask him if he does not know that all the negroes from the South Carolina estate are sold, and that the land is totally unproductive? that Mr. Rutledge has prevented executions from taking the Georgia estate by his personal interference? that all the estates in Rhode Island and New Jersey are sold? and that the hope of the justice we now ask for has delayed the sale of all the rest, to satisfy his creditors—his Southern creditors?

The proofs and documents alluded to by the gentleman (Mr. SUMTER) have been before Congress for several years, and the friends and executors of General Greene have challenged his enemies, in every part of the Union, to disprove them; and I hope no delay will now take place. The subject is fully before Congress. I hope justice will be done to the widow and orphans of the late General Greene, and that the investigation will now be finished, his honest fame vindicated and established, and his family saved from the ruin that awaits them.

Mr. HARTLEY, in support of Mr. WAYNE's motion, observed, that he had paid some attention to the report and the documents referred to in it, as well as the objections made to the resolutions under consideration. Many of the objections, said he, have been answered by gentlemen who were nearer to the scene of action than myself; I shall strive to obviate others. The mode of conducting our affairs in South Carolina does not seem to have been agreeable to the gentleman opposite to me from that State, (Mr. SUMTER,) and he expresses his high disapprobation of many parts of it. When I disagree with that gentleman, I do it with great reluctance; for no one on this floor has a greater respect for him than myself. In a hazardous and difficult situation, or in carrying on war, or even in great political questions, the best friends may differ in the mode of conducting them; and it has too frequently happened, that such difference has tended to lessen the friendship which formerly existed. Upon the whole, our arms to the southward were crowned with success; we must presume the means generally used were right. If supplies could have been furnished by the State of South Carolina, it is a pity they were not granted. I say, it is possible General Greene might have pursued a different mode to obtain clothing and provisions. He did not. He was of opinion no other plans could have been successfully followed but those which were adopted. The idea of his being a partner with Banks & Co., seems to be given up by the opposition. The mere insinuation of Mr. Banks and some others can have no influence against such a cloud of evidence and documents. These are so strong for the General, that they would work conviction on the greatest infidel. I shall barely advert to a part of them, as mentioned in the report, and on this head give a few observations of my own. And, first, the application to the Legislature of South Carolina, in order to create a competition: Had he been concerned as a partner, or intended to be so, no competition through that channel would have been proposed. If he was to be a partner, the more secret the transaction, the higher the advantage. The bond of indemnity to General Greene, oaths of Banks and Hunter, certificate from Major Forsyth, Nathaniel Pendleton's oath, Charles C. Pinckney's oath, (now Governor of South Carolina,) and the certificates of the two Chancellors of South Carolina, who were both high in the Executive, when these transactions should have happened. Besides, sir, if we consider how many partners there were concerned with Banks in the different transactions, had General Greene been one of the company, it must long since have been manifested to the world. The secret could not have been kept; nor can we possibly think that General Greene, who was undoubtedly a man of understanding, would have expressed himself in the manner he has done, in the close of his letter from Newport, dated the 24th of August, 1785, had he been a partner. He says there, "Thus have I given your Excellency a short narration of the origin and situation of this matter, and have only to add on this subject, that I never held any commercial connection with the company, other than what concerned the public, either directly or indirectly, or ever received one farthing profit or emolument, or the promise of any one from them; and my bond of indemnity expressly declares that I have no interest, connection, or concern, in the debts for which I became bound, all which I am willing to verify on oath." Would he have pledged his honor, his reputation, had he been interested? No, it is impossible! He would have been silent had he been a culprit, and not have challenged the world, as the power of detection would have laid with so many, and the shaft of envy always ready. I hope every man must be satisfied that the General was no partner.

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The great points of contest before the committee seem now to be—

- 1st. Did the General enter into these engagements out of personal regard to individuals, without a view to the public interest?
- 2dly. Was not the good of the public his principal object?
- 3dly. Under all circumstances, should not his estate be indemnified?

As to the first, I cannot think that the General, out of mere personal regard to individuals, without a view to the public good, would have been bail. He had been esteemed a man of prudence, and was not a person of large fortune. How would he embarrass his family and property in such engagements? Who, under mere motives of friendship, would have done so? The sum was too large; he had no interest. He got no goods or money for himself. He might have had a favorable opinion of some of the company, but his responsibility was become necessary with a view to the public good.

As to the second, public good must have been his principal object. The contracts before made would not have been carried into execution, without the aid of the contract, for which the indemnity was made in April, 1783. A great many articles were absolutely necessary to the army;

they were connected with others; the necessaries could not at that critical period, or for the moment, be obtained elsewhere. The merchants, as I understand, insisted upon two conditions before they would deliver the goods: 1st, that all the goods should go together; 2d, that the commanding officer should become security. There was a necessity for an additional capital to furnish the means for supporting the army; and as most of the goods were useful and necessary, the residue might be disposed of to the best advantage, and the money arising from them be applied to the payment of the debt. Public necessity and the state of things would oblige the General to agree to the first condition. The compliance with the second condition became a necessary consequence. The General's letter from Newport, and General Wayne's oath, Nathaniel Pendleton's oath, and other evidence, prove the situation of the army. As to the third point, should not his estate be indemnified? Through his zeal for the public good, he has unfortunately involved his estate in difficulty. Whatever the conduct of the company might be, the creditors were not to be affected either by the fraud or failure of Banks and the purchasers. General Greene was liable. The General, when he hears of misconduct, does all he can to save and indemnify himself, and through him the United States. Securities were taken in as ample a manner as they could be obtained from the delinquents; and General Greene never wished to call upon the public, until every other means failed. So late as the year 1785 he had still hopes there would be no loss; but when he found the danger, a sense of duty obliged him to come forward to save himself and family, to ask the protection of the public to indemnify him from a debt that he had contracted to save an army from mutiny and disbanding; to protect a country which otherwise would have been exposed. Many exertions had he to make to feed the hungry and cover the naked; were not these for the public good, and shall his private property suffer? Shall his family be reduced to beggary, be stripped of their all, to discharge what the United States are in honor and in justice bound to pay?

Retrospective laws, to affect rights attacked, ought never to pass; but laws have frequently been enacted to indemnify persons for a conduct, though not strictly legal, yet founded on the special circumstances of the case—the safety or honor of a nation or army, where the constitutional authority could not come forward in time. Such was the treaty or system formed by the Duke of Marlborough and the great De Witt. The Dutch, instead of punishing their minister, approved the measure; it eventually tended to the safety and honor of the allies. The individual who undertakes risks for his country's good, a magnanimous Government will always sanctify. We should consider the case upon substantial principles, not according to the letter, not act as the Lacedæmonians did to one of their leaders; they fined him for the infringement of the letter of the law, yet for the same act rewarded the hero with a garland. The fine here ruins the General's estate, and the garland alone, I fear, in this country, will not give his children bread or a becoming education.

In our late contest, the common maxims of old nations could not always be adhered to. We were obliged to act according to emergencies. In the case of General Greene, he seems to have intended for the best. He helped to serve and save a country. His merit stands high indeed. I need not repeat the number of his great and glorious actions, which mark him the General and the hero. His name will be handed down with honor to succeeding ages.

Under all circumstances, I think his estate should be indemnified. If the committee do not like the whole of the resolution, let there be a division, as proposed by one of the gentlemen from South Carolina; though I should think we might safely vote for the whole of the resolution, and let the bill make any other provisions which it may be thought necessary.

Mr. LEE, Mr. BARNWELL, Mr. WAYNE, and Mr. BOURNE, R. I., spoke in favor of agreeing to the resolutions, and Mr. MACON and Mr. STURGES against the motion. Mr. SUMTER closed the debate in sundry remarks on extracts from letters wrote by General Greene during the late war, inserted in Gordon's History of the American Revolution, which extracts contain unfavorable reflections on the militia of South Carolina, and the patriotism of the inhabitants of that State. These reflections, Mr. SUMTER said, were gross calumnies on, and misrepresentations of the character of that people, which he said were invalidated by facts that at that time took place, and by the general tenor of the conduct of South Carolina throughout the whole course of the war.

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MONDAY, January 23.

Petition of Catharine Greene.

The order of the day being called for, on the report of the Secretary of the Treasury on the petition of Catharine Greene, several members objected to taking up this subject, being of a private nature, while matters of the greatest public importance demand the immediate attention of Congress. The question being taken, the motion for going into Committee of the Whole was carried, 21 to 16; and Mr. LIVERMORE took the chair.

After considerable debate, the question was put for agreeing to the first resolution, in the following words:

Resolved, as the opinion of this committee, That the estate of the late Major General Greene ought to be indemnified for the engagements entered into by that General, with certain persons in the State of South Carolina, for the purpose of obtaining supplies for the Army of the United States, under his command, in the year 1783.

Which was negatived, 28 to 25.

The committee then rose, and the Chairman reported that the Committee of the whole House had

had under consideration a report of the Secretary of the Treasury on the petition of Catharine Greene, and had come to no resolution thereon.

Mr. MACON then moved that the Committee of the Whole should be discharged from any further proceedings on the subject; which motion was agreed to.

Mr. BOURNE then laid on the table a resolution for referring the Secretary's Report, together with Mrs. Greene's petition, and the vouchers accompanying it, to a select committee, with instruction to inquire into the facts which rendered it necessary for General Greene to become security to Banks & Co., and the nature, circumstances, and amount of the original debt, and the obligation entered into by General Greene for payment thereof; with an account of the moneys or collateral security received by the obligees, or by General Greene in his lifetime, or his representatives since his death, in part thereof; and the eventual loss which his estate will sustain in consequence of the said securities; and after examining all the circumstances and such further evidence as may be offered relative to the transaction, to report their opinion thereon to the House.

THURSDAY, January 26.

An engrossed bill to ascertain and regulate the claims to half-pay and to invalid pensions was read the third time and passed.

Protection of the Frontiers.

The House resolved itself into a Committee of the whole House on the bill for making further and more effectual provision for the Protection of the Frontiers of the United States.

A motion being made to strike out the second section of the bill, which contemplates the raising of three additional regiments of infantry and a squadron of light dragoons, amounting in all to three thousand and forty men, exclusive of commissioned officers—

It was urged in favor of the motion, that the Indian war, in which the United States are at present involved, was, in its origin, as unjustly undertaken as it has since been unwisely and unsuccessfully conducted; that depredations had been committed by the whites as well as by the Indians; and the whites were most probably the aggressors, as they frequently made encroachments on the Indian lands, whereas the Indians showed no inclination to obtain possession of our territory, or even to make temporary invasions, until urged to it by a sense of their wrongs. A proof of this unencroaching disposition on their part plainly appeared in their conduct, after the victory they lately obtained over our troops; for, when flushed with success, they might have swept the country before them, and penetrated as far as Pittsburg, they contented themselves with the advantage they had gained over their invaders, and did not attempt to invade our territories in return, although there was nowhere at hand a sufficient force to check their career.

The mode of treating the Indians in general was reprobated as unwise and impolitic. The Indians are with difficulty to be reduced by the sword, but may easily be gained by justice and moderation;^[41] and, although their cruelties are alleged as reasons for a different conduct, and the sufferings of the white people pathetically deplored, these narratives, it was said, are at best but *ex parte* evidence—we hear nothing of the sufferings of the Indians—but if Cornplanter's speech were read, it would set the matter in a very different point of view, and furnish a complete answer to all the charges of their accusers.

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Peace, it was said, may be obtained from the Indian tribes at a much less expense than would be necessary for the support of the war. To persevere in hostilities would be wasting the public money to a very bad purpose indeed; for, supposing our arms crowned with victory, what are the advantages we may expect to reap from our success? We can only gain possession of their lands—a possession that must long continue unproductive of the smallest benefit, as we already possess land sufficient—more, in fact, than we will be able to cultivate for a century to come.

Instead of being ambitious to extend our boundaries, it would answer a much better national purpose to check the roving disposition of the frontier settlers, and prevent them from too suddenly extending themselves to the Western waters. If kept closer together, and more nearly connected with the old settlements, they would be more useful to the community at large, and would not so frequently involve us in unnecessary and expensive wars with the Indians; but if permitted to rove at pleasure, they will keep the nation embroiled in perpetual warfare as long as the Indians have a single acre of ground to rest upon.

If the citizens of the United States were recalled within their proper boundaries, there they might, for years to come, cultivate the soil in peace, neither invaded nor invading. As the country progresses in population, and our limits are found too narrow, it will then be soon enough to contemplate a gradual extension of our frontier; but, in the mean time, it is an idle profusion of blood and treasure to carry war beyond our present line of forts. It is only exposing our arms to disgrace, betraying our own weakness, and lessening the public confidence in the General Government, to send forth armies to be butchered in the forests, while we suffer the British to keep possession of the posts within our territory.

As long as Britain is suffered to retain these posts, we can never hope to succeed against the Indians; nor ought we to trace our late misfortune to any other source than her still holding them in her possession. Were they in our hands, the Indians could not carry on their operations against us with the same degree of vigor as they now do; for it is from those forts that they obtain their

supplies of arms and ammunition, with which they can be at all times plentifully furnished, as long as things continue on their present footing.

Until those posts are in our possession, it will be in vain to send our armies into the wilderness. A body of five thousand men, sent out against the Indians, under the present circumstances, would be as effectually defeated as the smaller ones have already been. In those wilds, our troops have no friend at hand to furnish them with supplies, or to give them intelligence of the approach and operations of the enemy; whereas, the Indians, receiving both aid and information from their friendly neighbors, can preconcert their plans, and choose, according to their own convenience, the place and the hour of attack, as they did before.

It was here observed, by an honorable gentleman on the other side of the question, that we ought undoubtedly to get possession of those posts; and that we might have long since obtained it, if we had only laid a seasonable embargo on all the British shipping in our ports; though he doubted whether it would at present be worth while to take such a step, as the English have lost so great a portion of our carrying trade, in consequence of the additional tonnage laid on their vessels.

In favor of the motion, it was further urged, that, supposing even the war to have been originally undertaken with justice on our side—supposing, also, that the national honor and interest called for a continuance of hostilities—yet, as it was by no means either necessary or prudent to invade the Indian territory, as this had been attempted in two successive campaigns, and the event had, in both instances, been such as to afford no very flattering prospect from a third expedition of the same kind, it was thought much more advisable to content ourselves with defending the frontier; and this might be done without making so great an augmentation in the military establishment.

The only use of regular troops on the frontier is to garrison the forts, and to have a standing force in the neighborhood to form a station, to which the militia may resort either for protection or supplies; but as to active service, the frontier militia and rangers were pronounced to be by far preferable to the regular troops, as being more expert woodsmen, and better habituated to the Indian mode of fighting. To defend the forts, a small number of regulars would be sufficient. The present establishment of two regiments would, if completed, be amply adequate to the purpose, and, when assisted by such forces as might at all times be collected on the frontier, would be able to repel every inroad of the enemy.

Experience has proved that the sudden and desultory attacks of the frontier militia and rangers are ever attended with better success than the methodical operations of a regular force. The former are better calculated for expedition and surprise, making unexpected sallies, scouring the country in small bodies, harassing the Indians, and intercepting their straggling parties, by whom their motions are unobserved; whereas, when a body of regulars take the field, encumbered with baggage and heavy artillery, the unavoidable slowness of their movements affords the enemy an opportunity of watching all their operations, collecting their whole force, and skulking in the woods around them till they can seize the favorable moment to strike a sudden blow, which they generally do with success, but which they could never attempt if exposed every hour to the unforeseen attacks of our woodsmen, who would keep their attention constantly engaged in all quarters, and thus prevent them from uniting in large bodies.

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It was further observed by some gentlemen, who even admitted the propriety of invading the Indian territory, that, to effect this with success, it was by no means necessary to make such an increase in the military establishment as that contemplated in the bill. The miscarriage of the former expeditions could not (they said) be alleged as a sufficient reason; for it is well known that the former establishment was far from being complete. The regulars intended for the service of the last campaign were to have been above two thousand two hundred; the President was, besides, empowered to raise two thousand five hundred levies, in addition to the regulars; and these would, together, have constituted an army of about four thousand seven hundred men. Had such a body been employed, we might reasonably have expected much better success against the Indians, whose numbers were so far inferior; the whole force of the Wabash tribes not amounting to above eleven or twelve hundred warriors, who never could keep the field for any length of time, but must be soon obliged to disperse, without venturing an attack upon an army of such superior strength.

Instead of this, our army consisted of only about twelve hundred men, and of these not above four or five hundred were regular troops; besides, had even this force been sufficient, if employed in season, the delays that had taken place in the execution of the plan would alone have been sufficient to defeat the intended purpose. During the winter, the law was passed for raising the additional troops for carrying on the war with greater vigor. The whole summer was spent in the business, and the few men that we did enlist were not raised till late in the fall. Collected at length at the head of the Ohio, they fruitlessly loitered away their time, till they finally erected a monument to our eternal disgrace and infamy.

Whatever troops are to be employed, ought to be raised with diligence and despatch, if we wish to avoid a similar miscarriage in our next attempt. The army ought not to enter the Indian country till their whole force is complete. Difficulties, however, and delay, equal to those of last year, may be expected in enlisting the men; and we shall have the officers in pay a considerable time without any soldiers. Perhaps the former pay of the troops was too low, and proper effective men were unwilling to accept of it; if so, let it be raised, let the men be well clothed and fed, and they will more readily engage in the service. Probably, also, the term of three years was an objection with many, who would otherwise have joined our standard. If enlisted only for six months, the ranks will be sooner filled; and this ought to have considerable weight with those who advocate the augmentation of the military establishment, as they cannot but know that, if we

set about enlisting the number of men contemplated in the bill, and in the manner there prescribed, they cannot be raised time enough to render any service in the next campaign.

The information contained in the report on the table was not, it was said, to be implicitly relied on. That report was made by a man who had not personally visited the frontier. Others, who had been on the spot, were of opinion that, if two thousand levies had been raised last year, they would have been sufficient, not only for the defence of the frontier, but even for any offensive operations that might have been thought necessary. Such troops, collected in the vicinity, are more competent to the undertaking than the troops now in contemplation. No complaint had been made of their conduct. Whenever they were tried, they behaved as well as the regulars, and, in the action under General St. Clair, they gave equal proofs of their valor.

It was further urged, that the frontier militia are not only equal, but infinitely superior to any regular troops whatever, for the defence of the borders, and that they are, in fact, the only force that can be effectually employed in expeditions against the hostile Indians, whose mode of fighting is familiar to them, and does not strike them with that degree of terror with which it inspires those men who enlist on the regular establishment. These latter being collected in the heart of populous cities, where the face of an Indian is seldom seen, hardly know whether the Indian and his horse are not the same animal. And when they approach the enemy, at the very first shout, even before he is in view, they are terrified at the idea of savage barbarity, which they have ever been taught to reflect on with horror, and, being incapable of resistance, they commit their safety to flight. To prove the superiority of the militia, gentlemen need only contrast the despatch and success of the expedition conducted by General Scott, with the delays, disgrace, and mortification, which attended that under General St. Clair, and consider the difference of the expense on those two occasions.

The expense of such an army as the bill contemplates is an object well worthy of serious consideration, especially at the present moment, when there is scarcely a dollar in the Treasury. Gentlemen would also do well to advert to the progress of this business, and consider where they were likely to stop, if they went on at the present rate. At first, only a single regiment had been raised, and the expense was about \$100,000; a second was afterwards added, which swelled the expense to about \$300,000; and now a standing force of 5,168 men is contemplated, at an annual expense of above a million and a quarter of dollars. Can this be justified in the present state of our finances, when it is well known that the Secretary of the Treasury, having been requested by the members from a particular State to build a light-house on a part of their coast, declined the undertaking, and alleged the want of funds as the reason?

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Our resources, however, might be made to answer for the support of such a force as that which was intended for the service of the preceding year, and there would be little complaint or dissatisfaction among the people. Very few murmurings were heard against the former establishment; but such a one as is now contemplated will be thought extravagant, will breed discontent among the citizens of the United States, and perhaps afford our neighbors in Canada an opportunity to take advantage of our divided situation, and involve us in a war more dangerous than the former which separated us from Great Britain.

Apprehensions, it is said, are entertained that the object contemplated in raising these additional troops is not so much to punish and coerce the Indians, as to have a standing regular force equal to what the British have on this continent. This is said to amount to about six thousand men, including those in Canada. But it is to be remarked, that the British nation has not above *one thousand* men within the limits of the United States; and yet, with this handful of troops, they not only keep the Indians in awe, but even, in opposition to the wishes of the United States, retain possession of those posts which should have been ceded to us pursuant to the terms of the treaty. Why, then, is it necessary, for the purpose of establishing posts and garrisoning them, to increase the standing force to so large a number as that contemplated in the clause under consideration? During our late arduous struggle for liberty, when we had to cope with the most powerful nation under heaven, the commander-in-chief had never at any one time above ten thousand men under his own immediate command; and if, with so small a force, we were able to effect so glorious a revolution, there can be no necessity of going such lengths at present, for the sake of establishing a military character. It is strange policy, indeed, to raise five or six thousand men to oppose a handful of Indian banditti, whose utmost amount does not, from the documents on the table, appear to exceed twelve hundred.

We are preparing to squander away money by millions; and no one, except those who are in the secrets of the Cabinet, knows for what reason the war has been thus carried on for three years. But what funds are to defray the increased expense of maintaining such a force as is now contemplated? The excise is both unpopular and unproductive. The impost duties have been raised as high as is consistent with prudence. To increase them, would be but to open a door for smuggling, and thus diminish their productiveness. And if those sources of revenue fail—if our finances be thus exhausted in unnecessary wars—we shall be unable to satisfy the public creditors, unless recourse be had to new taxes, the consequence of which may, with just reason, be deplored; whereas, if we but keep our expenses within bounds—if we nurse our finances—we shall be respectable among the nations of the earth, nor will any nation dare to insult us, or be able to do it with impunity.

During the course of these observations, an honorable gentleman asked, whether this was a day set apart for rhetorical flourishes, as the galleries were open, and he saw the short-hand writers stationed at their different posts?

At an early stage of the debate, an honorable gentleman had suggested, that, instead of passing a

law for raising at all events the additional regiments, which, for his part, he did not think necessary, the House, if they finally determined the present establishment to be insufficient, would perhaps do better to appropriate a certain sum of money, to enable the Executive to call in such additional aid as circumstances may require.

To this it was objected, that it is the duty of the Representatives of the people, in all appropriations of the public money, to make them for certain specific purposes. To act otherwise on the present occasion would be setting a precedent that might, in its consequences, prove highly injurious; for, although the greatest confidence may safely be reposed in the virtue and integrity of him who now fills the Presidential chair, it is impossible to foresee what use may hereafter be made of the precedent by his successors, or how far it may be carried.

Against the motion for striking out, and in favor of the proposed augmentation of the military establishment, it was urged: That, as to the justice of the war carried on against the Indian tribes, that was a question which could not admit of a doubt in the mind of any man who would allow that self-preservation and indispensable necessity are sufficient causes to justify a nation in taking up arms. If the present war be not in every respect justifiable, then there never was, nor ever will be, a just war. It was originally undertaken, and since carried on, not for the sake of conquest, but to defend our fellow-citizens, our friends, our dearest connections, who are daily exposed, in the frontier settlements, to all the rage of savage barbarity, to which they, with their wives and children, must soon fall victims, unless we speedily fly to their assistance; and, although there are some people who utterly deny the justice of any war whatever, this doctrine, however fine in theory, will hardly ever obtain in practice; for, is it to be imagined, that any set of men are of such a passive disposition as calmly to look on whilst their friends and relations are butchered before their eyes, and to refuse giving them every assistance in their power?

The murders and depredations which have for years past been repeatedly committed by the savages, loudly call for redress. From various documents of unquestionable authority, now in the hands of the Secretary of War, signed and attested by the Executive and Legislature of Kentucky, by the District Judge, and the Captains of the militia, it appears, that, from the year 1783 to 1790, there have been, of the inhabitants of that District, or of emigrants on their way thither, no less than fifteen hundred persons either massacred by the savages, or dragged into captivity, two thousand horses taken away, and other property plundered or destroyed to the amount of fifty thousand dollars. And there is good reason to suppose that on the other frontiers of Virginia and Pennsylvania the number of persons murdered or taken prisoners during the above-mentioned period would furnish a list of one thousand or fifteen hundred more.

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The white people, it is true, have sometimes committed depredations on the Indians; but the instances have been rare (the honorable gentleman who spoke did not recollect above one or two) of their making unjust attacks upon the savages; nor did they, on those occasions, commence hostilities against them till exasperated by the strongest provocations that could possibly stimulate the human heart. This circumstance may be justly allowed as some palliation of the offence. Even in these instances, however, a few individuals only were concerned; and, when the affair came to the knowledge of the State, ample reparation was made to the injured party. The General Government, too, had shown an equal disposition to do justice to the Indian tribes. Witness the affair of the Cherokees; for, as soon as Congress had heard their complaints of an encroachment made on them by some of the people from the frontier of the Carolinas, immediate orders were issued for obliging the intruders to evacuate the Indian territory.

But, notwithstanding the disposition that prevails, as well in the Legislatures of those States whose frontiers are most exposed, as in the General Government, to cultivate peace and amity with the neighboring Indians, that desirable object is become utterly unattainable in the present posture of affairs. The frontier Indians have killed a number of whites; the whites, in their turn, have made retaliation. Both parties are in the highest degree exasperated against each other, and likely to continue so, in spite of every endeavor that can be made to effect a reconciliation. With minds thus irritated, it is vain to hope for peace, as long as they continue in each other's neighborhood. It is therefore necessary to form a strong barrier, to keep them asunder, unless, indeed, the advocates for a cessation of hostilities would oblige the frontier settlers to abandon their lands. But by what new-invented rule of right should the inhabitants of Kentucky, and the other frontier settlers, be laid under a greater obligation than any other citizens of the United States to relinquish a property legally acquired by their purchase? Were it even proposed to pacify the savages, by purchasing the lands anew, such a measure would answer no other purpose than that of procuring a temporary peace, which would soon again be interrupted by a war that would reproduce the necessity of again having recourse to the same expedient. We should have to purchase the lands again and again, without end. By thus squandering the public money, year after year, we should swell the national debt to an amount that we cannot possibly foresee. Better at once to make a vigorous effort, to act in a manner becoming the national dignity, and to maintain our ground by war, since we cannot obtain a durable or an honorable peace.

Attempts have, at various times, been made to effect treaties of peace with the Indian tribes with whom we are now at war; and, although these efforts have constantly proved ineffectual, they yet show, that neither the United States nor the State of Virginia were backward on their part to adopt conciliatory measures, and to do away that animosity which had commenced on the part of the savages at an early period of the late war with Great Britain, and had continued to break out at intervals ever since. In the years, 1783, '84, '85, '87, '88, and '90, offers of peace were made to them. On the last-mentioned occasion, when a treaty was proposed at the Miami village, the Indians at first refused to treat. They next required thirty days to deliberate; and, in the interim,

the inhabitants of Kentucky were expressly prohibited by the President of the United States from carrying on any offensive operations against them; yet, notwithstanding this forbearance on the part of the whites, no less than one hundred and twenty persons were killed or captured by the savages, and several prisoners roasted alive, during that short period, at the expiration of which, the Indians refused to give any answer at all.

On another occasion, the Indians, not content with rejecting our offers of peace, proceeded even so far as to insult us, by telling us we have lands within the British posts, and asking us why we did not go and take possession of them? Will it be said that we are unable to do it? Is this language to be used within the United States? No! We *are* able, abundantly able to do it, whenever we please; and if we would but retrench our expenses in some instances, which might well admit of a reduction, our ability would still increase; our finances are not quite so insufficient as some gentlemen seem to imagine, nor so easily deranged. We are still able to prove that the boasted efficiency of the General Government is something more than an empty name—we can yet raise both men and money sufficient to defend the nation from either injury or insult.

It is now too late to inquire whether the war was originally undertaken on the principles of justice or not. We are actually involved in it, and cannot recede, without exposing numbers of innocent persons to be butchered by the enemy; for, though we should determine to discontinue the war, can it be said that the savages will also agree to a cessation of hostilities? It is well known that they are averse to peace; and even the warmest advocate of pacific measures must therefore allow that the war is a war of necessity, and must be supported. We cannot, without impeachment both to our justice and our humanity, abandon our fellow-citizens on the frontier to the rage of their savage enemies. And although the excise may be somewhat unpopular, although money may still be wanted; what is the excise? what is money, when put in competition with the lives of our friends and brethren?

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A sufficient force must be raised for their defence; and the only question now to be considered is, what that force shall be? Experience has proved, that the force employed in the last campaign was inadequate. It is true the establishment was not complete; but who will venture to assert that, if it had been complete, it would have been sufficient for the intended purpose? Are gentlemen who assert this so well acquainted with the circumstances of the enemy, as to be able to give an accurate statement of the amount of their forces on the frontier? There are stronger opinions in favor of an augmentation of the army than can be adduced against it—opinions given by men of judgment and experience, who have themselves been on the spot, and are well acquainted with the situation of affairs in that quarter. These gentlemen, who must be allowed to be competent judges, are decidedly of opinion that the present establishment, though completed to the last man, will not furnish an adequate force to carry on the war with effect; and that it will be a hopeless attempt to open another campaign, with less than about five thousand regular troops, the number contemplated in the bill.

Nor ought that number to be deemed extravagant, under an idea that we have only a contemptible handful of banditti to contend with. Their numbers were, last year, from authentic documents, stated at about twelve hundred warriors, from twenty-three different tribes: such was the opposition then contemplated; but it is impossible to ascertain what accessions of strength they have since received, or even what force they had engaged in the late unfortunate action, as the very men who were in the engagement do not pretend to form any just or accurate estimate of the number of their assailants; but there is good reason to suppose that they had previously entered into an association with various tribes, that have not as yet come within our knowledge. The bows and arrows used against our troops on that occasion, afford a convincing proof that they had foes to encounter from distant nations, as yet unacquainted with the use of fire-arms. Nor does the account of the bows and arrows depend, for its authenticity, on newspaper evidence alone; gentlemen of unquestionable veracity, who were personally engaged in the action, have declared that they had themselves noticed the arrows flying.

When we consider the warlike disposition of the Indians in general, and the alacrity with which the victors are ever sure to be joined by numerous allies, we have every reason to expect a much more formidable opposition in the next campaign. It is well known that the savages place all their glory in deeds of war; and that, among them, a young man cannot make his appearance in company till he has signalized his valor by some martial achievement. When, to this powerful incentive, a new stimulus is added by the trophies obtained in the late action, it is presumable that numbers will crowd to their standard; and it strongly behooves us to prepare in time for a much more vigorous effort than any we have yet made against them.

The objections drawn from the increased expense, must entirely vanish from before the eyes of any man who looks forward to the consequences of one more unsuccessful campaign. Such a disaster would eventually involve the nation in much greater expense than that which is now made the ground of opposition. Better, therefore, at once to make a vigorous and effectual exertion to bring the matter to a final issue, than to continue gradually draining the Treasury, by dragging on the war, and renewing hostilities from year to year.

If we wish to bring the war to a speedy and a happy conclusion, and to secure a permanent peace to the inhabitants on the frontier, we must employ such troops and adopt such measures as appear best calculated to ensure success. If we delay our determination until the force of the enemy be ascertained, we can make no provision at all; for the nature and circumstances of the case preclude us from the very possibility of obtaining a knowledge of their strength and numbers. And are we, meanwhile, to remain inactive and irresolute, and make no efforts to repel their intended attacks? No! Whatever their numbers may be, prudence calls aloud for provision

of some kind. And if experience is to have any weight with us, the example of the French and of the British points out the true mode of securing our frontier, and rendering it invulnerable to an Indian foe. Let us occupy posts in the vicinity of the enemy, let them be properly garrisoned and well provided, and the business is done.

These will afford an opportunity of trading with the friendly tribes, and will prevent all intercourse between the whites and the Indians, except under proper regulations. Should hostilities be meditated by any tribes who are not in amity with us, early intelligence of their movements can be obtained; their marauding parties may either be beaten off on their approach, or intercepted on their return; opportunities may be taken of separately attacking the hostile tribes; their old men, their squaws, their children, will be exposed a great part of the year, whilst the others are out hunting. In short, if fear, hope, interest, can be supposed to have any influence on the Indians, this mode of defence must be allowed to be preferable to any other, as giving the fullest scope to the operation of all those motives.

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A different mode has long been pursued in Virginia, and adopted by the inhabitants of Kentucky, but its success has not been such as to offer any inducement to the General Government to follow the same plan. Rangers have there been employed for a number of years to scour the frontiers; and those rangers, too, were expert woodsmen, perfectly inured to the Indian mode of warfare; yet, notwithstanding their utmost vigilance, these savages still found means to commit all the murders and depredations already enumerated. It is true, however, that a frontier militia man, trained up in the woods, may be, in many respects, preferable to a regular soldier, who has not the same knowledge of the country, and of the mode of fighting; but with equal experience, (and proper men possessed of that experience, may be enlisted on the establishment,) regular troops will be found infinitely superior to any militia upon earth.

Every man who has ever seen militia in the field, cannot but know that a very trifling disaster, or a slight cause of discontent, is sufficient to make them disband, and forget all subordination, so far as even to neglect the means of self-defence; whereas regular troops, under proper discipline, and acting with greater steadiness and concert, are much more to be depended on, especially when the object of attack is distant, and great fatigue is to be undergone. The militia, in whatever mode they may be called out, will hardly furnish men of the proper description; if large pay be offered, the temptation will equally prevail upon those who are unfit for the service as it will upon good, effective men; besides, some of the States have no militia laws; and, even in those States which have such laws, they are gone into disuse; no dependence can therefore be placed on militia under any laws now existing. There is, indeed, a general militia law now before the House: but if it ever passes, it certainly cannot be passed in due season to answer the purpose of providing for the immediate defence of the frontier. Regular troops must be raised, or nothing effectual can be done; and if to avoid the expense we refuse the only aid that may prove of any real service, we render ourselves responsible for the consequences of this parsimonious policy, which may be attended with the ruin and destruction of our fellow-citizens in the Western country.

The Cornplanter's speech was again mentioned and called for; but, as it had been confidentially communicated by the President, an objection was made to having it read, without clearing the galleries. Whereupon,

An honorable member rose, and mentioned his having read it in one of the public newspapers in the State of New Jersey.

To this it was answered, that if any gentleman had the newspaper to produce, the speech might be publicly read from that; otherwise, although it might be very proper that the speech itself should be read, yet, as it had been confidentially received from the Executive, there would be a manifest trespass on propriety and decorum in having it read with open galleries; it was therefore wished that the galleries might be cleared.

The Parliamentary etiquette requiring that this should be done by the House, and not by a committee, the committee rose for the purpose; and,

The Speaker having resumed the chair, the motion for clearing the galleries was renewed.

An objection was here started by an honorable gentleman in favor of the augmentation, who said that, as some gentlemen had spoken on the popular side of the question, whilst the galleries had been open, it was unfair to preclude those of opposite sentiments from an opportunity of answering their arguments in the same public manner, and proving to the people the justice and necessity of the war.

The motion, however, was persisted in, and the galleries were cleared.^[42]

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[The speakers in this day's debate were MESSRS. WAYNE, GOODHUE, BOUDINOT, LIVERMORE, STEELE, PARKER, BOURNE, (Rhode Island,) WHITE, and MOORE. Mr. WHITE and Mr. MOORE opposed the motion; they were in favor of the augmentation proposed in the bill. The other gentlemen were in favor of striking out the clause.]

FRIDAY, January 27.

Protection of the Frontiers.

The House again resolved itself into a Committee of the whole House on the bill for making further and more effectual provision for the protection of the frontiers of the United States.

Mr. MERCER rose and addressed the Chair as follows:

Mr. Chairman: I originally opposed the reference of this subject to the Secretary of the Treasury, on principles supported by the constitution, by the theory of free government, and from practical observation on the progress of our own, and I believe the result now before us will fully exemplify every evil predicted.

Let any man examine this bill, and compare it with the terms of the original reference. Let it then be asked, whether the submission to devise ways and means to provide for the defence of the Western frontier, authorized the plans proposed by the Treasury Department, that we are now giving sanction to? Did it authorize a perpetual tax, irrevocable by the whole Legislature, without a breach of faith, according to received doctrine? At least, so far placing the purse-strings in the hands of the Executive, who may refuse an assent to the repeal; in the power of the Senate also, and consequently beyond the reach of the Representatives of the people, who alone are deputized by, and may be recalled by the great mass of society, and to whom the constitution expressly confines the power of originating money bills. Have we, in truth, originated this money bill? Do we ever originate any money bill? If a reference, such as made to the Secretary, was proposed to the Senate, who are a branch of the Legislature, nearly of equal importance with ourselves, would it not be held a breach of the constitution? Were they to propose such a plan as this to us, would it not be received with indignation? Why so little jealousy of the Executive Department, separated by the constitution with so much care from us? Of the Treasury Department, too, which is considered in other countries as possessing and exercising the means of corruption? It is in my judgment a direct infraction of the letter and spirit of the constitution, of the principles of free government, and I have heard no attempt to defend it, but on the ground of pitiful evasion, more dishonorable to ourselves and dangerous to the public, than an open violation, that would rouse their resentment and ensure opposition.

But did the submission of a provision to defend the frontier authorize a system for the encouragement of manufactures, thereby placing the occupations and productive labor of our citizens under the direction of Government, and rendering the living of the artist and subsistence of the farmer, so far equally dependent on and subservient to the views of Administration? Did it authorize an entire provision for the public debt, past, present, and to come? Did it authorize a plan for supplying former deficiencies, which it is admitted do not exist? Lastly, did it authorize an extensive increase of the Sinking Fund, which we are informed is one of the principal objects? It would be an affront to common sense to answer one of these queries in the affirmative—it authorized none of them. And yet these are all its offspring; these are the great objects it produced. It is true there are in the bill two or three little clauses that were authorized, and which relate to the submission, and which might well have escaped my attention, and would probably never attract the observation of the public, but for the title—a bill for the protection of the frontiers. By these clauses five hundred and twenty-three thousand dollars of the whole moneys to be for ever raised from its perpetual revenue, are appropriated for this year's campaign. After that sum is expended, we must, even the next year, look out for new taxes, and upon the same principles, as long as the Indian war continues (and by the enlistments it is not contemplated to be of very short duration) new taxes must be provided, for the residue of these taxes are by this bill appropriated to other purposes, for ever, after five hundred and twenty-three thousand dollars are paid. This appropriation is unalterable even by the whole Legislature, unless by a breach of public faith, or providing other equal revenue. Should every year's Indian war, and every national disaster excuse Government for laying a perpetual tax, equal to the increased annual demand, it will be selling us defeats at a very high price; and if Government are paid so well, they may be tempted to repeat the tragical representation.

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But what is the reflection that naturally arises from a contemplation of this bill. That Administration will not even permit us to defend the helpless women and children of the frontier from the brutal ferocity of a savage foe, but on condition that the Representatives surrender up for ever the sacred trust of the constitution, and place in the power and under the control of the Executive and Senate, a perpetual tax. Unless they throw the power of regulating the labor and industry of their fellow-citizens into the hands of Government, and into a mean dependence on Administration; and unless they furnish a large sum of money, under the denomination of a Sinking Fund, for the purposes of speculation, in order to raise and lower the price of stocks at pleasure, or as may suit the views and interest of the band of favorites that are in the secret.

Hard and oppressive conditions! Was this the object of the reference to the Secretary? It was not the avowed one, nor could it have been suspected, from a simple proposition to devise ways and means to defend the frontier. A mighty fabric has been erected on this slight foundation, to hurry us into its adoption. We have been officially, I suppose, informed that the money for the War Department is almost expended; that the preparations for the Western expedition must stop, unless we pass the bill immediately; and thus, with the tomahawk suspended over our heads, we must give up to Administration the dearest interests of the people, and sacrifice the most sacred rights of the constitution.

MONDAY, January 30.

Protection of the Frontiers.

The House again resolved itself into a Committee of the whole House on the bill making farther and more effectual provision for the protection of the frontiers of the United States; and, after some time spent therein, the Chairman reported that the committee had again had the said bill

under consideration, and made several amendments thereto; when the same being read, some were agreed to, and others disagreed to.

And then the said bill being before the House, a motion was made, and the question being put to amend the same, by striking out the second section thereof, in the words following:

"And be it further enacted, That there shall be raised three additional regiments of infantry, each of which, exclusively of the commissioned officers, shall consist of nine hundred and twelve non-commissioned officers, privates, and musicians:"

It passed in the negative—yeas 18, nays 34, as follows:

YEAS.—John Baptist Ashe, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Nicholas Gilman, Benjamin Goodhue, William Barry Grove, Samuel Livermore, Nathaniel Macon, Nathaniel Niles, Josiah Parker, Israel Smith, John Steele, Thomas Sumter, George Thatcher, Artemas Ward, Hugh Williamson, and Francis Willis.

NAYS.—Fisher Ames, Abraham Baldwin, Robert Barnwell, Egbert Benson, John Brown, Jonathan Dayton, William Findlay, Thomas Fitzsimons, William B. Giles, Andrew Gregg, Thomas Hartley, Daniel Huger, Philip Key, Aaron Kitchell, John W. Kittera, John Laurance, Amasa Learned, James Madison, Andrew Moore, Frederick Augustus Muhlenberg, William Vans Murray, John Page, Cornelius C. Schoonmaker, Joshua Seney, William Smith, Samuel Sterrett, Jonathan Sturges, Peter Sylvester, Thomas Tredwell, Thomas Tudor Tucker, Abraham Venable, Jeremiah Wadsworth, Anthony Wayne, and Alexander White.

The farther consideration of the said bill was then postponed until to-morrow.

TUESDAY, January 31.

The Speaker laid before the House a letter from the Secretary of War, covering his report on the petitions of James Swaine, Abraham Springer, Timothy Mountford, sundry seamen, Samuel Wail, for himself and servant, John Carnaghan, James Shields, Henry Skinner, and William Loring; which were read, and ordered to lie on the table.

Protection of the Frontiers.

The House resumed the consideration of the bill for making farther and more effectual provision for the protection of the frontiers of the United States; and the same being further amended, was *Ordered*, To be engrossed, and read the third time to-morrow.

WEDNESDAY, February 1.

Mr. PAGE, from the committee to whom was referred the petition of John Churchman, made a report; which was read, and ordered to lie on the table.

Protection of the Frontiers.

An engrossed bill for making farther and more effectual provision for the protection of the frontiers of the United States, was read the third time, and the blanks therein filled up; and on the question that the said bill do pass, [Pg 350]

It was resolved in the affirmative—yeas 29, nays 19.

FRIDAY, February 3.

A message from the Senate informed the House that the Senate recede from their amendments, disagreed to by this House, to the bill to establish Post Offices and Post Roads within the United States, and do agree to the amendments proposed by the House to their amendment to the said bill.

The Cod Fisheries.

The House resolved itself into a Committee of the whole House on the bill sent from the Senate, entitled, "An act for the encouragement of the Bank and other Cod Fisheries, and for the regulation and government of the fishermen employed therein."

The first section being read as follows:

"Be it enacted, &c., That the bounty, now allowed upon the exportation of dried fish of the fisheries of the United States, shall cease on all dried fish exported after the tenth day of June next; and in lieu thereof, and for the more immediate encouragement of the said fisheries, there shall be afterwards paid, on the last day of December annually, to the owner of every vessel or his agent, by the collector of the district where such vessel may belong, that shall be qualified agreeably to law, for carrying on the Bank and other cod fisheries, and that shall actually have been employed therein at sea, for the term of four months at least, of the fishing season

next preceding (which season is accounted to be from the last day of February, to the last day of November in every year) for each and every ton of such vessel's burden, according to her admeasurement, as licensed or enrolled; if of twenty tons and not exceeding thirty tons, one and a half dollars, and if above thirty tons, two and a half dollars, of which bounty three-eighth parts shall accrue and belong to the owner of such fishing vessel, and the other five-eighths thereof shall be divided by him, his agent or lawful representative, to and among the several fishermen who shall have been employed in such vessel, during the season aforesaid, or a part thereof, as the case may be, in such proportions as the fish they shall respectively have taken may bear to the whole quantity of fish taken on board such vessel during such season. *Provided*, That the bounty, to be allowed, and paid on any vessel for one season, shall not exceed one hundred and seventy dollars."

Mr. GILES expressed some doubt respecting the principle of the bill; and for the purpose of collecting the sense of the committee on the subject, he thought the most effectual means would be a motion to amend the bill, by striking out the whole section. He accordingly made the motion, observing at the same time, that he could not positively assert, whether the reasons which determined him against the principle of the bill, were well founded or not; that, in matters where a local preference is given, it is necessary to accommodate; and he would be happy if his objections could be removed. The present section of the bill appears to contain a direct bounty on occupations; and if that be its object, it is the first attempt as yet made by this Government to exercise such authority; and its constitutionality struck him in a doubtful point of view; for in no part of the constitution could he, in express terms, find a power given to Congress to grant bounties on occupations: the power is neither directly granted, nor (by any reasonable construction that he could give) annexed to any other power specified in the constitution. It might perhaps be brought in under a mode of construction already adopted by the House, viz: that of "ways and ends," by which any power whatever might be equally implied; but he wished ever to see some connection between a specified power, and the means adopted for carrying it into execution. There is a great difference between giving encouragement, and granting a direct bounty. Congress have a right to regulate commerce; and any advantage thereby resulting to a particular occupation connected with commerce, comes within that authority; but when a bounty is proposed to a particular employment or occupation, this is stepping beyond the circle of commerce; and such a measure will affect the whole manufacturing and agricultural system. In all cases, the revenue, to be employed in this bounty, is drawn from all the sources of revenue in the United States, and confined to a particular object. He was averse to bounties in almost every shape, as derogations from the common right; and he thought there would be no great difficulty in proving, that a government is both unjust and oppressive in establishing exclusive rights, monopolies, &c., without some very substantial merit in the persons to whom they are granted; although even in that case, the propriety of such grants is still questionable. Under a just and equal government, every individual is entitled to protection in the enjoyment of the whole product of his labor, except such portion of it as is necessary to enable Government to protect the rest; this is given only in consideration of the protection offered. In every bounty, exclusive right, or monopoly, Government violates the stipulation on her part; for, by such a regulation, the product of one man's labor is transferred to the use and enjoyment of another. The exercise of such a right on the part of Government can be justified on no other principle, than that the whole product of the labor of every individual is the real property of Government, and may be distributed among the several parts of the community by governmental discretion; such a supposition would directly involve the idea that every individual in the community is merely a slave and bondman to Government, who, although he may labor, is not to expect protection in the product of his labor. An authority given to any government to exercise such a principle, would lead to a complete system of tyranny.

He entertained fewer doubts, respecting the principle, as it regards political economy. All occupations that stand in need of bounties, instead of increasing the real wealth of a country, rather tend to lessen it; the real wealth of every country consisting in the active product of useful labor employed in it. It is therefore bad policy to encourage any occupation that would diminish, instead of increasing the aggregate wealth of the community; and if an occupation is really productive, and augments the general wealth, bounties are unnecessary for its support; for when it reimburses the capital employed, and yields a profit besides, it may be said to support itself. When it fails in these points, any forced advantage that is given to it by the Government, only tends to decrease the wealth of the country. The subject, however, might be considered in a more favorable point of view: and that is, whether the provision be essential to the defence of the United States, and whether the bounties proposed in the bill were more than equivalent to the portion of defence that would be procured by them. The bill does not (in his opinion) contain that kind of encouragement, which is essential to the national defence. Any man who takes a view of this country, must be convinced that its real support rises from the land, and not from the sea; and the opposite mistake must have arisen merely from a servile imitation of the conduct of Great Britain: the inhabitants of this country heretofore thought favorably of her Government, and the Revolution has not yet altered their former ideas respecting it. But the circumstances of the two countries will, on examination, be found widely different; Britain, surrounded by the sea on every side, finds a navy necessary to support her commerce; whilst America, possessed of an immense territory, and having yet ample room to cultivate that territory, has no occasion to contend by sea with any European power: her strength and her resources are all to be found within the United States; and if she but attends to her internal resources, the object of national defence will be much better answered.

Mr. G. next proceeded to consider whether that portion of the national defence which might be derived from the fisheries, would not be purchased at too high a price. Although the apparent intention of the bill is only to convert the present existing drawbacks into a bounty; yet the drawbacks being allowed only to the actual exportation of the fish, and the bounty being granted on the tonnage of the fishing vessels, there can be no comparative value between the drawback and the bounty; they have no necessary relation to each other, and the latter may exceed the former, or the former exceed the latter. He had made a calculation, and upon the most favorable principles, grounded on the Reports of the Secretary of the Treasury and the Secretary of State. Here he produced a calculation, tending to show that the proposed bounty on the tonnage of the fishing vessels, would considerably exceed the amount of the present drawbacks. From a comparison between the bounty, and the number of sailors employed in the fisheries, he showed what an expense each man would be to the United States; and, after other remarks, observed, that even Great Britain, whose whole national support and defence depends on her navy, had found, that the men employed in the fisheries, though so necessary for that defence, had cost her too much; that America, whose consequence, as a nation, does not depend on a navy, ought to take a lesson from the experience of Britain: that he did not wish to enter into a competition with Britain and France, in supplying the different markets with fish; that, as those nations are able to hold out greater encouragement to their fishermen, than we can to ours, we would, by such a competition, only exhaust the Treasury of the United States to no purpose; and upon this principle alone, he thought there was some reason to doubt the policy of the measure proposed in the section under consideration, which therefore he hoped the committee would agree to strike out, unless his objection could be obviated.

Mr. MURRAY observed, that in order to demonstrate the propriety of the measure, it would be incumbent on the friends of the bill, first, to prove that the fishery trade is in a state of decay, that the stock employed in it does not yield the ordinary profits, so as to justify the merchants in embarking their capital in this branch of trade: that there is a system of defence in contemplation, which the circumstances of the country call for, and which this trade is calculated to furnish; that other branches of trade, which do not stand in need of encouragement, are not equally capable of furnishing seamen for the purpose: that this particular object so peculiarly claims the attention and encouragement of the United States, as to leave far behind every consideration of the manufacturing interest, the agricultural, &c. All this he thought necessary for gentlemen to prove, and to show some very strong necessity for encouraging one particular class of men, in preference to all others.

Mr. GOODHUE.—It happens that the fisheries of the United States are almost entirely confined to the State of Massachusetts; and they furnish a considerable, a principal portion of our export trade. As we are a part of the United States, the United States in general are interested in the prosperity of that branch of business, so far at least as it contributes to the national defence: it furnishes a copious nursery of hardy seamen, and offers a never-failing source of protection to the commerce of the United States. If we engage in a war with any European power, those seamen will be excluded from their ordinary employment, and must have recourse to privateering. During the late war with Great Britain, we annoyed the enemy more in that line than in all others; and had it not been for privateering, it would often have been impossible to keep together our armies, who frequently, in the hour of need, were supplied by the privateers with ammunition and clothing, of which they were wholly destitute. All that we wish to obtain by this bill is, that we may not be burdened with duties. An opinion has been entertained, that no drawbacks ought to be allowed on the re-exportation of articles imported from foreign countries; but if this opinion were to obtain in practice, and no drawbacks were to be admitted, we must confine our importation to articles for our own consumption. The drawback allowed by the existing law, on the exportation of salt fish, was calculated to be only equal to the duty beforehand paid on the quantity of salt used in curing the fish; but the fishermen complain that, as the act now stands, they are wholly excluded from any participation in the benefit, which centres entirely in the coffers of the merchants. The object of the present bill is, only to repay the same money into the hands of those persons who are immediately concerned in catching the fish; and there can no reasonable objection be made to such a transfer of the drawback, as Government will not lose a single dollar by the change. The gentleman from Virginia (Mr. GILES) talks of the unconstitutionality of granting bounties; but no bounty is required. We only ask, in another mode, the usual drawback for the salt used on the fish. If we can make it appear that the bill does not contemplate any greater sums to be drawn from the Treasury, than are already allowed, it is to be hoped that no further opposition will be made to the measure; and that this is really the case, can be proved by documents from the Treasury office. Here he read a statement and calculation to prove his assertion; and to show that the United States will probably pay one thousand dollars per annum less in the proposed bounties on the tonnage of the fishing vessels, than they would in the drawbacks on the exportation of the fish. The fishermen, he continued, are now under no control; and in consequence of this want of a proper restraint, they often take whims into their heads and quit the vessels during the fishing season. To prevent the inconveniences of this practice, the bill contemplates their exclusion from the bounty, unless they enter into such contracts and regulations, as may be found necessary for the proper and successful conducting of the business, which, from our advantageous situation, would be entirely in our hands, if we did not meet with such opposition and discouragement from foreign nations, whose bounties to their own fishermen, together with the duties laid upon our fish, would, to persons less advantageously situated than us, amount almost to a total prohibition.

In the Report from the Secretary of State, a drawback is contemplated of the duties on all foreign articles, used by the seamen employed in the fishing trade, such as coffee, rum, &c.; but we ask it

on the salt alone; nor is it asked as a bounty, but merely as a transfer from the hand of the merchant to that of the fishermen.

Mr. WHITE had no objection to give the trade a proper degree of encouragement; but he did not relish the idea of granting bounties; if any gentleman would prepare an amendment, so as to make them drawbacks in fact, as well as in words, he would consent to the measure.

Mr. AMES, after some introductory observations, adverted to the necessity of fixing some point in which both sides would agree. Disputes, he said, could not be terminated—or, more properly, they could not be managed at all, if some first principles were not conceded. The parties would want weapons for the controversy.

Law is in some countries the yoke of government, which bends or breaks the necks of the people; but, thank Heaven, in this country, it is a man's shield—his coat of mail—his castle of safety. It is more than his defence: it is his weapon to punish those who invade his rights—it is the instrument which assists—it is the price that rewards his industry.

If I say that fishermen have equal rights with other men, every gentleman feels in his own bosom a principle of assent. If I say that no man shall pay a tax on sending his property out of the country, the constitution will confirm it; for the constitution says, *no duty shall be laid on exports*. If I say, that on exporting dried fish, the exporter is entitled to drawback the duty paid on the salt, I say no more than the law of the land has confirmed. Plain and short as these principles are, they include the whole controversy. For I consider the law allowing the drawback as the right of the fishery, the defects of that law as the wrong suffered, and the bill before us as the remedy. The defects of the law are many and grievous. Supposing 340,000 quintals exported—

The salt duty is	\$42,744
The drawback is only	34,000

Loss to the fishery	8,744
Whereas Government pays \$45,900, at 13-1/2 cents, including charges, which are 3-1/2 cents on a quintal: which is beyond what the fishery receives	11,900

Being a clear loss to the Government of	3,156

So that, though the whole is intended for the benefit of the fishery, about one-fourth of what is paid is not so applied: there is a heavy loss both to Government and the fishery. Even what is paid on the export is nearly lost money; the bounty is not paid till the exportation, nor then, till six months have elapsed; whereas the duty on salt is paid before the fish is taken: it is paid to the exporter, not to the fisherman. The bounty is so indirect, that the poor fisherman loses sight of it. It is paid to such persons, in such places, and at such periods, as to disappoint its good effects; passing through so many hands, and paying so many profits to each, it is almost absorbed. The encouragement, too, is greatest in successful years, when least needed; and is least in bad fishing seasons, when it is most needed. It is a very perplexed, embarrassing regulation to the officers of Government and to the exporter; hence the great charge: and, with all this charge and trouble, it is liable to many frauds. Four hundred miles of coast, little towns, no officer. All these defects the bill remedies; and, besides, gives the money on condition that certain regulations are submitted to, which are worth almost as much as the money.

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The bill is defended on three grounds. First, it will promote the national wealth; second, the national safety; third, justice requires it: the last is fully relied on.

To show that the fishery will increase the wealth of the nation, it cannot be improper to mention its great value. The export before the war brought more than a million of dollars into this country; probably it is not less at present, and no small part in gold and silver. It is computed that thirty thousand persons, including four thousand seamen, subsist by it. Many say, very composedly, if it will not maintain itself, let it fall. But we should not only lose the annual million of dollars which it brings us; an immense capital would be lost. The fishing towns are built on the naked rocks, or barren sands, on the side of the sea. Those spots, however, where trade would sicken and die—which husbandry scorns to till—and which nature seems to have devoted to eternal barrenness, are selected by industry to work miracles on. Houses, stores, and wharves, are erected, and a vast property created, all depending on this business. Before you think it a light thing to consign them to ruin, see if you can compute what they cost; if they outrun your figures, then confess that it would be bad economy, as well as bad policy, to suffer rival nations to ruin our fishery. The regulations of foreign nations tend to bring this ruin about. France and England equally endeavor, in the language of the Secretary of State, to mount their marine on the destruction of our fishery. The fishers at Newfoundland are allowed liberal bounties by the English Government; and, in the French West Indies, we meet bounties on their fish and duties on our own, and these amount to the price of the fish. From the English islands we are quite shut out; yet such is the force of our natural advantages, that we have not yielded to these rivals. The Secretary of State has made these statements in his Report.

The more fish we catch, the cheaper; the English fish will need a greater bounty: whereas if we should yield, the English would probably need no bounty at all; they would have the monopoly. For example; suppose the English can fish at two dollars the quintal—we catch so much that we sell at one dollar and two-thirds: the loss to them is one-third of a dollar on each quintal. They

must have that sum as a bounty. Whereas, if we increase our fishery, a greater and a greater bounty is needed by foreign nations. The contest so painfully sustained by them must be yielded at last, and we shall enjoy alone an immense fund of wealth to the nation, which nature has made ours; and though foreigners disturb the possession, we shall finally enjoy it peaceably and exclusively. If the lands of Kentucky are invaded, you drive off the invader; and so you ought. Why not protect this property as well? These opinions are supported by no common authority. The State of Massachusetts having represented the discouragements of the fishery, the subject has received the sanction of the Secretary of State; he confirms the facts stated in the petition; he says it is too poor a business to pay any thing to Government.

Yet, instead of asking bounties, or a remission of the duties on the articles consumed, we ask nothing but to give us our own money back, which you received under an engagement to pay it back, in case the article should be exported. If nothing was in view, therefore, but to promote national wealth, it seems plain that this branch ought to be protected and preserved; because, under all the discouragements it suffers, it increases, and every year more and more enriches the country, and promises to become an inexhaustible fund of wealth.

Another view has been taken of the subject, which is drawn from the naval protection afforded, in time of war, by a fishery. Our coasting and foreign trade are increasing rapidly; but the richer our trade becomes, the better prize to the enemy: so far from protecting us, it would be the very thing that would tempt him to go to war with us. As the rice and the tobacco planter cheerfully pay for armies, and turn out in the militia to protect their property on shore, they cannot be so much deceived as to wish to have it left unprotected when it is afloat; especially when it is known that this protection, though more effectual than the whole revenue expended on a navy could procure, will not cost a farthing; on the contrary, it will enrich while it protects the nation. The coasters and other seamen, in the event of a war, would be doubly in demand, and could neither protect themselves nor annoy the enemy to any considerable degree; but the fishermen, thrown out of business by a war, would be instantly in action. They would, as they formerly did, embark in privateers; having nothing to lose, and every thing to hope, they would not dishonor their former fame. Their mode of life makes them expert and hardy seamen. Nothing can be more adventurous. They cast anchor on the banks, three hundred leagues from land, and with a great length of cable ride out the storms of winter. If the gale proves too strong they often sink at their anchors, and are food for fish which they came to take: for ever wet, the sea almost becomes their element. Cold and labor in that region of frost, brace their bodies, and they become as hardy as the bears on the islands of ice: their skill and spirit are not inferior: familiar with danger, they despise it. If I were to recite their exploits, the theme would find every American heart already glowing with the recollection of them; it would kindle more enthusiasm than the subject has need of. My view is only to appeal to facts, to evince the importance of the fishery as a means of naval protection. It is proper to pass over Bunker's Hill, though memorable by the valor of a regiment of fishermen; nor is it necessary to mention, further, that five hundred fishermen fought at Trenton.

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It is known, that the privateers manned by fishermen, in want of every thing, not excepting arms, which they depended on taking from their enemies, brought into port warlike stores of every kind, as well as every kind of merchandise sufficient for the army and country: the war could not have been carried on without them. Among other exploits almost beyond belief, one instance is worth relating: these people, in a privateer of sixteen guns, and one hundred and fifty men, in one cruise took more than twenty ships, with upwards of two hundred guns, and nearly four hundred men. The privateers from a single district of Massachusetts, where the fishery is chiefly seated, took more than two thousand vessels, being one third of the British merchant vessels, and brought in near one thousand two hundred. A hundred sail of privateers, manned by fishermen, would scour every sea in case of a war.

The first question is, how much does Government receive by the duty on the salt used in curing the fish which is exported? The quantity of fish must be known. Several ways of information are to be explored. The Secretary of State supposes the fish of 1790 to be 354,276 quintals. A Treasury return of fish exported from August 20, 1789, to September 30, 1790, which is thirteen and one-third months, is 378,721 quintals. For a year, equal to 340,849 quintals.

Foreign dried fish imported from August 15, 1789, to August, 1790, 3,701 quintals; five per cent. drawback thereon is only three hundred and ten dollars, at one dollar and sixty-six cents per quintal. Mr. GILES is mistaken in supposing that foreign fish deducts \$16,000 from our estimate. Return of fish in seven months, from May 30, to December, 1790, exported, all fish of the United States, 197,278 quintals: which, for a year, is 338,184 quintals. The medium may be fairly taken for the time past at 340,000 quintals a year.

Six gentlemen of Marblehead certify, that 5,043 hogsheads, or 40,344 bushels of salt, were used on 38,497-1/2 quintals; which, for 340,000 quintals, gives 356,200 bushels. The duty, at twelve cents, is \$42,744, which Government receives. But the charge to the United States, is, at thirteen and a half cents per quintal

	\$45,900
Whereof the fishery receives ten cents on each quintal exported	34,000
	———
Charges as the law stands	11,900

Further, this is but an estimate made up from what the last year proved. The next may be very

different, and probably it will be. If more money should be demanded than \$44,000, we must not be accused of misleading Congress. But in that case an increase would be made by law; for the more fish is exported, the more thirteen and a half cents must be paid; so that the bill creates no burden in that way. But the increase of the export of fish will probably operate in favor of Government. For it is known that the economy, skill, and activity of the fishery are making progress. Its success has progressed. The more fish to a vessel, the cheaper the allowance on the tonnage. Therefore, the tonnage of vessels will not increase in a ratio with the increase of the fish.

The very objections prove this. For they deem the encouragement too great. But any encouragement must have the effect.

The difference of the agreements for distributing the fish according to the present practice, or by this bill, makes a great one in the quantity taken. The bill reforms the practice in this point. Marblehead vessels take less than those from Beverly. The former throw the fish into a common stock, which is afterwards divided upon a plan very unfriendly to exertion. A man works for the whole—perhaps twelve hours, and they take about eight hundred quintals to a vessel. But in Beverly, the exertion is as great as can be made; eighteen hours a day, because each man has what he catches, and they catch eleven hundred quintals.

Marblehead seamen sailing from other towns, and dividing as last mentioned, which the bill establishes, seldom fail to catch two or three hundred quintals more than vessels and men from Marblehead on the first plan. Accordingly, I assert on good authority, that the increase in Marblehead only may be computed at fifteen thousand quintals, merely in consequence of the reform by the bill. The best informed persons whom I have consulted, entertain no doubt that the export, in case the bill should pass, would not be less than four hundred thousand quintals, probably more; but at four hundred thousand quintals, it would add seven thousand two hundred dollars more to the salt duty; a sum more than equal to any estimate of the actual tonnage, or any probable increase of it

	\$42,744
	7,200

Salt duty on 400,000 quintals	49,944

Other facts confirm the theory, that skill and exertion are increasing in this business.

In 1775, 25,000 tons, 4,405 seaman. Fish sold for \$1,071,000. In 1790, three-fourths of the seamen and three-fourths of the tonnage take as much fish. It is owing to this that our fishery stood the competition with foreign nations.

Finally, the average in future may be relied on not to be less than 350,000 quintals.

Salt duty on which	\$43,944
Bounties	44,000

Wanted	56

The calculations first made will answer the purpose,

340,000 quintals pay salt duty	\$42,744
Tonnage bounty	44,000

Wanted	1,256

This is the mighty defect. Observe the authentic return of the export of fish may be, and we can almost prove it to be, below the future export. Whereas, to banish all doubt, we go to the top of the scale for the tonnage, we take what we know to be the utmost. This we might have represented more favorably if we had chosen to conceal any thing. But even this will answer our purpose.

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For two hundred tons are wanting in the estimate of the bounties, being nineteen thousand eight hundred, not twenty thousand, which will take off one-third of the deficient sum.

The tonnage over sixty-eight, which receives nothing, is not mentioned; and which probably is not less than another third.

The boats under five tons, though trifling, are to be noticed—they receive nothing.

But, above all, the chances of non-compliance with the regulations are in favor of the remainder of the twelve hundred and fifty-six dollars being stopped. Boats may not get twelve quintals to the ton, or vessels may have their voyages broken up, and not stay four months on the fishing ground; in either case they would receive nothing. Take all these together, is it not to be doubted that twelve hundred and fifty-six dollars will remain of the forty-four thousand in the Treasury?

But these are trifles which I cannot believe gentlemen are anxious about.

For the event cannot be reduced to a certainty. What quantity of fish will be exported, no man can tell now. But as Government may receive more than it will pay, the chance may turn the other way, and it may have to pay a few hundred dollars more than it will have received. We have seen that the chance is most in favor of Government. But one chance must balance the other. This answer is sincerely relied on as a good one.

I barely mention that the wear of cordage, cables, sails, and anchors, is very great. These articles, on being imported, pay duties. So that it is probable the extra duty paid by the fishery on their extra consumption, will overbalance any little sums supposed to exceed in the bounty.

It has been asked, as if some cunning was detected, why if the money received in the Treasury to pay the drawbacks is equal to the proposed bounties, a further appropriation should be made? This cunning question admits of several very simple answers.

The bill being for seven years, the average product is the proper sum to be calculated. But the three first years may fall short of the bounties, say two thousand dollars a year, which is six thousand dollars.

The four last may exceed two thousand dollars, say eight thousand dollars.

Shall a poor fisherman wait for the whole, or if he takes his part according to the money in the Treasury—for a twenty-fourth part of the bounty on his vessel, from 1792 to 1795?

2d. This delay would happen after a bad year, the very time when he would most need prompt pay.

3d. But fish taken this year will not be exported till December next. Therefore the money will not be stopped by the drawback as the law stands, till six months after.

A substitute has been proposed for the clause, to appropriate the drawback only.

This is absolutely improper. For the ten cents allowed as drawback is but a part of the duty paid on salt. It is not easy to see any reason why a part stopped at the Treasury should be equal to the whole paid there long before. The drawback falls near nine thousand dollars short of the salt duty received by the Government. The expense of the drawback would be very heavy and useless.

Nor may gentlemen apprehend that Government, by paying next December, will advance money to the fishery. The salt duty will have been paid, and Government will have the use of the money many months before the fishermen will have a right to call for the bounties.

It is left to the candor of the gentlemen who have urged this objection, whether a better or further answer is desired.

After having laboriously gone through the estimate of the probable export of fish, it will not be necessary to be equally minute as to the quantity or kind of vessels which are to receive the bounty.

The estimate we believe to be very high. That it is high enough, we suppose very probable from the estimate of the Secretary of State, which is only nineteen thousand one hundred and eighty-five tons.

This mode of paying the bounty on the tonnage is very simple and safe. The measurement is already made and costs nothing; and as it was made to pay a duty on tonnage, we are very sure that Government will not be cheated by an over-measure. The mode of paying the drawback, as the law now stands, is expensive, perplexed and embarrassing; liable to frauds and delays.

This intricate and disgusting detail of calculations was necessary to satisfy the committee that each of the three grounds of defence on which the bill rests, is tenable.

Instead of impoverishing the nation by scattering the treasures of the whole to benefit a part, it appears that we are preserving a mine of treasure. In point of naval protection, we can scarcely estimate the fishery too highly. It is always ready, always equal to the object; it is almost the only sufficient source of security by sea. Our navigation is certainly a precious interest of the country. But no part of our navigation can vie with the fishery in respect to the protection it affords. There is no point which regards our national wealth or national safety, in respect to which it seems practicable to do so much with so little.

We rely on the evidence before you, that the public will not sustain the charge of a dollar. Those ought not to doubt the evidence who cannot invalidate it. If then the fishermen ask you to restore only their own money, will you deny them? Will you return to every other person exporting dutied goods the money he has paid, and will you refuse the poor fisherman?

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If there must be an instance of the kind, will you single out for this oppressive partiality, that branch which is described by the Secretary of State as too poor even to bear its own part of the common burden; that branch which nevertheless has borne the neglect of our nation, and the persecution of foreign prohibitions and duties; a branch which, though we have received much and expect more, both of money and services, urges no claims but such as common justice has sanctioned?

Mr. GERRY having moved to strike out the words "bounty allowed" in order to insert *allowance made*, by way of accommodation,

Mr. MURRAY observed, that the question was, whether a bounty should be given for the encouragement of the fishery: the amendment proposed by the gentleman from Massachusetts (Mr. GERRY) did not alter the principle—it was still "*the old cocked hat*" on the one hand, and on the other, "*the cocked old hat*:" the gentleman from Pennsylvania (Mr. FITZSIMONS) had asserted, that Congress have a right to alter the drawbacks, and allow them in any other mode, by which the citizens may receive back their own money; but this is not a case of that nature; for the bill says, "in case the moneys appropriated (*for the payment of the duties*) shall be inadequate, the deficiency shall be supplied from the Treasury;" here the Treasury is pledged for the payment of the bounties; and the question is, not on the principle of changing the drawback, but the giving

encouragement to a particular branch, at the expense of the community at large.

Mr. BARNWELL observed, that those who are best acquainted with the fisheries, look on the proposed mode of encouragement as the best; and that they ought to be allowed to use the gifts of the public in the most advantageous manner: that, if he were himself concerned in the cultivation of any particular commodity, for the encouragement of which a sum were granted, he would be much surprised to meet a refusal, in case he should come forward and propose some more effectual mode of applying that grant: that even if the bounties should happen to exceed the drawbacks, by eight or ten thousand dollars, the number of seamen to be maintained would be well worth that sum: that whenever the two Houses of Congress and the President of the United States are of opinion that the general welfare will be promoted by raising any sum of money, they have undoubted right to raise it, provided that the taxes be uniform; that although it may not at present be an object of great consequence to America to become a maritime power, yet it is of some importance to have constantly at hand a nursery of seamen, to furnish our merchants with the means of transporting their commodities across the sea; that, whatever allowance or bounty is granted upon any particular commodity, must ever be paid by the whole, for the advantage of a part, whether it be upon cotton to the Southward, upon fish to the Eastward, or upon other commodities to the Middle States; that if the people cannot have so much confidence in their Representatives, as to trust them with the power of granting bounties, the Government must be a very paltry one indeed. The object of the bill was only to allow to the fishermen, in the manner that would be most beneficial to them, the same sum that would otherwise be allowed. If, however, from time and experience, it should appear that this bounty proved an imposition on Government, he would not hesitate to revoke it.

Mr. GERRY.—The State of Massachusetts asks nothing more than equal justice. We do not come forward to request favors from the United States, we only wish that the same system which is applied to other parts of the Union, may be applied to us. But, in examining this question, we wish that gentlemen would not make distinctions which will not admit of a difference.

The proposed allowance has been called a bounty on occupation, and is said to be very different from that encouragement, which is the incidental result of a general commercial system; but in reality it is no bounty: a bounty is a grant, made without any consideration whatever, as an equivalent; and I have no idea of a bounty, which admits of receiving from the person, on whom it is conferred, the amount of what is granted. We have imposed a duty on salt, and thereby draw a certain sum of money from the fishermen; the drawback is, in all instances, the amount of the money received; this is all we ask; and we ask it for a set of men who are as well entitled to the regard of Government as any other class of citizens.

It has been supposed, that the allowance made to the fishermen, will amount to a greater sum than the drawback on the exportation of the fish; but I think it has been clearly shown that this will not be the case: on the contrary, it is presumable, that the drawback on the fish would on the whole exceed the sum which is proposed to be allowed to the fishermen; sometimes it might be more, sometimes less. The calculation is made on general principles; and it is impossible to calculate to a single cent: the quantity of salt to be expended on the fish, cannot be minutely ascertained; but this was not heretofore considered as a sufficient reason why Congress should refuse to allow the drawback; they allowed it, though in a different shape. It is now proposed to make a further commutation: gentlemen call this a bounty on occupation; but is there any proposition made for paying to the fishermen, or other persons concerned in the fishery, any sums which we have not previously received from them? If this were the case, it would indeed be a bounty; but if we beforehand receive from them as much as the allowance amounts to, there is no bounty granted at all.

If, however, it really was a bounty on occupation, it would after all be only an indulgence similar to what has been granted to the landed and agricultural interest. We have laid on hemp a duty of fifty-four cents per hundredweight; and on beer, ale, and porter, five cents per gallon. Now, I ask gentlemen, whether the professed design of those duties was to raise a revenue, or to prevent the importation of those articles? They were laid for no other purpose, than to prevent foreigners from importing them, and thereby to encourage our own manufactures; and was not that encouragement a bounty to the persons concerned in producing such articles in this country? If the duties had not been laid, the importer could sell much cheaper than he now can; and the landed interest would be under a necessity of selling cheaper in proportion. If those prohibitory duties operate as a bounty in favor of raising hemp, and of brewing beer, ale, and porter, I ask, whether, if a bounty were proposed on every quintal of fish, it might not, with the same propriety, be granted? If we have not a right to grant a bounty in the one case, we have as little right to grant it in the other.

A calculation has been offered to show that the proposed allowance will exceed the amount of the present drawbacks, by ten thousand dollars a year; but that calculation has been proved to be erroneous. Suppose, however, that this was the fact, what comparison is there between such a tax on the citizens of the United States, and the tax borne by the citizens of Massachusetts, for the defence of the Western frontier? A commercial war is waged against the American fisheries, by foreign nations, who lay heavy duties on the American fish, and apply the produce of those duties in bounties to their own fishermen; and their fisheries being less extensive than ours, the duty thus imposed on our fish, and bestowed in bounties to their vessels, operate in a twofold proportion to the discouragement of our fishermen, and the encouragement of theirs.

I wish to know on what principle gentlemen can expect, that the citizens of Massachusetts should contribute two hundred thousand dollars, or perhaps a greater sum, for the protection of the Western frontier against the Indians, when no contribution is made to support the commerce of

Massachusetts, which, without this support, will be as effectually ruined, as if their vessels were captured by an enemy. The principle is carried farther with respect to the protection of the frontier: we have voted large sums as presents to the savages, to keep them friends to the frontier settlers; there is, however, no clause in the constitution that will authorize a measure of this kind: it is true, indeed, we have a power to regulate trade and commerce with the Indian tribes; but does that give us a power to render the United States tributary to the savages? and if we make them such grants every year, do we not in fact become tributary to them?

The gentleman from Virginia (Mr. GILES) says that although this plan of encouraging the fisheries may be wise policy in Britain, as being on all sides surrounded by the sea, yet the United States will not equally find their account in pursuing the same plan. The State of Virginia is, in point of exposure from the sea, very differently circumstanced from the State of Massachusetts: *we* have a vast extent of country four hundred and fifty miles of sea-coast, exposed; the citizens of all the towns along the coast are obliged to pursue marine occupations and I hope the gentleman does not wish that the country should be depopulated, and the inhabitants driven off to settle the Western territory.

The State of Virginia is very happily circumstanced with respect to a marine war: should such an event take place, that State is pretty secure from depredations; but when we consider how much the inhabitants of Massachusetts are exposed in a case of that kind, we ought to look forward, and make some provision for their defence: they have as good a right to expect that Government will make some arrangements for their protection, as that they shall be obliged to contribute for the defence of the Western frontier.

But their commerce, it seems, must not be supported! Taxes however must be laid; and those taxes applied to encourage the former, and to bribe the Indians into peace! Is this fair? Is this pursuing a liberal system of politics? Will this reconcile the minds of our people to the General Government? If so reasonable a proposition be neglected by the House, it will convince the citizens of that State, that it is the object of Government to destroy their commerce, and to make them entirely dependent on the agricultural interest.

Here Mr. GERRY read a statement, to show the diminution of the revenue in consequence of the failure of the fisheries; and added,

To support the fisheries, is to support the revenue: by that staple, the citizens of Massachusetts are enabled to pay the revenue that is expected from them; and, by an attempt to save ten thousand dollars, Government will probably sacrifice a hundred thousand; and besides, lose the confidence of the citizens of that State.

The only question now is, whether this be a direct bounty, or simply a commutation of the allowance already granted by Congress? If the latter be the case, I can see no reason why we should refuse our assent to a proposition, which is only calculated to do justice to the people concerned, and to give encouragement to a very important branch in the United States; especially as the proposition will even have a tendency to increase the revenue.

Mr. WILLIAMSON.—It has been urged with great propriety, in favor of the bill now submitted to our consideration, that the operation of our laws should in all cases tend to encourage useful industry; that while we are giving back the duties on all other foreign goods which are exported, it would be unjust and cruel to refuse a full drawback of the duties on salt which may be exported, especially when the circumstances of its exportation are attended with an increase of riches and strength to the nation. Impressed as I am with the force of these arguments, and desirous as I am to protect and encourage the native seamen of America, by all prudent, practicable, and constitutional means, I shall nevertheless find it my duty to vote for striking out the first section of the bill, because it proposes to give a bounty for the encouragement of the vessels employed in the fisheries.

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We have been told that the name is improper; that it is simply a drawback of the duty upon salt; and gentlemen have produced a very ingenious calculation, by which they attempt to prove, that in some years it may happen that the whole duty on the salt will not be repaid; but they admit that in some years the drawback or bounty will exceed the duty. It is certainly their opinion—and in this we are perfectly agreed—that the money to be paid will be more than that received, else there had been no use for so large an appropriation. We shall not trouble the committee with calculations on this subject. It is conceded, that the encouragement to be given, probably will exceed the full drawback of the duty on salt. In other words, a *douceur* or a proper bounty is to be given: let us call it one thousand dollars per annum. Is it within the powers of this Congress to grant bounties? I think not; and on this single position I would rest the argument.

In the constitution of this Government there are two or three remarkable provisions, which seem to be in point. It is provided, that direct taxes shall be apportioned among the several States according to their respective numbers. It is also provided, that all duties, imposts, and excises, shall be uniform throughout the United States; and it is provided, that no preference shall be given, by any regulation of commerce or revenue, to the ports of one State over those of another. The clear and obvious intention of the articles mentioned was, that Congress might not have the power of imposing unequal burdens; that it might not be in their power to gratify one part of the Union by oppressing another. It appeared possible, and not very improbable, that the time might come, when, by greater cohesion, by more unanimity, by more address, the Representatives of one part of the Union might attempt to impose unequal taxes, or to relieve their constituents at the expense of other people. To prevent the possibility of such a combination, the articles that I have mentioned were inserted in the constitution. Suppose a poll-tax should be attempted; suppose it should be enacted that every poll in the Eastern States shall pay a tax of half a dollar,

and every poll in the Southern States should pay a tax of one dollar. Do you think we should pay the tax? No certainly. We should plead the constitution, and tell you that the law was impotent and void.

But we have been told, that Congress may give bounties for useful purposes; that is to say, they may give bounties for all imaginable purposes; because the same majority that votes the bounty will not fail to call the purpose a good one. Establish the doctrine of bounties, and let us see what may follow. Uniform taxes are laid to raise money, and that money is distributed—not uniformly; the whole of it may be given to the people in one end of the Union. Could we say, in such a case, that the tax had been uniform? I think not. There is certainly a majority in this House who think that the nation would be stronger and more independent, if all our labor was performed by free men. This object might be promoted by a bounty. Let a poll-tax be laid, according to the constitution, of one dollar per poll: in this case, sixty cents must be paid for each slave; and the number of slaves being 680,186, their tax would amount to \$334,911. To encourage the labor of citizens, let Congress then give an annual bounty of one dollar to every free man who is a mechanic, or who labors in the field. We might be told that the bounty was small, and the object was good; but the measure would be most oppressive, for it would be a clear tax of rather more than three hundred thousand dollars on the Southern States.

Perhaps the case I have put is too strong—Congress can never do a thing that is so palpably unjust—but this, sir, is the very mark at which the theory of bounties seems to point. The certain operation of that measure is the oppression of the Southern States, by superior numbers in the Northern interest. This was to be feared at the formation of this Government, and you find many articles in the constitution, besides those I have quoted, which were certainly intended to guard us against the dangerous bias of interest, and the power of numbers. Wherefore was it provided that no duty should be laid on exports? Was it not to defend the great staples of the Southern States—tobacco, rice, and indigo—from the operation of unequal regulations of commerce, or unequal indirect taxes, as another article had defended us from unequal direct taxes?

I do not hazard much in saying, that the present constitution had never been adopted without those preliminary guards in it. Establish the general doctrine of bounties, and all the provisions I have mentioned become useless. They vanish into air, and like the baseless fabric of a vision, leave not a trace behind. The common defence and general welfare, in the hands of a good politician, may supersede every part of our constitution, and leave us in the hands of time and chance. Manufactures, in general, are useful to the nation; they promote the public good and general welfare. How many of them are springing up in the Northern States? Let them be properly supported by bounties, and you will find no occasion for unequal taxes. The tax may be equal in the beginning—it will be sufficiently unequal in the end.

We are told, that a nursery of seamen may be of great use to the nation, and the bounty proposed is a very small one. These, sir, are the reasons why I have marked this as a dangerous bill; the most dangerous innovations are made under these circumstances. To begin with a great bounty would be imprudent, and to give a small bounty for a doubtful purpose, might deserve a worse epithet. Half a million of dollars per annum would have been too much for a beginning, and perhaps a bounty on the use of sleighs, though they are convenient for travelling in winter; or a bounty on stone fences, though they are durable, would not at this time be prudent. The object of the bounty, and the amount of it, are equally to be disregarded in the present case; we are simply to consider whether bounties may safely be given under the present constitution. For myself, I would rather begin with a bounty of one million per annum than one thousand. I wish that my constituents may know whether they are to put any confidence in that paper called the constitution.

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You will suffer me to say, that the Southern States have much to fear from the progress of this Government, unless your strength is governed by prudence. The operation of the funding system has translated at least two millions of dollars from the Southern States, that is to say, from Georgia, the Carolinas, and Virginia, to the Northern States. The interest of that sum, when it shall be six per cent., will be \$120,000; but the quota of those States is at least one-third of the whole; whence it follows, that they must pay forty thousand dollars every year, in the form of interest to the Northern States. This, it seems, is not sufficient, and other measures are to be adopted for draining the Southern States. Bounties to promote the general welfare are already brought forward. We shall not hear of a bounty for raising rice, or preparing naval stores. If that was the question, the general welfare would not have such prominent features. Unless the Southern States are protected by the constitution, their valuable staples, and their visionary wealth, must occasion their destruction. Three short years has this Government existed—it is not three years—but we have already given serious alarms to many of our fellow-citizens. Establish the doctrine of bounties, set aside that part of the constitution which requires equal taxes and demands similar distributions, destroy this barrier, and it is not a few fishermen that will enter, claiming ten or twelve thousand dollars, but all manner of persons—people of every trade and occupation—may enter at the breach, until they have eaten up the bread of our children.

Perhaps I have viewed this project in too serious a light; but if I am particularly solicitous on the subject of finance, that we do not even seem to depart from the spirit of the constitution, it is because I wish that the Union may be perpetual. The several States are now pretty well relieved from their debts, and our fellow-citizens in the Southern States have very little interest in the national funds; press them a little with unequal taxes, and the remedy is plain.

While I would shun bounties, as leading to dangerous measures, I am not inattentive to every argument that has been advanced by the honorable member who first rose in defence of the bill. That gentleman tells us, that more than a bushel of salt is used in curing a quintal of fish. If this

fact be established, the former act should be amended, by giving a greater drawback. He says the drawback, as it is now paid to the merchant, does not operate so as to encourage the seamen, who have most need of such assistance. This is very probable, and the parties may be relieved by dividing the drawback in the very manner that is proposed by the bill. If it is true that the proposed bounties will not exceed the average of the drawback that should be paid on salt, why do they contend about names, unless they are solicitous about the precedent? If our object is to encourage industry, and to increase our commerce, by sending fish to a foreign market, we must adhere to the drawback; for, according to the terms of the bill, the bounty is to be paid, though every fish that is caught should be consumed in the country; in which case we should be paying a visionary drawback, when nothing was exported. According to the terms of the bill, there is no proportion between the labor and the reward, so far as the bank fishery is concerned; the bounty in all cases being the same.

Having exercised your patience in objecting to this new system of bounties, and having hinted on some objections to the general operations of the bill, so far as industry and enterprise may be desired, I shall, in a few words, submit the outline of a plan that seems to comprehend all the useful parts of the bill, without any speculation upon bounties.

If the drawback on dried fish exported, is not equal to the duty on the salt used in curing such fish, let the drawback be increased to eleven cents or twelve cents, as the case may be. Let us suppose that the drawback for the next year will be equal to the drawback on the last year; and let that sum of money, being the expected drawback, be divided between the seamen and owners, according to the terms of the bill. The accounts must be made up annually. If the drawback exceeds the allowance that had been made, the difference will be considered as advanced to the fishery, and the allowance for the next year must be somewhat reduced, according to the actual amount of the drawback. If the fishermen are more fortunate or more active, and the exports are increased, the allowance for the next year must be raised. The rule being fixed by law, all that remains, being pure calculation, may be done from year to year by the Executive. Every important object of this bill, that has been presented to our view, may be obtained by safe and constitutional steps. Why should a man take a dangerous and a doubtful path, when a safe one presents itself? If nothing more is desired than to regulate and protect the fishery, the bill may be altered and accommodated to that purpose. If the theory of bounties is to be established, by which the Southern States must suffer while others gain, the bill informs us what we are to expect.

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The committee now rose, without taking any question.

MONDAY, February 6.

A member from Maryland, to wit, JOHN FRANCIS MERCER, returned to serve in the room of WILLIAM PINKNEY, resigned, appeared, and took his seat in the House.

A petition of the tanners of the town of Newark, in the State of New Jersey, was presented to the House and read, stating the inconveniences they suffer from the erection of mills for the purpose of grinding tanners' bark for exportation, and praying that Congress will adopt such measures for their relief as may appear just and right. Ordered to lie on the table.

The Cod Fisheries.

The House again resolved itself into a Committee of the whole House on the bill sent from the Senate, entitled "An act for the encouragement of the Bank and other Cod Fisheries, and for the regulation and government of the fishermen employed therein."

Mr. GOODHUE.—The gentleman last up (Mr. WILLIAMSON) says, that an appropriation of money being made by the bill now before us, and the Treasury standing pledged for the payment, therefore a direct bounty is granted. At present, we pay in drawbacks about \$45,000; but we cannot say that this sum will be adequate to the payment of the drawbacks next year; for, if a greater quantity of fish be taken, a greater sum, of course, must be allowed; and, as the sum depends entirely on the quantity of fish, it is impossible to ascertain beforehand the precise amount. There is not, however, in the whole bill, any thing of a bounty except the bare name. The gentleman allows that we may commute the present drawbacks, and give them to the fisherman instead of the merchant; but it is impossible to do this with safety in any other mode than that pointed out in the bill. Shall we leave it to the fisherman, to be determined by his oath? This would not be advisable.

The plan proposed is a much less exceptionable one. It is founded on a calculation that a certain quantity of tonnage is employed in taking a certain quantity of fish. On this calculation the allowance is apportioned to the tonnage. If gentlemen think the allowance too high, let the sum be reduced; but let it not be stigmatized as a bounty. It is no such thing. The word "bounty" is an unfortunate expression, and I wish it were entirely out of the bill.

Mr. LIVERMORE.—The bill now under consideration has two important objects in view. The one is, to give encouragement to our fishermen, and, by that encouragement, to increase their numbers; the other is to govern those fishermen by certain laws, by which they will be kept under due restraint. Both these objects are of great importance to such persons as choose to employ their capitals in the fishery business. And I believe it will not be disputed that the business itself is of considerable importance to the United States, insomuch as it affords a certain proportion of remittance or exportation to foreign countries, and does not impoverish the country, but enriches

it by the addition of so much wealth drawn from the sea.

It is the object of those gentlemen who favor the bill that the fishermen should have some encouragement, not given to them at the expense of the United States, but directed to them out of what was in the former law called a drawback of the duty on salt. The calculation, as I understand it, has been made as nearly as possible to give that drawback, not to the merchants who export the fish, but to the fishermen who take it, in order to increase that description of men, without whose assistance it is vain to expect any benefit from the fisheries; for, if the merchants at present engaged in that branch possessed the whole capital of the United States, yet, if they cannot get fishermen, they cannot carry on the fishery. This is done by a particular class of men, who must be not only expert seamen, but also accustomed to taking the fish and curing it. If these men cannot be had, the capital cannot be employed, and those who undertake the business cannot carry it on, or reap any profit from it.

Whilst the drawback is payable only to the merchant who exports the fish, it is impossible to convince the fishermen that they reap from it any advantage whatever; or, if the more discerning among them do perceive any advantage in it, the others who are not so clear-sighted cannot discern it, and are therefore not disposed to undertake the business. It is, however, of considerable importance to the merchants that the fisherman should receive a proper encouragement, even if they were obliged to allow him a bounty out of their own pocket.

The government of the fishermen, after their engagement in this business, is also necessary to be provided for; otherwise, frequent instances may occur among that class of men of quitting one vessel to embark on board another, or of shipping themselves for a foreign voyage, before the expiration of the fishing season. In the latter case, the vessel lies useless on the owner's hands, and he, together with the whole expense of the outfit, loses all his prospects of future gain.

The two objects here mentioned are fully provided for in the bill. Still, however, it is objected to. But what is the objection? It is, that the word "*bounty*" is twice used in this clause. Let us now see what advantage will result from striking out this obnoxious "*bounty*." None at all. The bill says it shall cease; and have gentlemen any objection to the bounty's ceasing? Since the bounty is to cease by this bill, what advantage in striking it out? The sense would still remain the same; and I do not know why we should make a law expressly to strike out the word "*bounty*," but to strike out the bounty itself.

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It is strange to me that any gentleman, whether he is for giving a great bounty or no bounty at all, should quarrel with this unfortunate word. There is, indeed, one part of the section which I will readily consent to strike out, and I believe every other gentleman who is in favor of the bill will consent to it likewise; and that is the clause which provides that the bounty to be allowed and paid on every vessel for one season, shall not exceed one hundred and seventy dollars. If, when the vote is taken on the section, there does not appear a majority of the House in favor of striking out the whole, we may then move for striking out the *proviso*, if it be offensive to any gentleman. If it be not offensive, it may remain.

If gentlemen are disputing only because the word "*bounty*" is in the bill, they may be perfectly relieved from their uneasiness on that score; for the bill expressly says, "that the bounty now allowed upon the exportation of dried fish of the fisheries of the United States shall cease, and in lieu thereof," a different kind of encouragement is to be given. Here is no reason to dispute about a word. If gentlemen are disposed to consent to the principle of the bill, that the drawback of the duties on salt shall be commuted for a certain sum, to encourage the fishermen, they will vote in favor of the bill; if not, they will vote against it. But it is impossible for me to conceive why any gentleman under heaven should be against it. It is only fixing, for the merchants engaged in this branch, a clear and equitable ratio for distributing among the fishermen that encouragement which they think necessary in order to attach those people to the business, and to prevent them from going to other occupations on land. The bill is an important one, and will increase that branch of business, which is very useful to the community. It does not lay a farthing of bounty or duty on any other persons than those who are immediately concerned in it. It will serve them, and will not injure any body.

Mr. LAURANCE said, from examining the section, he conceived it contemplated no more than what the merchant is entitled to by existing laws. The merchant is now entitled to the drawback; but it is found by experience that the effect has not been to produce that encouragement to the fishermen which was expected; and he presumed the way was perfectly clear to give a new direction to the drawback, and this is all that is aimed at in the bill. He supposed that the clause had no necessary connection with the question which had been started respecting the right of the Government to grant bounties; but, since the question has been brought forward, it may be proper to consider it. In discussing the question, he inquired, What has Congress already done? Have we not laid extra duties on various articles, expressly for the purpose of encouraging various branches of our own manufactures? These duties are *bounties* to all intents and purposes, and are founded on the idea only of their conducing to the *general interest*. Similar objections to those now advanced were not made to these duties. They were advocated, some of them, by gentlemen from the Southward. He traced the effects of these duties, and showed that they operated fully as indirect bounties.

Mr. L. then adverted particularly to the constitution, and observed that it contains *general* principles and powers only. These powers depend on *particular* laws for their operation; and on this idea, he contended that the powers of the Government must, in various circumstances, extend to the granting bounties. He instanced, in case of a war with a foreign power, will any gentleman say that the General Government has not a power to grant a bounty on arms,

ammunition, &c., should the general welfare require it? The general welfare is inseparably connected with any object or pursuit which in its effects adds to the riches of the country. He conceived that the argument was given up by gentlemen in opposition to the bill, when they admit of encouragement to the fishermen in any possible modification of it. He then adverted particularly to the fisheries, stated the number of men employed, the tons of shipping necessary to export the fish taken, and inferred the sound policy of encouraging so important a branch of business.

Gentlemen say that we do not want a navy. Grant it; but can they say that we shall never have a war with any European power? May not the time arrive when the protection to the commerce of this country, derived from this source, may be of the utmost necessity to its existence? Adverting to Mr. WILLIAMSON's objection from the unequal operation of bounties, and who had referred to the article of the constitution which says that taxes shall be equal in all the States, Mr. L. observed, that this article in the constitution could only respect the *rates* of the duties, and that the *same* duties should be paid in Virginia that are paid in New York—at the Northward as at the Southward. It surely could not mean that every individual should pay exactly the same sum in every part of the Union. This was a provision that no law could possible contemplate.

He concluded by a summary recapitulation of his arguments, and saying he hoped the section would be retained.

Mr. MADISON.—In the conflict I feel between my disposition on one hand to afford every constitutional encouragement to the fisheries, and my dislike, on the other, of the consequences apprehended from some clauses of the bill, I should have forborne to enter into this discussion, if I had not found, that over and above such arguments as appear to be natural and pertinent to the subject, others have been introduced which are, in my judgment, contrary to the true meaning, and even strike at the characteristic principles of the existing constitution. Let me premise, however, to the remarks which I shall briefly offer, on the doctrine maintained by these gentlemen, that I make a material distinction, in the present case, between an allowance as a mere commutation and modification of a drawback, and an allowance in the nature of a real and positive bounty. I make a distinction also, as a subject of fair consideration at least, between a bounty granted under the particular terms in the constitution, "a power to regulate trade," and one granted under the indefinite terms which have been cited as authority on this occasion. I think, however, that the term "bounty," is in every point of view improper as it is here applied, not only because it may be offensive to some, and in the opinion of others carries a dangerous implication, but also because it does not express the true intention of the bill, as avowed and advocated by its patrons themselves. For if, in the allowance, nothing more is proposed than a mere reimbursement of the sum advanced, it is only paying a debt; and when we pay a debt, we ought not to claim the merit of granting a bounty.

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It is supposed by some gentlemen, that Congress have authority not only to grant bounties in the sense here used, merely as a commutation for drawbacks, but even to grant them under a power by virtue of which they may do any thing which they may think conducive to the "general welfare." This, sir, in my mind, raises the important and fundamental question, whether the general terms which had been cited, are to be considered as a sort of caption or general description of the specified powers, and as having no further meaning, and giving no further power than what is found in that specification; or as an abstract and indefinite delegation of power extending to all cases whatever; to all such, at least, as will admit the application of money, which is giving as much latitude as any government could well desire.

I, sir, have always conceived—I believe those who proposed the constitution conceived, and it is still more fully known, and more material to observe that those who ratified the constitution conceived—that this is not an indefinite Government, deriving its powers from the general terms prefixed to the specified powers, but a limited Government, tied down to the specified powers which explain and define the general terms. The gentlemen who contend for a contrary doctrine are surely not aware of the consequences which flow from it, and which they must either admit or give up their doctrine.

It will follow, in the first place, that if the terms be taken in the broad sense they maintain, the particular powers afterwards so carefully and distinctly enumerated would be without any meaning, and must go for nothing. It would be absurd to say, first, that Congress may do what they please, and then that they may do this or that particular thing; after giving Congress power to raise money, and apply it to all purposes which they may pronounce necessary to the general welfare, it would be absurd, to say the least, to superadd a power to raise armies, to provide fleets, &c. In fact, the meaning of the general terms in question must either be sought in the subsequent enumeration which limits and details them, or they convert the Government from one limited, as hitherto supposed, to the enumerated powers, into a Government without any limits at all.

It is to be recollected, that the terms "common defence and general welfare," as here used, are not novel terms, first introduced into this constitution. They are terms familiar in their construction, and well known to the people of America. They are repeatedly found in the old Articles of Confederation, where, although they are susceptible of as great latitude as can be given them by the context here, it was never supposed or pretended that they conveyed any such power as is now assigned to them. On the contrary, it was always considered as clear and certain, that the old Congress was limited to the enumerated powers, and that the enumeration limited and explained the general terms. I ask the gentlemen themselves, whether it ever was supposed or suspected that the old Congress could give away the moneys of the States in bounties, to encourage agriculture, or for any other purpose they pleased? If such a power had been

possessed by that body, it would have been much less impotent, or have borne a very different character from that universally ascribed to it.

The novel idea now annexed to these terms, and never before entertained by the friends or enemies of the Government, will have a further consequence, which cannot have been taken into the view of the gentlemen. Their construction would not only give Congress the complete Legislative power I have stated—it would do more—it would supersede all the restrictions understood at present to lie on their power with respect to the Judiciary. It would put it in the power of Congress to establish courts throughout the United States, with cognizance of suits between citizen and citizen, and in all cases whatsoever. This, sir, seems to be demonstrable; for if the clause in question really authorizes Congress to do whatever they think fit, provided it be for the general welfare, of which they are to judge, and money can be applied to it, Congress must have power to create and support a Judiciary Establishment, with a jurisdiction extending to all cases favorable, in their opinion, to the general welfare, in the same manner as they have power to pass laws and apply money, providing in any other way for the general welfare. I shall be reminded, perhaps, that according to the terms of the constitution, the Judicial Power is to extend to certain cases only, not to all cases. But this circumstance can have no effect in the argument, it being presupposed by the gentlemen that the specification of certain objects does not limit the import of general terms. Taking these terms as an abstract and indefinite grant of power, they comprise all the objects of Legislative regulation, as well such as fall under the Judiciary article in the constitution, as those falling immediately under the Legislative article; and if the partial enumeration of objects in the Legislative article does not, as these gentlemen contend, limit the general power, neither will it be limited by the partial enumeration of objects in the Judiciary article.

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There are consequences, sir, still more extensive, which, as they follow clearly from the doctrine combated, must either be admitted, or the doctrine must be given up. If Congress can apply money indefinitely to the general welfare, and are the sole and supreme judges of the general welfare, they may take the care of religion into their own hands; they may establish teachers in every State, county, and parish, and pay them out of the public Treasury; they may take into their own hands the education of children, establishing in like manner schools throughout the Union; they may undertake the regulation of all roads, other than post roads. In short, every thing, from the highest object of State legislation, down to the most minute object of police, would be thrown under the power of Congress; for every object I have mentioned would admit the application of money, and might be called, if Congress pleased, provisions for the general welfare.

The language held in various discussions of this House, is a proof that the doctrine in question was never entertained by this body. Arguments, wherever the subject would permit, have constantly been drawn from the peculiar nature of this Government, as limited to certain enumerated powers, instead of extending, like other Governments, to all cases not particularly excepted. In a very late instance—I mean the debate on the Representation bill—it must be remembered, that an argument much urged, particularly by a gentleman from Massachusetts, against the ratio of one for thirty thousand, was, that this Government was unlike the State Governments, which had an indefinite variety of objects within their power; that it had a small number of objects only to attend to, and therefore that a smaller number of Representatives would be sufficient to administer it.

Several arguments have been advanced to show, that because, in the regulation of trade, indirect and eventual encouragement is given to manufactures, therefore Congress have power to give money in direct bounties, or to grant it in any other way that would answer the same purpose. But surely, sir, there is a great and obvious difference, which it cannot be necessary to enlarge upon. A duty laid on imported implements of husbandry, would, in its operation, be an indirect tax on exported produce; but will any one say, that by virtue of a mere power to lay duties on imports, Congress might go directly to the produce or implements of agriculture, or to the articles exported? It is true, duties on exports are expressly prohibited; but if there were no article forbidding them, a power directly to tax exports could never be deduced from a power to tax imports, although such a power might directly and incidentally affect exports.

In short, sir, without going further into the subject, which I should not have here touched on at all but for the reasons already mentioned, I venture to declare it as my opinion, that were the power of Congress to be established in the latitude contended for, it would subvert the very foundation, and transmute the very nature of the limited Government established by the people of America; and what inferences might be drawn, or what consequences ensue from such a step, it is incumbent on us all well to consider.

With respect to the question before the House, for striking out the clause, it is immaterial whether it be struck out, or so amended as to rest on the avowed principle of a commutation for the drawback; but as a clause has been drawn up by my colleague, in order to be substituted, I shall concur in a vote for striking out, reserving to myself a freedom to be governed in my final vote by the modification which may prevail.

Mr. BOURNE, of Massachusetts—

Mr. Chairman: I think little can be added after so full a discussion of the subject before you. The object of the first section in this bill is intended for the relief of the fishermen and their owners. They complain that the law now in force was meant for their benefit, by granting a drawback on the fish exported; this they find by experience is not the case, for they say, that neither the fishermen who catch the fish, nor the importer of the salt, receive the drawback; and I rather suppose, sir, it is the case. The owners of the greater part of the fishing vessels are not

merchants, neither do they import the salt they consume; but when the fish they take are cured for market, they are sold at the market price; and it frequently happens that those persons who purchase the fish are not the exporters of them, or the importers of the salt, but a third person, who purchases with a prospect of selling them at a profit, is the exporter; and when it so happens, neither the fisherman who catches the fish, nor the importer of the salt, receives any benefit from the drawback, unless the purchaser (the third person) give a greater price in contemplation of the drawback, which I think is not to be supposed.

Is it worthy the attention of Government that the cod fishery should be preserved? It appears to me that it is. When we consider the labor and assiduity bestowed on this object by our Ministers, at the settlement of peace between us and Great Britain, and the care then taken to secure this privilege, as appears by the treaty—[here Mr. B. read that part of the treaty which secures to us the fishery, he then proceeded]—and consider the struggle made to deprive us of this inestimable branch of commerce, I cannot suppose that any one would, at this day, voluntarily relinquish it, and suffer Great Britain to monopolize this branch, and supply the Mediterranean, French, and other markets. Great Britain, at present, enjoys a sufficient portion of this commerce, while France is confined to the narrow limits of St. Peters and Miquelon. If we relinquish this branch of the cod fishery, what is left us? Our whale fishery is nearly at an end, and unless Government speedily interpose, by granting relief, we shall totally lose it. Does not the British Government wish to deprive us of this branch also? Have not letters of agents been sent to the island of Nantucket, as well as New Bedford, where this branch of business is principally prosecuted, inviting the whale fishermen to remove, and offering them permanent settlements at Milford-Haven, at the expense of their Government? This must be viewed as a great encouragement, in addition to their bounties on oil, to a class of poor men employed in that business. If the cod fishery is relinquished, the fishermen have only to remove to the opposite shore of Nova Scotia, where they will find encouragement fully adequate to their services—of all which they are not unapprised. By encouraging this class of men, your revenue will be increased; for in return for the fish exported, you will receive sugar, coffee, cocoa, indigo, molasses, pimento, cotton, dye-woods, rum, wine, salt, fruit, and other articles subject to duty, and consumed in the country. And again, your Treasury will receive an excess by the provision in this bill; for I presume the greater proportion of vessels employed in this business are from twenty to forty tons; the town of Marblehead, perhaps, has principally large ones. Suppose, then, a vessel of thirty tons obtains, in a season, six hundred quintals of fish? (a very moderate voyage indeed,) her tonnage is seventy-five dollars; the drawback on exportation would be seventy-eight dollars; so that your Treasury retains three dollars gain by this bill, which would be a loss on the drawback.

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Mr. Chairman, I think, upon the whole, that granting the encouragement to the fishermen and their owners, held out in the bill, would prove very beneficial to the United States; I hope, therefore, the section before you will not be struck out.

At this point, the committee rose, and had leave to sit again.

TUESDAY, February 7.

Ordered, That the petitions of the tanners of the town of Newark, in the State of New Jersey, which was presented yesterday, be referred to Mr. BOUDINOT, Mr. WHITE, Mr. THATCHER, Mr. BOURNE, of Rhode Island, and Mr. NILES; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Mr. BENSON, from the committee appointed, presented a bill for an apportionment of Representatives among the several States, according to the first enumeration, and making provision for another enumeration, and apportionment of Representatives thereon, to compose the House of Representatives after the third day of March, 1797; which was received and read the first time.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanying his report stating the amount of the subscriptions to the loans proposed by the act making provision for the public debt, as well in the debts of the respective States as in the domestic debt of the United States, and of the parts which remain unsubscribed, together with such measures as are, in his opinion, expedient to be taken on the subject, pursuant to an order of this House of the 1st of November last; which were read, and ordered to be committed to a Committee of the whole House on Monday next.

The Fishery Bill

The House again resolved itself into a Committee of the whole House on the bill sent from the Senate, entitled "An act for the encouragement of the Bank and other Cod Fisheries, and for the regulation and government of the fishermen employed therein."

Mr. PAGE said no man in this House was more heartily disposed to encourage the fisheries of the United States than he was; nor could any one more sincerely wish to encourage the bold, active, and enterprising adventurers in that branch of our commerce to persevere in it, than he did; being sensible of the importance of their traffic in peace, and of their defence of their country and annoyance of their enemies in war. But, sir, (said Mr. P.) I much doubt whether Congress can give that encouragement to the fisheries to which they are entitled, and which policy would lead the General Government to give, were it not restricted by the constitution. I consider, sir, the constitution as intended to remedy the defects of the Confederation to a certain degree; so far only as would secure the independence and general welfare of the Confederate States,

without endangering the sovereignty and independence of the individual States. Congress, therefore, was authorized to pay the debts of the Union, and to regulate commerce, partly for that purpose, and partly to prevent improper and dangerous commercial combinations, jealousies, and altercations between the States. But Congress was not intrusted with any regulation of exports which could admit of an interposition which might be dictated by partiality; nor was Congress permitted to lay any tax which could by any possibility operate unequally on the States in general. It is said, indeed, that, if a drawback be not allowed on the salt used in salting fish, there will be, in fact, a duty on the exportation of the fish. But to this I think it may be replied, that the constitution guards the exports of each State against the possibility of a *partial* restriction by Congress, or even by the States themselves; that Congress cannot lay a duty on the exportation of rice, indigo, tobacco, &c., or any other article exported from any State, because this might be done to the injury of the State where such duty would operate, and to the advantage and aggrandizement of some particular States, its competitors more favored by the General Government, or possessing more influence in the debates of Congress; and that the States are also individually restrained from laying such duties without the consent of Congress, to prevent acts which might produce jealousies, commercial combinations, and, perhaps, at length, civil dissensions. That this restriction, if it be intended to prevent partiality, therefore, cannot extend to authorize drawbacks, which may be productive of partial preferences and their consequent jealousies; that if drawbacks be granted at all, they ought to be universally extended to every article which is or can be exported from any of the States, having in its composition a dutiable ingredient; that hence, ships and other vessels, &c., should have drawbacks on the sails, cordage, iron, &c.; but it may also be said that, as to the duty on salt, that is amply repaid to the merchant by the price annexed to his fish; the sums laid out in salt and fish together form a capital on which he takes care to have a sufficient profit. Those merchants employed in this traffic, if allowed a drawback, would have a preference to other merchants, who import largely, pay heavy duties, and have no other advantage than the usual advance on their goods. The exporter of any article, with a drawback, must have an advantage over his fellow-citizens, who purchase through necessity many dutiable articles, and are obliged to consume them, without any other benefit than the use of them. I mention this because it has been said (by Mr. AMES) that, having made the men of Marblehead pay for salt, they have a right to demand the money expended in that salt on the exportation of their fish; for it would be as reasonable for the man who had ate his fish on which his salt was expended, or who had used any other article for which he had paid a duty, to claim of Congress a return of his money expended therein, as the exporter of fish. The only difference is, that, if both were paid the exact sum so expended by them, the exporter of fish would get twice paid. The purchaser or consumer of his fish would pay him for his salt therein, as if it were substantial fish, and the State for it as mere salt. Here, then, is a field for partiality, discontent, and complaints, which the constitution wisely guards against. It cannot, therefore, be to any purpose to tell us that a bounty, or allowance, as it is now called, is preferable to a drawback, as there is not so great room for fraud in the one as in the other; nor can it be of importance to show that the fishermen have not the profits to which they are entitled. That their services in the last war deserve rewards, &c., their country shared with them the glory of their gallant behavior; but they alone received the rewards they aimed at. The twelve hundred ships they took were a compensation for services and a reward for those exploits. It is true, they annoyed the enemy; it is certain their prizes sometimes fed, armed, and clothed our armies; but it is not said that they did not receive payment for furnishing those things.

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But here we are asked, Is it not of great consequence to the United States to employ those bold, skilful seamen in our service, that we may enjoy the commercial advantage they give us in peace, and their powerful assistance in war? To this I reply, that it ought first to be proved that Congress has the power and authority to give them the encouragement demanded; and even if Congress have that power, it ought to be shown that it can be extended to the benefit of the sailors of some of the States, and not to those of every State. It may be said that Congress may with as much propriety give bounties to our hunters in the Western country, to raise up a nursery of soldiers as a barrier against the Indians, and to promote the fur trade, as to give drawbacks and bounties to the fishermen of the Eastern States, with a view to encourage fisheries, and to raise a nursery of seamen for their defence against enemies who may invade our Eastern frontiers. Indeed, if defence be the object in view, we might as well give bounties to sturdy landmen to be in readiness and constant training for war.

Indeed, sir, I confess I am not altogether convinced, that, if Congress have this power, it ought to be thus exerted; because it is not clear to me that those fishermen would not be more profitable to the United States, if they were cultivating the lands which now lie waste, and raising families, which would be of ten times more value than their fisheries. A nursery of virtuous families, which will produce soldiers, sailors, husbandmen, and statesmen, must be preferable to a mere nursery of sailors, who generally live single, and often perish at sea. I always look upon the loss of a crew to an infant Republic as the loss almost of a new State.

I speak of this question, however, as a citizen of the United States, as a member of this House. Were I to discuss it as a citizen of Massachusetts, and in their Legislature, I should say, as the State is nearly filled with inhabitants, and our fishermen increase our commerce in peace, protect us in war, and, indeed, even enrich us by their prizes, it is our interest to encourage them to the utmost, and to prevent their going into the service of other countries. I might, therefore, as a member of the Legislature of that State, do all in my power to procure bounties for them, and indeed for all the sailors belonging to that State; but I should not think of applying to Congress for their assistance; not only because I doubt their right to afford it, but because I should look upon it as in some degree derogatory to the sovereignty and independence of the State. I should

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look upon such an interference of Congress as a step towards swallowing up the powers of the State Governments, and as consolidating the different States into one Government, which the wise and virtuous in every State always protested against as dangerous to their liberties; the fear of which consolidation prevented many good men from voting for the adoption of the new Government.

The framers of the constitution guarded so much against a possibility of such partial preferences as might be given, if Congress had the right to grant them, that, even to encourage learning and useful arts, the granting of patents is the extent of their power. And surely nothing could be less dangerous to the sovereignty or interests of the individual States than the encouragement which might be given to ingenious inventors or promoters of valuable inventions in the arts and sciences. The encouragement which the General Government might give to the fine arts, to commerce, to manufactures, and agriculture, might, if judiciously applied, redound to the honor of Congress, and the splendor, magnificence, and real advantage of the United States; but the wise framers of our constitution saw that, if Congress had the power of exerting what has been called a royal munificence for these purposes, Congress might, like many royal benefactors, misplace their munificence; might elevate sycophants, and be inattentive to men unfriendly to the views of Government; might reward the ingenuity of the citizens of one State, and neglect a much greater genius of another. A citizen of a powerful State, it might be said, was attended to, whilst that of one of less weight in the Federal scale was totally neglected. It is not sufficient to remove these objections, to say, as some gentlemen have said, that Congress is incapable of partiality or absurdities, and that they are as far from committing them as my colleagues or myself. I tell them the constitution was formed on a supposition of human frailty, and to restrain abuses of mistaken powers. The constitution has been said by some one to be, like answers of the oracles of old, capable of various and opposite constructions; that it has been ingeniously contrived, like some of them, to suit two events—a republican or a monarchical issue. I will not pretend to say that this is not, in some instances, too just an observation; nor will I undertake to deny that it was not the intention of some of the Convention that such ambiguities might be in their constitution, to correspond with the critical and ambiguous state of the American mind respecting government; but I will boldly affirm, that, whatever the theories of that day might lead some to think respecting the application of monarchical principles to the Government of the United States, no one can, at this day, pretend that they are applicable to their circumstances, their dispositions, or interests, or even are agreeable to the wishes of the people. Even before the adoption of the constitution, when the rights of men had not been so thoroughly investigated as they since have been, it must be remembered that whole States, and large and respectable minorities in other States complained of and objected to the aristocratical and monarchical features of the new Government. In vain did the friends of the new Government—friends of order, of union, or of liberty—contend that the powers granted by the constitution which appeared so alarming were such as would never be exerted but when all good men would acknowledge the necessity of exercising them, and that, indeed, they would be explained or restrained by some future amendments. The sagacious and eloquent HENRY shook his head at such promises, sighed and submitted to the will of the majority—a small one indeed—but foretold, from his knowledge of the human heart, what would be done and said in justification of every measure which might extend the power of Congress.

Is it politic and wise, then, Mr. Chairman, to exert the power contended for, even if it be authorized by the constitution? May not the interferences of Congress in the business of regulating the trade of the Eastern States, excite, if not envy on account of a supposed partiality, a jealousy lest Congress undertake to intermeddle in the commercial regulations of other States? May not Congress with equal propriety, undertake to regulate the tobacco, the rice, and indigo trade, as well as that of the fisheries? If they intermeddle in the business of sailors, why not in that of manufacturers and farmers? Where, I may ask with my colleague, may they not go on in their zeal, and, I may add, in their laudable pursuit, of promoting the general welfare—and how totally may they be mistaken? If jealousy of rival States, instead of mutual satisfaction and pleasure—if distrust and suspicion of Congress, instead of confidence in their measures, be the consequence—how will the Union be promoted, or the General Government secured? However virtuously disposed the present members may be, (and I am ready to applaud their honest intentions,) let them consider, sir, that they had better suppress their patriotic emotions, than give a pretext for their successors to abuse the powers which they now wish to exert for the public good. I know they will quote the opinion of as wise and virtuous a citizen as is in the United States. I know his patriotism, and know well his true Republican principles; but, sir, with the freedom of a fellow-citizen, I take the liberty of saying, that his honest zeal, like that of the friends of the bill, has led him into a mistake.^[43] That able statesman and virtuous citizen, like the eloquent advocates of the bill, has considered the acts now quoted as a full sanction for the one before the committee. But I am of opinion, that those acts had better be repealed than give a sanction to the enacting of a law which goes to the establishing of bounties, or drawbacks, or by whatever other name they are called, which may be used to the partial encouragement of any branch of trade or employment whatsoever. I shall therefore vote against the bill before us, and, to get rid of it shall vote for striking out of it the first section, according to the motion now before the committee. As a member of this House, I shall think it my duty to protect the fisheries, and every other branch of our commerce, the fisherman as well as every other citizen, as far as may be within my ability; but I am not permitted, as a member of Congress, I humbly conceive, to select the fisheries and fishermen as objects of more consequence than any other branches of trade, or persons employed in them, lest Congress should not only show a mistaken attachment, or, even if judiciously placed, excite jealousies and discontents between the States, and distrust,

destructive of their weight and influence. My constant wish has been to see Congress confined to such acts as would form a more perfect union, promote the general welfare, ensure domestic tranquillity, and engage the confidence of our fellow-citizens.

My wish is, that the members of Congress would leave their respective States in the full enjoyment of every right and privilege they held before their adoption of the new constitution, which can be exercised without prejudice to the General Government. Let the Legislatures of the different States encourage, as far as in their power, the commerce, agriculture, or manufactures of their respective States? and let Congress, as far as can be consistent with the most steady impartiality, patronize their patriotic exertions, by wise regulations of their commerce with foreign nations, such as may open as full an intercourse with those nations as the States may desire. The emulation of the sister States in commerce, manufactures, or agriculture, would lead to the early establishment of that branch of either to which each State might be best adapted. This rivalry could produce no jealousy, no general national discontent in the States, no localities in Congress. Virginia would not attempt to rival Massachusetts in her fisheries or carrying business, nor will South Carolina and Georgia rival the manufactories of New Jersey and Pennsylvania. Each State may rejoice to see its sister States enjoying the advantages with which Heaven has blessed them; and Congress, if confined to subjects which admit not of local considerations, may debate with temper and decide with unbiased judgment. I confess I have wished that Congress possessed the power that the friends of the bill tell us we do possess, and tell us we have exerted; but, on examining the constitution with a view to my wish, I found reason to think, not only that Congress has not that power, but that it ought not to possess it, unless the constitution was intended to establish a consolidated Government on the ruin of the State Legislatures; but this, I conceive, cannot be the case, because the constitution guarantees to the States their respective Republican Governments. The general powers of Congress, no doubt, ought to be (as they are) adequate to the purpose of forming a more *perfect union* than subsisted under the Confederation, to establish justice, &c.; but, as they are bound to guarantee to the States their respective Republican forms of Government, I cannot conceive how any of these powers can be employed, consistently with the ends for which they were given, in diminishing the power and sovereignty of the State Legislatures. How Congress can interfere in the regulations respecting the merchants and their sailors at Marblehead with more propriety than with those at Philadelphia, Norfolk, or Charleston, I cannot conceive; nor how this interference could take place without alarming those States, I know not. Viewing the bill before us in this light, Mr. Chairman, I shall vote against it, and, as I said before, to get rid of it, shall vote to strike out the first section, according to the motion now before the committee.

The question on striking out the first section was taken, and negatived—32 to 26.

WEDNESDAY, February 8.

A message was received from the President of the United States, together with a statement of certain articles of expense, which have occurred in the Department of Foreign Affairs, and for which no provision is made by law. [The expense alluded to was incurred for the relief of a number of American sailors, impressed in England to serve on board the British navy.] The message and accompanying papers were referred to a select committee, to examine and report.

The SPEAKER laid before the House a letter from the Secretary of War, accompanying certain communications with the Executive of Virginia relative to the existing temporary defensive protection of the exposed frontiers of that State, pursuant to the orders of the President of the United States; which were read, and ordered to lie on the table.

Mr. WHITE, from the committee appointed, presented a bill providing for the settlement of the claims of persons under particular circumstances barred by the limitations heretofore established; which was read twice and committed.

Mr. BENSON, from the committee to whom was referred the report of the Secretary of the Treasury on the petition of Comfort Sands, and others, made a report; which was read, and ordered to lie on the table.

The Cod Fisheries.

The House again resolved itself into a Committee of the whole House, on the bill sent from the Senate, entitled "An act for the encouragement of the Bank and other Cod Fisheries, and for the regulation and government of the fishermen employed therein."

On a motion to strike out the words "bounty now allowed," and insert *allowance now made*, &c.— [Pg 368]

Mr. GILES observed, that he conceived the vote of yesterday against striking out the first section, was a decision in favor of the policy of granting Governmental aid to the fisheries; the inquiry of to-day will be on what terms this aid shall be granted? He felt but little regret at the decision of yesterday, because he had himself previously contemplated some reasons, not unimportant, to justify that decision, and others had been suggested by several gentlemen in the course of the debate. The principles of this policy, he thought, however, might be combated by reasons of at least equal, and as far as he was able to judge, of paramount importance; but as he admitted considerable weight in the reasons on each side of the question, he was not particularly tenacious of the preference which his own opinion suggested. When he first mentioned his doubts respecting the principle of the bill, it was with diffidence, and those doubts in some measure arose from an idea that the bill contained a direct bounty upon occupation; upon a more minute

examination, he thought the term bounty unnecessarily introduced into the bill, and that the object of it could be answered without the use of terms, which might hereafter be deemed to contain a decision upon the general principle of the constitutional right to grant bounties; it was to avoid any thing which might wear the appearance of such a decision, that induced him to make the present motion.

He proceeded to remark, that as great a difference of opinion often existed respecting the precise meaning of the terms used, as the consequences which flow from them after attaining such precision of meaning; and it is of importance to the present discussion that an accurate definition of the terms used in the bill, and those proposed to be used, should be had. The avowed object of the bill is not to increase, but to transmute the sum, or a portion thereof, now allowed to the fisheries in lieu of the drawback upon salt, from the merchant who is now supposed to receive the sole benefit, to the fishermen really employed in the fishing vessels. This is a mere chimerical project, but if it be admitted that this is the object to be effected by the bill, the term bounty is improperly applied.

A gentleman from Massachusetts, (Mr. AMES,) who rests the defence of this bill almost solely upon this position, that those who receive the benefit intended by it, are of right entitled to such benefit in consideration of a previous advancement in value, and that this bill contains a mere permission to them to retain their own, has at the same time declared, that he thought the term bounty the most proper and technical, to convey this idea. In this, the gentleman appears to have deviated from his usual accuracy. A bounty is the granting a benefit without a correspondent return in value; a drawback is the retaking of something in consideration of a previous advancement; this is always founded upon a consideration previously received—that is a grant of favor *ex mero motu*. But the great characteristic distinction between bounties and drawbacks as they essentially relate to the administration of this Government consists in the governmental objects to which they may severally be applied: drawbacks are necessarily confined to commercial regulations; bounties may be extended to every possible object of Government, and may pervade the whole minutiae of police. They may not only be extended to commerce, but to *learning, agriculture, manufactures*, and even the *sacredness* of religion will be found too feeble to furnish complete protection from their influence. The people of the United States have always been scrupulously tenacious of a constitutional security for the most free and equal exercises of this right, but through the medium of bounties, even this right may be invaded, and the only security against such invasion must be *governmental discretion*. The same characteristic distinction will attend that *species* of bounty which may incidentally result from commercial regulations; and direct bounties upon occupation founded upon the broad basis of discretionary right. The specification in the constitution of the right to regulate commerce, may possibly in some cases give rise to this indirect species of bounty, not from any right in the constitution to grant bounties, but as the necessary result from the specified right to make commercial regulations; and this specification can be the only foundation of justification to this indirect species of bounty; but there is no specification in the constitution of a right to regulate *learning, or agriculture, manufactures, or religion*, and so far as the sense of the constitution can be collected, it rather forbids than authorizes the exercise of that right.

Arguments used to deduce any given authority from the term *general welfare*, abstractedly from the specification of some particular authority, are dangerous in the extreme to rights constitutionally reserved, and ought ever to be viewed with great caution and suspicion. They serve directly to show that this Government is not only consolidated in all its parts, but that it is a consolidated Government of unlimited discretion; that it contains no constitutional limitation or restriction. If any given authority be inferred from the term *general welfare* in the abstract, any other authority is equally deducible from it, because the term is applicable to every possible object of Government, and differs only in degree, as to the several Governmental objects.

He could not see the force of the novel and curious distinction taken by a gentleman from Connecticut (Mr. HILLHOUSE) between *general welfare* and *particular welfare*; for every particular welfare, however minute, may be in a degree for the general welfare, and if the decision respecting the existence of this distinction, have no other limitation than Congressional discretion, it is equally destructive of all constitutional restraint. Gentlemen who have advocated this principle of construction, appear startled at some consequences suggested to result from it, and have denied that they have made the admission of such consequences. This is true, nor have those in reply so asserted, but they have taken up the principles of construction furnished by its advocates, and made the application of it to the consequences which they themselves infer; and if the principle be admitted, it is undeniable that the conclusions drawn from it will necessarily follow in their utmost latitude.

A gentleman from South Carolina (Mr. BARNWELL) confidently spoke of the inherent rights of this Government; this is a new source of authority, and totally inapplicable to this Government. If there be inherent rights in governments at all, they must belong to governments growing out of a state of society, and not to a government deriving all its authorities by charter from previously existing governments, or the people of those governments. In such a government, the exercise of every authority not contained in the instrument, or deducible from it by a fair and candid construction, is an unjustifiable assumption and usurpation. He did not mean to analyze this subject further at this time, and had been led into these general remarks, because the impatience of the committee to have the question upon striking out the section had caused him to refrain from delivering these sentiments at that time.

He would remark further, that bounties in all countries and at all times, have been the effect of favoritism; they have only served to divert the current of industry from its natural channel, into

one less advantageous or productive; and in fact, they are nothing more than governmental *thefts* committed upon the rights of one part of the community, and an *unmerited* governmental *munificence* to the other. In this country, and under this Government, they present an aspect peculiarly *dreadful* and *deformed*.

To contemplate the subjects upon which bounties are to operate in the United States, the nature of the Government to dispense them, the State preferences which now do and will for ever, more or less, continue to exist, the impossibility of an equal operation of bounties throughout the United States, upon any subject whatever, should be considered; and one of these two effects will necessarily follow the exercise of them; either the very existence of the Government will be destroyed, or its administration must be radically changed, it must be converted into the most complex system of tyranny and favoritism.

He observed, that it is not unfrequent at this time to hear of an Eastern and Southern interest, and he had for some time silently and indignantly seen, or thought he saw, attempts by this means to influence the deliberations of this House upon almost every important question. So far as he was the insulted object of these attempts, he felt that contempt for their authors, which appeared to him to be the correspondent tribute to the impurity of their designs; yet he thought that this had been the most formidable and effectual *ministerial machine* which had been yet used in the administration of Government. But one great mischief he apprehended from establishing the principle of the unrestrained right to grant bounties, will be, that it will make the difference of interest between Eastern and Southern, so far as they differ in their respective States of manufacture and agriculture, real, which is now only ideal. It will make that party real, which is now artificial. The jealousies and suspicions arising from *party*, will then have a substantial foundation, which now have no foundation in fact, but are ingeniously stimulated by a few, for the purpose of effecting particular objects; as long as the Government shall be administered liberally and impartially, as long as the principle of reciprocal demand and supply between East and South shall remain inviolate, so long there can exist no essential distinct interest between them; but the instant bounties or governmental preferences are granted to occupation, that instant is created a separate and distinct interest, not wholly between East and South, but between the manufacturer and the cultivator of the soil. There will still exist a community of agricultural interests throughout the United States, and he hoped the time was not far distant, when a common sympathy will be felt by the whole of that class of the community. For these reasons, he hoped the motion would prevail.

The bill having been gone through with, and amended, the committee rose and reported it with amendments which the House immediately took into consideration and adopted. The bill was then further amended and the House adjourned.

THURSDAY, February 9.

The Cod Fisheries.

The bill sent from the Senate, entitled "An act for the encouragement of the Bank and other Cod Fisheries, and for the regulation and government of the fishermen employed therein," together with the amendments thereto, was read the third time; and the question being put that the same do pass, it was resolved in the affirmative—yeas 38, nays 21, as follows:

YEAS.—MESSRS. Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Abraham Clark, Jonathan Dayton, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, James Gordon, Andrew Gregg, Samuel Griffin, Thomas Hartley, James Hillhouse, Daniel Huger, John W. Kittera, John Laurance, Amasa Learned, Richard Bland Lee, Samuel Livermore, James Madison, Frederick Augustus Muhlenberg Nathaniel Niles, Cornelius C. Schoonmaker, Jeremiah Smith, Israel Smith, William Smith, Samuel Sterrett, Jonathan Sturges, Peter Sylvester, George Thatcher, Thomas Tredwell, John Vining, Jeremiah Wadsworth, and Artemas Ward.

NAYS.—Messrs. John Baptist Ashe, Abraham Baldwin, John Brown, William B. Giles, William Barry Grove, Daniel Heister, Philip Key, Nathaniel Macon, John Francis Mercer, Andrew Moore, William Vans Murray, John Page, Josiah Parker, Joshua Seney, John Steele, Thomas Sumter, Thomas Tudor Tucker, Abraham Venable, Alexander White, Hugh Williamson, and Francis Willis.

Resolved, That the title of the said bill be, "An act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein."

Mr. LAURANCE presented a petition from the tanners and curriers of the city of New York, praying relief from the hardships they labor under, in consequence of the exportation of tanners' bark. Referred to a select committee.

WEDNESDAY, February 22.

Indemnity to Gen. Greene's Estate.

On a motion made and seconded, that the House do come to the following resolution:

"Whereas the late Major General Nathaniel Greene, on the eighth day of April, one

thousand seven hundred and eighty-three, the more effectually to procure rations, and supplies for the Southern Army of the United States, became bound as surety for John Banks & Company to Newcomen & Collet, merchants in Charleston, for the payment of eight thousand seven hundred and forty-three pounds fifteen shillings and sixpence, sterling money, being the condition of said bond:

"And whereas, on the first day of May, one thousand seven hundred and eighty-six, the balance of principal and interest of said bond, being then eight thousand six hundred and eighty-eight pounds six shillings sterling, was paid by the said General Greene: Therefore,

"*Resolved*, That the United States shall indemnify the estate of the said General Greene for the said sum last mentioned, and the interest thereof: *Provided*, The Executors of the said General Greene shall account for a sum, being about two thousand pounds, be the same more or less, received of John Ferrie, one of the partners of the said Banks & Company, to be in part of the indemnification aforesaid; and also shall make over, for the use of the United States, all mortgages, bonds, covenants, or other counter-securities whatsoever, now due, which were obtained by the said General Greene in his lifetime, from the said Banks & Company on account of his being surety for them as aforesaid, to be sued for in the name of the said executors, for the use of the United States:"

Ordered, That the said resolution be committed to a Committee of the whole House immediately.

The House accordingly resolved itself into a Committee of the whole House on the said resolution; and, after some time spent therein, the committee rose, reported progress, and obtained leave to sit again.

SATURDAY, March 10.

Courtesies to France.

On a motion made and seconded, that the House do come to the following resolution:

"*Resolved*, That this House hath received, with sentiments of high satisfaction, the notification of the King of the French, of his acceptance of the constitution presented to him in the name of the Nation; and that the President of the United States be requested, in his answer to the said notification, to express the sincere participation of the House in the interests of the French Nation, on this great and important event; and their wish that the wisdom and magnanimity displayed in the formation and acceptance of the constitution, may be rewarded by the most perfect attainment of its object, the permanent happiness of so great a people."

It was moved and seconded that the said motion be committed. And on the question for commitment, it passed in the negative—yeas 17, nays 35.

And then debate arising on the said motion, a division thereof was called for. Whereupon,

The question being put, that the House do agree to the first part of the said motion, in the words following:

"*Resolved*, That this House has received, with sentiments of high satisfaction, the notification of the King of the French, of his acceptance of the constitution presented to him in the name of the Nation: And that the President of the United States be requested, in his answer to the said notification, to express the sincere participation of the House in the interests of the French Nation, on this great and important event:"

It was resolved in the affirmative—yeas 50, nays 2, as follows:

YEAS.—Fisher Ames, John Baptist Ashe, Abraham Baldwin, Benjamin Bourne, Abraham Clark, William Findlay, Thomas Fitzsimons, William B. Giles, Nicholas Gilman, Benjamin Goodhue, James Gordon, Andrew Gregg, Thomas Hartley, Daniel Heister, James Hillhouse, Israel Jacobs, Philip Key, Aaron Kitchell, John W. Kittera, John Laurance, Amasa Learned, Richard Bland Lee, Samuel Livermore, Nathaniel Macon, James Madison, John Francis Mercer, William Vans Murray, Nathaniel Niles, John Page, Cornelius C. Schoonmaker, Theodore Sedgwick, Joshua Seney, Jeremiah Smith, Israel Smith, William Smith, John Steele, Samuel Sterrett, Jonathan Sturges, Thomas Sumter, George Thatcher, Thomas Tredwell, Thomas Tudor Tucker, Abraham Venable, John Vining, Jeremiah Wadsworth, Artemas Ward, Anthony Wayne, Alexander White, Hugh Williamson, and Francis Willis.

NAYS.—Robert Barnwell and Egbert Benson.

On the question, that the House do agree to the second part of the said motion, in the words following:

"And their wish that the wisdom and magnanimity displayed in the formation and acceptance of the constitution, may be rewarded by the most perfect attainment of its object, the permanent happiness of so great a people:"

It was resolved in the affirmative—yeas 35, nays 16.

SATURDAY, March 24.

Establishment of a Mint.

The House resolved itself into a Committee of the whole House on the bill sent from the Senate, entitled, "An act establishing a Mint, and regulating the coins of the United States." The following amendment being under consideration, viz:

"In the tenth section, strike out the words, '*Or representation of the head of the President of the United States for the time being, with an inscription, which shall express the initial or first letter of his Christian or first name, and his surname at length, the succession of the Presidency numerically,*' and, in lieu thereof, insert, 'Emblematic of Liberty,' with an inscription of the word LIBERTY."

Mr. PAGE, in support of this motion said, that it had been a practice in monarchies to exhibit the figures or heads of their kings upon their coins, either to hand down, in the ignorant ages in which this practice was introduced, a kind of chronological account of their kings, or to show to whom the coin belonged. We have all read, that the Jews paid tribute to the Romans, by means of a coin on which was the head of their Cæsar. Now as we have no occasion for this aid to history, nor any pretence to call the money of the United States the money of our Presidents, there can be no sort of necessity for adopting the idea of the Senate. I second the motion, therefore, for the amendment proposed; and the more readily because I am certain it will be more agreeable to the citizens of the United States, to see the head of Liberty on their coin, than the heads of Presidents. However well pleased they might be with the head of the great man now their President, they may have no great reason to be pleased with some of his successors; as to him, they have his busts, his pictures every where; historians are daily celebrating his fame, and Congress have voted him a monument. A further compliment they need not pay him, especially when it may be said, that no Republic has paid such a compliment to its Chief Magistrate; and when indeed it would be viewed by the world as a stamp of royalty on our coins: would wound the feelings of many friends, and gratify our enemies.

Mr. WILLIAMSON seconded the motion also, and affirmed that the Romans did not put the heads of their Consuls on their money; that Julius Cæsar wished to have his on the Roman coin, but only ventured to cause the figure of an elephant to be impressed thereon; that by a pun on the Carthaginian name of that animal, which sounded like the name of Cæsar, he might be said to be on the coin. He thought the amendment consistent with Republican principles, and therefore approved of it.

Mr. LIVERMORE ridiculed, with an uncommon degree of humor, the idea that it could be of any consequence to the United States whether the head of Liberty were on their coins or not; the President was a very good emblem of Liberty; but what an emblematical figure might be, he could not tell. A ghost had been said to be in the shape of the sound of a drum, and so might Liberty for aught he knew; but how the President's head being on our coins could affect the liberty of the people, was incomprehensible to him. He hoped, therefore, that the amendment would be rejected.

Mr. SMITH, of South Carolina, agreed with Mr. LIVERMORE in opinion; adding, that the President representing the people of the United States, might with great propriety represent them on their coins. He denied that Republics did not place the images of their Chief Magistrates on their coins; and said, he was surprised that a member who so much admired the French and their new constitution, should be so averse to a practice they have established; the head of their King is by their constitution put upon their money. Besides, it was strange that for a circumstance so trivial we should lose time in debating, and risk the loss of an important bill.

The said amendment was again read, and a division of the question thereon called for: Whereupon,

The question being taken, that the House do agree to the first part of the said amendment, for striking out the words "or representation of the head of the President of the United States for the time being, with an inscription, which shall express the initial or first letter of his Christian or first name, and his surname at length, the succession of the Presidency numerically:"—it was resolved in the affirmative—yeas 26, nays 22.

And then the question being taken that the House do agree to the second part of the said amendment, for inserting, in lieu of the words stricken out, the words, "Emblematic of liberty, with an inscription of the word Liberty:"—it was resolved in the affirmative—yeas 42, nays 6.

MONDAY, March 26.

Establishment of a Mint.

A message from the Senate informed the House that the Senate disagree to the amendment proposed by this House to the bill entitled "An act establishing a Mint, and regulating the coins of the United States;" and agree to the amendment proposed by this House to the bill entitled "An act supplemental to the act for making further and more effectual provision for the protection of

the frontiers of the United States."

It was moved that the House should recede from their amendment to the bill entitled "An act establishing a Mint, and regulating the coins of the United States."

Mr. LIVERMORE supported the motion. He said, he did not conceive it possible that and friend to the President of the United States, the Chief Magistrate, that great and good man, would have refused to pay every tribute of respect which was justly due to him. We have now a favorable opportunity of complimenting him, without any shadow of flattery, and without any expense. But, instead of this, what is proposed? An emblematical figure of Liberty. But what is this liberty which some appear to be so fond of? He had no idea of such liberty as appears to possess the minds of some gentlemen. It is little better than the liberty of savages—a relinquishment of all law that contradicts or thwarts their passions or desires. His idea of liberty was that which arose from law and justice, which secured every man in his proper and social rights. Some gentlemen may think a bear broke loose from his chain a fit emblem of liberty; others may devise a different emblem; but he could not conceive that any of them would be applicable to the situation of the United States, which justly boasted of being always free. If any idea of an emblem is necessary, he thought it might be applied to the head of the President of the United States. The present occasion affords the best opportunity of doing honor to the man we love; instead of which, we offer him an affront. He could not reconcile this conduct to propriety or consistency; for, while it is proposed to raise a monument to the memory of the President, which will cost fifty thousand guineas, a proposition to honor him in a more effectual manner, and in a way which will be satisfactory to the people, without any expense, and with perfect security to their liberties, is objected to. He hoped the House would recede.

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Mr. MERCER replied to Mr. LIVERMORE with some degree of asperity. He observed that there was a rule in the British House of Commons that the name of the King should never be mentioned in any debate. He thought some such rule might be introduced with advantage into this House. In the course of his remarks, to show that the circumstance of having the President's head stamped on the coin could not be justly considered as doing him an honor, he said, that persons of no better character than a Nero, a Caligula, or a Heliogabalus, may enjoy it as well as a Trajan, &c.

Mr. SENEY animadverted with severity on the remarks offered by Mr. LIVERMORE, and on the conduct of the Senate; particularly in returning the bill with a negative to the amendment of the House, within a period that left them no time to deliberate on the reasons which might have influenced the House.

Mr. GILES opposed the motion for receding. He adverted to the ideas which are connected with the subject in European countries. The President's head will not designate the Government. There is to be but one head; but does not our Government consist of three parts? Is there any other head proposed to be on the coin but the President's? He said this circumstance was of a piece with the first act of the Senate. It had a near affinity to titles, that darling child of the Senate, which has been put to nurse, with an intention that it shall be announced at some future period in due form.

Mr. BENSON said, he supposed he should be extremely disorderly were he to mention the motives which influenced the Senate in their discussions. He knew not what they were, nor was it of importance that he should. He then observed, that plain pieces of metal will not answer for money; some impression is necessary to guard against counterfeits. The Senate have determined what the device shall be; but the House, by their amendment, have left the matter entirely to the judgment of the artist, who may form such an emblem as suits his fancy. Mr. B. ridiculed the idea of the people's being enslaved by their Presidents, and much less by his image on their coin.

Mr. PAGE replied that he was sorry to find that some gentlemen endeavored to ridicule Republican cautions. He thought it both indelicate and inconsistent with their situations, as well as highly impolitic. He confessed that, as long as the people were sensible of the blessings of liberty, and had their eyes open to watch encroachments, they would not be enslaved; but if they should ever shut them, or become inattentive to their interests and the true principles of a free government, they, like other nations, might lose their liberties; that it was the duty of the members of that House to keep the eyes of their constituents open, and to watch over their liberties. It was therefore unbecoming a member to treat with levity and to ridicule any sentiment which had that tendency. For his part, he thought it the peculiar duty of the Representative of a free people to put them upon their guard against any thing which could possibly endanger their liberties. That with this view he warned his constituents of the danger, not merely of imitating the flattery and almost idolatrous practice of Monarchies with respect to the honor paid to their Kings, by impressing their images and names on their coins, but he wished to add as few incentives as possible to competitors for the President's place. He warned his country against the cabals, the corruption, and animosities, which might be excited by the intrigues of ambitious men, animated with the hope of handing their names down to the latest ages on the medals of their country. But this indiscriminate honor is unworthy of the President's acceptance. A Nero, a Caligula, a Heliogabalus, it has been observed, (by Mr. MERCER,) may enjoy it as well as a Trajan. To apply it to the present Chief Magistrate, alone, would be less exceptionable. But this would be highly improper; for, if he should pass an act for this purpose, it might blast his reputation. I am of opinion that the Senate knew his delicacy would not permit him to pass such a one. They have therefore extended the compliment to all his successors. We are under obligations to the great man now our President; but a lover of liberty and friend to the rights of man would be cautious how he showed his sense of that obligation. As a friend to the President, I am unwilling to offer him a compliment which, if accepted, might damn his reputation. Were I in his place, I would cut off my hand rather than it should sign the act as it now stands. Were I his greatest enemy, I

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should wish him to pass it as it was passed by the Senate. Sir, I am as much his friend as the member from New Hampshire, and have shown, at proper times and places, that I was so. I am too sensible of the honor our President has acquired to suppose that an unbecoming compliment can in any degree contribute to its increase. I hope, therefore, the amendment which the House has made will not be receded from.

The question being now put, that this House doth recede from the said amendment, it passed in the negative—yeas 24, nays 32, as follows:

YEAS.—Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, Thomas Hartley, James Hillhouse, Daniel Huger, Israel Jacobs, John W. Kittera, Amasa Learned, Samuel Livermore, Theodore Sedgwick, William Smith, Jonathan Sturges, Peter Sylvester, George Thatcher, Jeremiah Wadsworth, and Artemas Ward.

NAYS.—John Baptist Ashe, Abraham Baldwin, John Brown, Abraham Clark, William B. Giles, James Gordon, Andrew Gregg, Samuel Griffin, William Barry Grove, Daniel Heister, Philip Key, Aaron Kitchell, Richard Bland Lee, Nathaniel Macon, James Madison, John Francis Mercer, Andrew Moore, William Vans Murray, Nathaniel Niles, John Page, Josiah Parker, Joshua Seney, Jeremiah Smith, Israel Smith, John Steele, Thomas Sumter, Thomas Tredwell, Thomas Tudor Tucker, Abraham Venable, John Vining, Alexander White, and Hugh Williamson.

Resolved, That this House doth adhere to the said amendment.

Ordered, That the Clerk of this House do acquaint the Senate therewith.

TUESDAY, March 27.

A message from the Senate informed the House that the Senate recede from their disagreement to the amendment adhered to by this House to the bill entitled "An act establishing a Mint, and regulating the coins of the United States."

WEDNESDAY, April 4.

General Nathaniel Greene.

The House proceeded to consider the resolution reported from the Committee of the whole House on the 24th of February last, to indemnify the estate of the late General Nathaniel Greene for a certain suretyship entered into by the said Nathaniel Greene, in his lifetime, on the public behalf. Whereupon, the said resolution being read at the Clerk's table, as follows:

"Whereas, the late Major General Nathaniel Greene, on the 8th day of April, 1783, the more effectually to procure *rations* and supplies for the Southern Army of the United States, became bound as surety for John Banks & Co., to Newcomen & Collet, merchants in Charleston, for the payment of £8,743 15s. 6d., sterling money, being the condition of the said bond:

"And whereas, on the 1st of May, 1786, the balance of principal and interest of said bond, being then £8,688 6s. sterling, was paid by the said General Greene. Therefore,

"*Resolved*, That the United States shall indemnify the estate of the said General Greene for the said sum last mentioned, and the interest thereof, or for such sum as, upon due investigation by the officers of the Treasury of the transactions between John Banks & Co., with Messrs. Newcomen & Collet, in which General Greene was security for said Banks & Co., it shall appear that neither General Greene nor his executors shall have received any payment or compensation for: *Provided*, The executors of the said General Greene shall account for a sum being about £2,000, be the same more or less, recovered by John Ferrie, one of the partners of the said John Banks & Co., to be in part of the indemnification aforesaid; and also shall make over for the use of the United States, all mortgages, bonds, covenants, or other counter-securities whatsoever, now due, which were obtained by the said General Greene, in his lifetime, from the said Banks & Co., on account of his being surety for them as aforesaid, to be sued for in the name of the said executors, for the use of the United States."

The previous question thereon was called for by five members, to wit: "Shall the main question, to agree to the said resolution, be now put?" And on the previous question, "Shall the main question be now put?" it was resolved in the affirmative. And then the main question, "That the House do agree to the said resolution?" being put, it was resolved in the affirmative—yeas 29, nays 26, as follows:

YEAS.—Fisher Ames, Abraham Baldwin, Robert Barnwell, Egbert Benson, Shearjashub Bourne, Benjamin Bourne, William Findlay, Thomas Fitzsimons, Elbridge Gerry, Andrew Gregg, Thomas Hartley, Daniel Heister, Philip Key, John W. Kittera, John Laurance, Amasa Learned, Richard Bland Lee, Samuel Livermore, Frederick Augustus Muhlenberg, William Vans Murray, John Page, Theodore Sedgwick, Upton Sheridine, William Smith, Samuel Sterrett, George Thatcher,

John Vining, Jeremiah Wadsworth, and Francis Willis.

NAYS.—John Baptist Ashe, Elias Boudinot, John Brown, Abraham Clark, William B. Giles, Nicholas Gilman, Benjamin Goodhue, James Gordon, William Barry Grove, James Hillhouse, Israel Jacobs, Aaron Kitchell, Nathaniel Macon, Andrew Moore, Nathaniel Niles, Joshua Seney, Jeremiah Smith, Israel Smith, John Steele, Jonathan Sturges, Thomas Sumter, Peter Sylvester, Thomas Tredwell, Artemas Ward, Alexander White, and Hugh Williamson.

Ordered, That a bill or bills be brought in pursuant to the said resolution, and that Mr. LIVERMORE, Mr. PAGE, and Mr. BARNWELL, do prepare and bring in the same.

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THURSDAY, April 5.

Apportionment Bill.

A message was received from the President of the United States returning to the House the bill passed by the two Houses entitled "An act for an Apportionment of Representatives among the several States according to the first Enumeration," and presented to the President for his approbation on Monday, the 26th of March; to which bill the President having made objections, the said objections were read, and ordered to be entered at large on the Journal, as follows:

"UNITED STATES, April 5, 1792."

Gentlemen of the House of Representatives:

"I have maturely considered the act passed by the two Houses entitled 'An act for an Apportionment of Representatives among the several States, according to the first Enumeration;' and I return it to your House, wherein it originated, with the following objections:

"First. The constitution has prescribed that Representatives shall be apportioned among the several States according to their respective numbers; and there is no one proportion or divisor which, applied to the respective numbers of the States, will yield the number and allotment of Representatives proposed by the bill.

"Second. The constitution has also provided that the number of Representatives shall not exceed one for every thirty thousand; which restriction is, by the context, and by fair and obvious construction, to be applied to the separate and respective numbers of the States; and the bill has allotted to eight of the States more than one for every thirty thousand.

"G. WASHINGTON."

Resolved, That to-morrow be assigned for the reconsideration of the said bill, in the mode prescribed by the Constitution of the United States.

FRIDAY, April 6.

Apportionment Bill.

The House proceeded to reconsider the bill passed by the two Houses entitled "An act for an Apportionment of Representatives among the several States, according to the first Enumeration," which was presented for approbation on Monday, the 26th of March, and returned by the President yesterday, with objections.

The said bill was read, and is as follows:

"An act for an Appointment of Representatives among the several States, according to the first Enumeration.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the 3d day of March, in the year one thousand seven hundred and ninety-three, the House of Representatives shall be composed of one hundred and twenty members, elected within the several States, according to the following apportionment, that is to say: Within the State of New Hampshire, five; within the State of Massachusetts, sixteen; within the State of Vermont, three; within the State of Rhode Island, two; within the State of Connecticut, eight; within the State of New York, eleven: within the State of New Jersey, six; within the State of Pennsylvania, fourteen; within the State of Delaware, two; within the State of Maryland, nine; within the State of Virginia, twenty-one; within the State of Kentucky, two; within the State of North Carolina, twelve; within the State of South Carolina, seven; and within the State of Georgia, two.

"JONATHAN TRUMBULL,

"Speaker of the House of Representatives.

"JOHN ADAMS,

The President's objections were also read; and, after debate on the subject-matter of the said bill, the question "That the House, on reconsideration, do agree to pass the bill," was determined in the mode prescribed by the Constitution of the United States, and passed in the negative—yeas 23, nays 33, as follows:

YEAS.—Fisher Ames, Egbert Benson, Shearjashub Bourne, Benjamin Bourne, Abraham Clark, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, James Gordon, Thomas Hartley, Israel Jacobs, Aaron Kitchell, John W. Kittera, John Laurance, Amasa Learned, Samuel Livermore, Nathaniel Niles, Cornelius C. Schoonmaker, Theodore Sedgwick, Jeremiah Smith, Israel Smith, John Steele, George Thatcher, Thomas Tredwell, John Vining, Jeremiah Wadsworth, and Artemas Ward.

NAYS.—John Baptist Ashe, Abraham Baldwin, Robert Barnwell, John Brown, William Findlay, William B. Giles, Andrew Gregg, Samuel Griffin, Wm. Barry Grove, Daniel Heister, James Hillhouse, Daniel Huger, Philip Key, Richard Bland Lee, Nathaniel Macon, James Madison, John Francis Mercer, Andrew Moore, Frederick Augustus Muhlenberg, William Vans Murray, John Page, Josiah Parker, Joshua Seney, Upton Sheridine, William Smith, Samuel Sterrett, Jonathan Sturges, Thomas Sumter, Thomas Tudor Tucker, Abraham Venable, Alexander White, Hugh Williamson, and Francis Willis.

And so the bill was rejected, two-thirds of the House not agreeing to pass the same.

MONDAY, April 9.

Apportionment Bill.

The House resolved itself into a Committee of the whole House on the bill for an Apportionment of Representatives among the several States, according to the first Enumeration; at the ratio of one for every — thousand persons, in the respective States.

Mr. GILES observed, that, although this subject has been heretofore thoroughly discussed, and the minds of gentlemen probably fatigued with the discussion, yet he could not help trespassing upon the patience of the committee, by mentioning some of the principal reasons which would influence his vote against the motion, and in favor of that ratio which will afford the greatest number of Representatives authorized by the constitution. He was induced to do this from an opinion that, in the usual course of things, arguments will have an effect upon the public mind in some measure proportioned to their own solidity, and the purity of the motives which actuate them. That the compound of these qualities form a common standard, by which all arguments would and ought to be measured by the great majority of the people; and he had no objections to submitting his reasons to the application of this common standard; he meant, however, to confine himself to general remarks, and not to fatigue the committee unnecessarily with minute exemplification of them.

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He proceeded by observing, that the expression in the constitution induced and justified the general expectation among the people of the United States, that one Representative for every thirty thousand persons was secured to them by the constitution; that a definitive certainty in the number of Representatives, as well as the manner of procuring them, is, in its nature, of constitutional and not of legislative provision, and affords a reason against varying the ratio mentioned in the constitution, although that ratio be expressed in terms of latitude; that Congress had confirmed the general expectation in the public mind by the proposed amendments to the constitution, and had at least given a solemn opinion in favor of the ratio of one to thirty thousand, until the number of Representatives should amount to one hundred, after acquiring which number by that rule only, a qualified discretion is admitted; that the opinions of the great bulk of the people of America were in favor of an increased representation, at least as far as the utmost limits prescribed by the constitution; that this circumstance was evidenced by the conventions which adopted the constitution; that it was further evidenced by the several Legislatures which adopted the proposed amendments before alluded to; that it was still further evidenced by the number of Representatives in the respective State Legislatures; that this last circumstance is rendered peculiarly forcible by a comparative view of the objects of legislation chartered to the Government of the United States, and those retained to the State Governments. The objects of legislation chartered to the Government of the United States, are wholly national and important; the objects of legislation retained to the State Governments are comparatively local and subaltern: those peculiarly prompt temptation and invite corruption—these offer no inducements to either. In the Government of the United States, the constituents of the Representative body are complex and diversified; in the State Governments they are comparatively simple and assimilated. That a sympathy with the feelings of the people should characterize this branch of the Government; wisdom is the expected characteristic of the Senate; and despatch of the Executive.

To the inequality of representation relatively to States suggested to result from the application of this rule, Mr. G. replied that the inequality complained of is rather ideal than real; that to determine how far this consideration really ought to exist among States, it is right and proper to ascertain the whole comparative Government: and the issue of this inquiry will be, that those States in whose favor the rule is said to operate, possess the least governmental influence in the

Senate, proportioned to numbers; and that the casual gain here is no equivalent for the certain loss there. As far, therefore, as the governmental influence of States in relation to numbers is to operate, it will furnish a motive of preferment for the rule he contended for.

It has been said (continued Mr. G.) that the representation of the States in the Senate is strictly defined by the constitution, and that therefore the consideration of the relative influence of the States, then, should not be resorted to as an argument in the apportionment of Representatives to this House. But, it should be observed, that the rule contended for, though not so strictly defined, is equally within the pale of the constitution; and the most extended use to be made of this consideration is, to manifest the impropriety of resorting to the pretended inequality among States, as a conclusive argument to vary that ratio of representation for this House which is admitted to be the most proper, upon its intrinsic merits, and when viewed without a reference to that consideration. This particular subject suggests a peculiar equity and propriety, in taking into consideration the comparative governmental influence of the States in the Senate, proportioned to numbers; because, it is in consequence of a representation by States, there, that they gain this unequal influence: and nothing more is contended for by this rule than a representation of the people through the medium of the several States, here. The rule of representation is not the cause of the present inequality, as far as it may appear to exist; it is a mere contingent circumstance, depending upon arbitrary facts and numbers, which cannot be rendered subservient to any general rule. It should also be remarked, that most of the States supposed to be favored by the operation of this rule, have, heretofore, been unequally represented in the extreme; and from the extent and rapid population of these States, it may be concluded, with certainty, that previously to the expiration of the present apportionment, the real inequality of representation in this House, as well as in the Senate, will continue to bear particularly hard upon them. Perfect equality is unattainable; and the proposed ratio is, in the principle, equally subject with any other to all the inconveniences which it is intended to remedy.

The inconveniences of the rule he contended for, in their utmost extent, can never be very great, because the same rule is applied in the same manner to the respective States; and the most extended scope for its unequal operation must be confined to the casual result of the fractional numbers within the several States. In reflecting upon this argument of inequality of representation in relation to States, an idea had presented itself to his mind which seemed to him both novel and important; and that is, that a quality exists in the Government, from its peculiar organization which enables a minority of constituents, through the medium of a majority of Representatives, to give law to a majority of constituents, absolutely against the will of their minority of Representatives. This quality of the Government arises from the State representations in the Senate; and it exists not merely in speculation or idea—it has been sensibly felt in practice, and there is a real tendency in the Government to make it still more so. The very bill now under consideration will probably furnish one strong evidence of its efficacy in practice; it would have passed very differently from the present proposition, if it had not met with this unnatural check; and I am concerned, said he, to remark, that almost in every important measure of the Government, the minority of the people of the Union had given law to the majority of the people, against their consent, as far as this can be evidenced through the medium of their Representatives. This, it is to be feared, is a radical evil in the Government, and its magnitude would be in a great measure proportioned to the extension of the objects of legislation by this Government. If the people be the only legal source of governmental authority, and this right of individuals be equal, this is certainly a heterodox principle in the Government. He would not pretend to say, however, that this was a cancer upon the body politic too inveterate and vital to admit of a cure; but he conceived it to be a sore of that sort which it would be unwise to irritate or tamper with: and he conceived, also, the present proposition not to be without its irritating qualities.

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Mr. G. then proceeded to consider, upon general principles, of increasing the representation in this House to the full extent authorized by the constitution, and particularly with a view to the necessity of establishing, in this branch of the Government, a permanent sympathy with the landed interest. He observed, that all Representative Governments appeared to possess a natural tendency from Republicanism to Monarchy; that, great inequalities in the distribution of wealth among individuals, consequent upon the progress of all governments, appeared to be the cause of their political evolutions; that no competent remedy against this evil had been heretofore discovered, or at least practically applied by any Government; that perhaps this great political light may first shine forth through the medium of the American constitutions, and serve, as some others have previously done, to illumine not only the American, but the European world.

The peculiar circumstances of the United States, however, since the late Revolution, and in the infancy of the American Governments, favored extremely this natural principle of the growing inequality in the distribution of wealth amongst individuals. An extensive, unexhausted, fertile country furnished full scope for agriculture, the plenty and cheapness of provisions and rude materials for manufactures, and an unshackled commerce for the merchant; and to these were added the blessings of peace, and laws securing to the individual the exclusive possession of the fruits of his own industry, however abundant. There were intrinsic circumstances; there was a contingent one. A public debt—the price of the Revolution itself and its consequent blessings—had been incurred, and, from the imbecility of the then existing Confederacy, and other causes, was depreciated considerably below its nominal value; but it was then in small masses, and not very unequally spread amongst the individuals throughout the whole United States. The Government of the United States, instead of managing this contingent circumstance with caution, and declaring so in its ministration, seized upon it with its fiscal arrangement, and applied it as the most powerful machine to stimulate this growing inequality in the distribution of wealth—a

principle perhaps too much favored by other existing causes. The Government, not satisfied with the debts contracted by the former Confederacy, assumed the payment of a great proportion of the debts contracted by the respective State Governments, and established funds for paying the interest of the whole. This measure produced two effects, not very desirable amongst individuals. It gathered these scattered debts, at a very inferior price, from the hands of the many, and placed them in the hands of the few; and it stimulates the value of them. Thus collected into greater masses, beyond all calculation, by the artificial application of fiscal mechanism, it produced a variety of serious effects with respect to the Government. In opposition to the agricultural or republican, it enlisted a great moneyed interest in the United States, who, having embarked their fortunes with the Government, would go all lengths with its Administration, whether right or wrong, virtuous or vicious, by rendering the debt but partially redeemable, passing perpetual tax laws, and mortgaging their products to the payment of the interest of this perpetually-existing debt. It gave the Executive a qualified control over the best moneyed resources of the United States, not contemplated by the constitution, nor founded in wisdom. It gave rise to an unauthorized incorporation of the moneyed interest, and placed it as far as possible from the reach of future Legislative influence. It established the doctrine that one systematic financier was better able to originate money bills and tax the people of the United States, than the whole collected wisdom of their Representatives, with the aid of a reciprocity of feeling. It gave rise to the idea of a Sinking Fund, without limitation as to amount, to be placed in the hands of a few trustees, and there to be protected from Legislative control by all the sanctions and securities annexed to private property. In short, it established the doctrine that all authority could be more safely intrusted to, and better executed by a few, than by many; and, in pursuance of this idea, made more continual drafts of authority from the Representative branch of the Government, and placed it in the hands of the Executive; lessening, by this mechanism of administration, the constitutional influence of the people in the Government, and fundamentally changing its native genius and original principle. He (Mr. G.) knew of no competent remedy against the abominable evils to be apprehended from the future operation of these unhallowed principles, but a permanent establishment of the candid or Republican interest in this House; and the best chance of effecting this great object he conceived to be a full representation of the people. His alarms respecting these fashionable, energetic principles were greatly increased by a perspective view of some of the proposed measures of Government. He saw systems introduced to carve out of the common rights of one part of the community privileges, monopolies, exclusive rights, &c., for the benefit of another, with no other view, in his opinion, but to create nurseries of immediate dependants upon the Government, whose interest will always stimulate them to support its measures, however iniquitous and tyrannical, and, indeed, the very emoluments which will compose the price of their attachment to the Government will grow out of a tyrannical violation of the rights of others. He would forbear to mention a variety of other circumstances, to prove that principles having a tendency to change the very nature of the Government, have pervaded even the minutest ramifications of its fiscal arrangements, nor would he dwell upon the undue influence to be apprehended from moneyed foreigners, who had become adventurers in the funds, nor the various avenues opened to facilitate the operation of corruption. He would merely remark, that, acting under impressions produced by these considerations, and strengthened by others not less pertinent and important, suggested by a number of gentlemen, in the course of the discussion of this subject, and believing that a full representation of the people will furnish the only chance of remedy for the existing, and a competent protection against future evils, he should feel himself criminal if by his vote he should give up a single Representative authorized by the constitution. The same impressions would have induced him to have voted for the proposition which gave one hundred and twenty members, had it not been for a conscientious and paramount regard for the preservation of the constitution. The difference of the position of the members throughout the United States, which would have been assumed by the difference in the manner of making the apportionment, never amounted to the minimum of a consideration with him against the proposition; for he felt a conviction that the agricultural or equalizing interest was nearly the same throughout all parts of the United States; and he hoped that the increased representation would furnish strong testimonies of the truth of the position. He would remark, generally, the Government of America was now in a state of puberty, that is, at this time. She is to assume a fixed character, and he thought it in some degree rested upon the vote now to be given, whether she would preserve the simplicity, chastity, and purity of her native representation and Republicanism, in which alone the true dignity and greatness of her character must consist; or whether she will, so early in youth, prostitute herself to the venal and borrowed artifices and corruptions of a stale and pampered Monarchy? Whatever his own opinions or suspicions may be respecting the tendency of the present Administration, and whatever may be the discussion of to-day, he should still preserve a hope that the increased representation, supported by the enlightened spirit of the people at large, will form an effectual resistance to the pressure of the whole vices of the Administration, and may yet establish the Government upon a broad, permanent, and Republican basis.

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When Mr. GILES had concluded, the committee rose, and reported an amendment, viz: to fill up the blank with the word "thirty-three;" which was carried in the affirmative—yeas 34, nays 30, as follows:

YEAS.—Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Abraham Clark, Jonathan Dayton, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, James Gordon, Andrew Gregg, Thomas Hartley, Daniel Heister, James Hillhouse, Daniel Huger, Israel Jacobs, Aaron Kitchell, John W. Kittera, Amasa Learned, Samuel Livermore, Nathaniel Niles, Theodore Sedgwick, Jeremiah Smith, Israel Smith, William Smith,

Jonathan Sturges, Peter Sylvester, George Thatcher, John Vining, Jeremiah Wadsworth, and Artemas Ward.

NAYS.—John Baptist Ashe, Abraham Baldwin, John Brown, William Findlay, William B. Giles, Samuel Griffin, William Barry Grove, Philip Key, John Laurance, Richard Bland Lee, Nathaniel Macon, James Madison, John Francis Mercer, Andrew Moore, Frederick Augustus Muhlenberg, William Vans Murray, John Page, Josiah Parker, Cornelius C. Schoonmaker, Joshua Seney, Upton Sheridine, John Steele, Samuel Sterrett, Thomas Sumter, Thomas Tredwell, Thomas Tudor Tucker, Abraham Venable, Alexander White, Hugh Williamson, and Francis Willis.

Ordered, That the said bill, together with the amendments, be engrossed and read the third time to-morrow.

FRIDAY, April 20.

Publication of the Debates.

Before the House proceeded to the order of the day—

Mr. GERRY said, that the circumstance of a publication which had made its appearance that morning induced him to rise for the purpose of bringing forward a proposition respecting a full and impartial publication of the debates of that House. Every gentleman, he believed, would agree with him that, from a publication of this kind, the citizens of the United States would derive such information respecting the proceedings of the Legislature, and the principles on which the laws are grounded, as must be productive of the most salutary effects, and attach the people more strongly to the General Government; but the *ex parte* publications can have no other tendency than to misrepresent their proceedings, and alienate the affections of the citizens. He therefore moved the following resolution:

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"Whereas an impartial publication of the Debates of Congress stating accurately their Legislative measures, and the reasons urged for and against them, is a desirable object, inasmuch as it may aid the Executive in administering the Government, the Judiciary in expounding the laws, the Governments and citizens of the several States in forming a judgment of the conduct of their respective Representatives, and Congress themselves in revising and amending their Legislative proceedings: And whereas, from the want of proper arrangements, such publication has not been accomplished—

"*Resolved*, That — persons, of good reputation, and skilled in the art of stenography, be, at the next session, appointed by ballot, to take and publish, impartially and accurately, the Legislative subjects which may be submitted to the consideration of the House, and the debates thereon of the members respectively; that the persons so to be appointed be considered as officers of the House, and provided for accordingly; that they be severally qualified by oath to a faithful discharge of the trust; and that such regulations shall be prescribed, as may be necessary to protect them in attaining the salutary objects of their appointment."

This, Mr. G. said, was a subject which ought no longer to be overlooked. Whilst Congress sat at New York, great uneasiness had been occasioned in the House by the mode in which the debates were published. Sometimes members were introduced as uttering arguments directly the reverse of what they had advanced. At other times, the substance of the arguments, as published, were an aspect widely different from what they had when offered in debate. In some instances, their arguments were so garbled that they themselves were unable to recognize them in print; in others, they were disfigured with grammatical errors, and rendered totally unintelligible; and on many occasions, the arguments on one side of the question only were published.

Such were the effects produced by this mode of publication that a gentleman from South Carolina (Mr. BURKE) brought forward a motion for correcting those evils, which was debated for some time. After the subject had been two or three times under discussion, the House was informed that there was a probability of care being taken in future to correct the errors; and thus the matter was passed over.

Mr. G. then mentioned a circumstance which he had learned from a gentleman who had declared he could prove it on oath before the House, if called upon, viz: that, having asked one of those persons who at that time published the debates, "how he could think of publishing them so inaccurately?" the answer was, "that he was under a necessity of obliging his employers." Hence, he concluded that there must have been a corrupt faction who influenced that short-hand writer.

When Congress first came to this city, the debates were published pretty accurately; and so they were this session, in some of the papers, but, in others, the case was otherwise; and he himself, as well as other gentlemen, had been under a necessity of publicly contradicting them in print. In some of the debates, the answer to an argument was published before the argument itself made its appearance; on other occasions, they were published very fully on one side of the question, whilst nothing appeared on the other. Every gentleman, he believed, would admit that this was a true state of the business; and it was well known that, on many important occasions, no debates had been published at all.

The want of regularity in the publication was, he supposed, owing, in some measure, to the want of proper encouragement, as the printers of newspapers would not probably find their account in

allowing a sufficient compensation to induce short-hand writers to devote their whole time to the business.

Mr. G. then read from the American Daily Advertiser (of Friday last) the following passage:

"A warm debate hereupon took place, during the course of which one gentleman, who strenuously supported the motion, was several times interrupted. Apprehensions were expressed of dangerous consequences, in case his speech should appear in print; and an honorable member, who opposed the motion, (Mr. GERRY,) declared that the manner in which the Debates of Congress had been published, and the business conducted, during the present session, had a direct tendency to bring about a dissolution of the Union.

"As the honorable gentleman did not further explain himself, we are at a loss to determine whether he meant to tax the publishers of the debates with inaccuracy in stating them wrong,—or imprudence, in stating them right, and freely publishing whatever sentiments any member of that House may think proper to express, in the constitutional exercise of the freedom of debate. But, certain we are, that he could not mean to stigmatize them as actuated by partiality, undue influence, or sinister motives of any kind."

Here, said Mr. G., an idea was held up that the gentleman who had spoken first (Mr. MERCER) was interrupted. But it is not said that I was interrupted too. I was interrupted as often as he. The House can determine whether I have ever taken any measure to prevent a free and candid publication of the debates. On the contrary, I have always endeavored to obtain it; and I will still proceed to accomplish it as far as possible. I think neither this House nor any of its members ought to be subject to publications of this kind. If they are, they will be obliged either to enter into paper wars with printers, or to relinquish the public good. It is incumbent on the House to take measures to prevent misrepresentation. I therefore submit to the House the resolution which I have read; and I hope that, if the proposition itself appears worthy of their attention, they will take it into consideration; or, if it wants any amendment, they will refer it to a committee; for I think the subject ought not to be any longer neglected.

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Mr. MERCER.—I second the motion; and I think the publication which the honorable gentleman has read to the House contains but a fair statement of facts. The gentleman, in the course of the former debate, made some very strange allusions to what was said by me, which were wholly unauthorized. I consider it as a primary object in this Government that we should on this floor be at all times free to express our sentiments of the Government, without involving the Government itself. I consider such a measure as is now contemplated to be well worthy the serious attention of the House. We are at a distance from our constituents; and it is a misfortune that we are withdrawn from their inspection, by being placed in a part of the Union where it is not easy to compare our circumstances and conduct in private life with the motives which may be supposed to influence our political conduct. Our constituents ought to be acquainted with our proceedings here; and it is only from a full and accurate publication of the debates of this House that they can obtain any satisfactory information on this subject.

Mr. GERRY said, that the paragraph he had read did not contain a full statement of facts, as the apprehensions he had expressed were only in case the arguments should go "*unanswered*."

Mr. GILES made, and Mr. W. SMITH seconded, a motion for referring the resolution to a select committee, to report such regulation as they may think necessary for the publication of the debates. An additional reason for the reference was, that some alteration in the wording appeared necessary, to (Mr. SMITH,) so far as respects the Judiciary, &c.

Mr. BOUDINOT objected to the commitment, as he thought it a subject of considerable consequence, and there would not be time to take it up during the present session, the House having already outsat the time which the other branch of the Legislature had proposed for the adjournment. This was his only objection; otherwise, he was far from being opposed to the measure.

Mr. GILES thought the consequence of letting the matter lie over till next session would be, that it would die away, and nothing would be done. Unless some steps be taken during the present session, no persons would come forward as candidates at the commencement of the next. But if a committee report on the subject, the House may determine what steps are to be taken, and the people will be prepared accordingly.

The question being taken on the commitment, it passed in the affirmative—yeas 27, nays, 22.

Ordered, That the said motion be committed to Mr. GERRY, Mr. MERCER, Mr. LEE, Mr. SMITH, (of South Carolina,) and Mr. KITTEA.

TUESDAY, May 8.

A message was received from the Senate, notifying the House that the Senate, having completed the Legislative business before them, are now about to adjourn. Whereupon,

Ordered, That a message be sent to the Senate to inform them that this House, having completed the business before them, are now about to adjourn until the first Monday in November next, and that the Clerk of this House do go with the said message.

The Clerk accordingly went with the said message; and, being returned,

SECOND CONGRESS.—SECOND SESSION.

BEGUN AT THE CITY OF PHILADELPHIA, NOVEMBER 5, 1792.

PROCEEDINGS OF THE SENATE.

MONDAY, November 5, 1792.

This being the day fixed by law for the annual meeting of the second session of the second Congress, the following Senators appeared, and took their seats:

JOHN LANGDON and PAINE WINGATE, from New Hampshire.

CALEB STRONG and GEORGE CABOT, from Massachusetts.

THEODORE FOSTER, from Rhode Island.

OLIVER ELLSWORTH and ROGER SHERMAN, from Connecticut.

STEPHEN R. BRADLEY and MOSES ROBINSON, from Vermont.

RUFUS KING, from New York.

PHILEMON DICKINSON and JOHN RUTHERFORD, from New Jersey.

GEORGE READ, from Delaware.

JAMES MONROE, from Virginia.

JOHN BROWN and JOHN EDWARDS, from Kentucky.

BENJAMIN HAWKINS, from North Carolina.

PIERCE BUTLER and RALPH IZARD, from South Carolina; and

WILLIAM FEW, from Georgia.

In the absence of the VICE PRESIDENT, and also of RICHARD HENRY LEE, elected President *pro tempore* at a former session, the Senate proceeded to the choice of a President *pro tempore*, as the constitution provides, and JOHN LANGDON was duly elected.

JOHN BROWN and JOHN EDWARDS, from the State of Kentucky, respectively, produced their credentials; and the oath required by law was, by the PRESIDENT *pro tempore*, administered to them.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled and ready to proceed on business.

A message from the House of Representatives informed the Senate that a quorum of the House of Representatives is assembled, and ready to proceed to business.

A second message informed the Senate that the House of Representatives have resolved that a committee be appointed, jointly with such committee as the Senate shall appoint, to wait on the PRESIDENT OF THE UNITED STATES, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications he may please to make to them; in which resolution they desire the concurrence of the Senate.

Resolved, That the Senate concur in the appointment of a joint committee to wait on the PRESIDENT OF THE UNITED STATES, agreeably to the resolution of the House of Representatives, and that Messrs. IZARD and STRONG be the committee on the part of the Senate.

A message from the House of Representatives informed the Senate that the House of Representatives have resolved that two Chaplains, of different denominations, be appointed to Congress, for the present session, one by each House, who shall interchange weekly; in which they desire the concurrence of the Senate.

The Senate proceeded to consider the said resolution; and

Resolved, That they do concur therein, and that the Right Rev. Bishop WHITE be the Chaplain on the part of the Senate.

A message from the House of Representatives informed the Senate that the House of Representatives have proceeded to the election of a Chaplain to Congress for the present session, and have appointed the Rev. Doctor GREEN on their part.

Mr. IZARD, from the joint committee appointed to wait on the PRESIDENT OF THE UNITED STATES, agreeably to the resolution of the two Houses of this day, reported,

That they had executed the business, and that the PRESIDENT OF THE UNITED STATES proposed to meet the two Houses of Congress in the Senate Chamber to-morrow at 11 o'clock.

TUESDAY, November 6.

ROBERT MORRIS, from the State of Pennsylvania, attended, and took his seat.

Ordered, That the Secretary acquaint the House of Representatives that the Senate are ready to meet them in the Senate Chamber, to receive any communications the PRESIDENT OF THE UNITED STATES may be pleased to make to the two Houses of Congress, and that the usual seats will be assigned to them.

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The House of Representatives having accordingly taken their seats, the PRESIDENT OF THE UNITED STATES came into the Senate Chamber, and addressed both Houses of Congress, as follows:

Fellow-Citizens of the Senate, and of the House of Representatives:

It is some abatement of the satisfaction with which I meet you on the present occasion, that, in felicitating you on a continuance of the national prosperity, generally, I am not able to add to it information that the Indian hostilities, which have, for some time past, distressed our north-western frontier, have terminated.

You will, I am persuaded, learn with no less concern than I communicate it, that reiterated endeavors, towards effecting a pacification, have hitherto issued only in new and outrageous proofs of persevering hostility on the part of the tribes with whom we are in contest. An earnest desire to procure tranquillity to the frontier; to stop the further effusion of blood; to arrest the progress of expense; to forward the prevalent wish of the nation for peace, has led to strenuous efforts, through various channels, to accomplish these desirable purposes; in making which efforts, I consulted less my own anticipations of the event, or the scruples which some considerations were calculated to inspire, than the wish to find the object attainable; or, if not attainable, to ascertain unequivocally that such is the case.

A detail of the measures which have been pursued, and of their consequences, which will be laid before you, while it will confirm to you the want of success, thus far, will, I trust, evince that means as proper and as efficacious as could have been devised have been employed. The issue of some of them, indeed, is still depending; but a favorable one, though not to be despaired of, is not promised by any thing that has yet happened.

In the course of the attempts which have been made, some valuable citizens have fallen victims to their zeal for the public service. A sanction commonly respected even among savages has been found, in this instance, insufficient to protect from massacre the emissaries of peace: it will, I presume, be duly considered whether the occasion does not call for an exercise of liberality towards the families of the deceased.

It must add to your concern to be informed, that, besides the continuation of hostile appearances among the tribes north of the Ohio, some threatening symptoms have of late been revived among some of those south of it.

A part of the Cherokees, known by the name of Chickamagas, inhabiting five villages on the Tennessee River, have long been in the practice of committing depredations on the neighboring settlements.

It was hoped that the treaty of Holston, made with the Cherokee nation in July, 1791, would have prevented a repetition of such depredations. But the event has not answered this hope. The Chickamagas, aided by some banditti of another tribe, in their vicinity, have recently perpetrated wanton and unprovoked hostilities upon the citizens of the United States in that quarter. The information which has been received on this subject will be laid before you. Hitherto, defensive precautions only have been strictly enjoined and observed.

It is not understood that any breach of treaty, or aggression whatsoever, on the part of the United States, or their citizens, is even alleged as a pretext for the spirit of hostility in this quarter.

I have reason to believe that every practicable exertion has been made (pursuant to the provision by law for that purpose) to be prepared for the alternative of a prosecution of the war, in the event of a failure of pacific overtures. A large proportion of the troops authorized to be raised have been recruited, though the number is still incomplete. And pains have been taken to discipline and put them in condition for the particular kind of service to be performed. A delay of operations (besides being dictated by the measures which were pursuing towards a pacific termination of the war) has been in itself deemed preferable to immature efforts. A statement, from the proper Department, with regard to the number of troops raised, and some other points which have been suggested, will afford more precise information, as a guide to the Legislative consultations; and among other things, will enable Congress to judge whether some additional stimulus to the recruiting service may not be advisable.

In looking forward to the future expense of the operations which may be found inevitable, I derive consolation from the information I receive, that the product of the revenues for the present year is likely to supersede the necessity of additional burdens on the community for the service of the ensuing year. This, however, will be better ascertained in the course of the session; and it is proper to add, that the information alluded to proceeds upon the supposition of no material extension of

the spirit of hostility.

I cannot dismiss the subject of Indian affairs without again recommending to your consideration the expediency of more adequate provision for giving energy to the laws throughout our interior frontier, and for restraining the commission of outrages upon the Indians; without which all pacific plans must prove nugatory. To enable, by competent rewards, the employment of qualified and trusty persons to reside among them as agents, would also contribute to the preservation of peace and good neighborhood. If, in addition to these expedients, an eligible plan could be devised for promoting civilization among the friendly tribes, and for carrying on trade with them, upon a scale equal to their wants, and under regulations calculated to protect them from imposition and extortion, its influence in cementing their interest with ours, could not but be considerable.

The prosperous state of our revenue has been intimated. This would be still more the case were it not for the impediments which, in some places, continue to embarrass the collection of the duties on spirits distilled within the United States. These impediments have lessened, and are lessening, in local extent; and, as applied to the community at large, the contentment with the law appears to be progressive.

But symptoms of increased opposition having lately manifested themselves in certain quarters, I judged a special interposition on my part proper and advisable; and, under this impression, have issued a Proclamation, warning against all unlawful combinations and proceedings, having for their object or tending to obstruct the law in question, and announcing that all lawful ways and means would be strictly put in execution for bringing to justice the infractors thereof, and securing obedience thereto.

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Measures have also been taken for the prosecution of offenders; and Congress may be assured that nothing within constitutional and legal limits, which may depend upon me, shall be wanting to assert and maintain the just authority of the laws. In fulfilling this trust, I shall count entirely upon the full co-operation of the other Departments of the Government, and upon the zealous support of all good citizens.

I cannot forbear to bring again into the view of the Legislature the subject of a revision of the Judiciary system. A representation from the Judges of the Supreme Court, which will be laid before you, points out some of the inconveniences that are experienced. In the course of the execution of the laws, considerations arise out of the structure of that system, which, in some cases, tend to relax their efficacy. As connected with this subject, provisions to facilitate the taking of bail upon processes out of the Courts of the United States, and a supplementary definition of offences against the constitution and laws of the Union, and of the punishment for such offences, will, it is presumed, be found worthy of particular attention.

Observations on the value of peace with other nations are unnecessary. It would be wise, however, by timely provisions to guard against those acts of our own citizens, which might tend to disturb it, and to put ourselves in a condition to give that satisfaction to foreign nations which we may sometimes have occasion to require from them. I particularly recommend to your consideration the means of preventing those aggressions by our citizens on the territory of other nations, and other infractions of the law of nations which, furnishing just subject of complaint, might endanger our peace with them, and, in general, the maintenance of a friendly intercourse with foreign Powers, will be presented to your attention by the expiration of the law for that purpose, which takes place, if not renewed, at the close of the present session.

In execution of the authority given by the Legislature, measures have been taken for engaging some artists from abroad to aid in the establishment of our Mint: others have been employed at home. Provision has been made for the requisite buildings, and these are now putting into proper condition for the purposes of the establishment. There has also been a small beginning in the coinage of half-dimes; the want of small coins in circulation calling the first attention to them.

The regulation of foreign coins, in correspondency with the principles of our national coinage, as being essential to their due operation, and in order to our money concerns, will, I doubt not, be resumed and completed.

It is represented that some provisions in the law which establishes the Post Office, operate, in experiment, against the transmission of newspapers to distant parts of the country. Should this, upon due inquiry, be found to be the fact, a full conviction of the importance of facilitating the circulation of political intelligence and information will, I doubt not, lead to the application of a remedy.

The adoption of a constitution for the State of Kentucky has been notified to me. The Legislature will share with me in the satisfaction which arises from an event interesting to the happiness of the part of the nation to which it relates, and conducive to the general order.

It is proper likewise to inform you, that, since my last communication on the subject, and in further execution of the acts severally making provision for the Public Debt, and for the reduction thereof, three new loans have been effected, each for three millions of florins; one at Antwerp, at the annual interest of four and one-half per cent., with an allowance of four per cent., in lieu of all charges; and the other two at Amsterdam, at the annual interest of four per cent., with an allowance of five and one-half per cent. in one case, and of five per cent. in the other, in lieu of all charges. The rates of these loans, and the circumstances under which they have been made, are confirmations of the high state of our credit abroad.

Among the objects to which these funds have been directed to be applied, the payment of the debts due to certain foreign officers, according to the provision made during the last session, has been embraced.

Gentlemen of the House of Representatives:

I entertain a strong hope that the state of our national finances is now sufficiently matured to enable you to enter upon a systematic and effectual arrangement for the regular redemption and discharge of the Public Debt, according to the right which has been reserved to the Government; no measure can be more desirable, whether viewed with an eye to its intrinsic importance, or to the general sentiment and wish of the nation.

Provision is likewise requisite for the reimbursement of the loan which has been made of the Bank of the United States, pursuant to the eleventh section of the act by which it is incorporated; in fulfilling the public stipulations in this particular, it is expected a valuable saving will be made.

Appropriations for the current service of the ensuing year, and for such extraordinaries as may require provision, will demand, and I doubt not will engage, your early attention.

Gentlemen of the Senate, and of the House of Representatives:

I content myself with recalling your attention, generally, to such objects, not particularized in my present, as have been suggested in my former communications to you.

Various temporary laws will expire during the present session. Among these, that which regulates trade and intercourse with the Indian tribes will merit particular attention.

The results of your common deliberations hitherto, will, I trust, be productive of solid and durable advantages to our constituents; such as, by conciliating more and more their ultimate suffrage, will tend to strengthen and confirm their attachment to that constitution of Government upon which, under Divine Providence, materially depend their Union, their safety, and their happiness.

Still further to promote and secure these inestimable ends, there is nothing which can have a more powerful tendency, than the careful cultivation of harmony, combined with a due regard to stability in the public councils.

G. WASHINGTON.

UNITED STATES, *November 6, 1792.*

The PRESIDENT OF THE UNITED STATES having retired, and the two Houses being separated,

Ordered, That Messrs. STRONG, KING, and RUTHERFORD, be a committee to prepare and report the draft of an Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech this day, to both Houses of Congress convened in the Senate Chamber.

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Ordered, That the Speech of the PRESIDENT OF THE UNITED STATES, delivered this day, be printed for the use of the Senate.

THURSDAY, November 8.

JOHN HENRY, from the State of Maryland, attended, and took his seat.

Agreeably to the order of the day, the Senate took into consideration the Address reported by the committee to the PRESIDENT OF THE UNITED STATES, in answer to his Speech to both Houses of Congress; which, being recommitted and amendments reported, was agreed to, as amended.

Ordered, That the same committee wait on the PRESIDENT OF THE UNITED STATES, and desire him to acquaint the Senate at what time and place it will be most convenient for him that it should be presented.

Mr. STRONG, from the above-mentioned committee, reported that the PRESIDENT OF THE UNITED STATES proposed to receive the Address of the Senate at 11 o'clock to-morrow.

FRIDAY, November 9.

The Senate waited on the PRESIDENT OF THE UNITED STATES at his own house, and the PRESIDENT *pro*

tempore, in their name, communicated to him the Address agreed to on the 8th instant, which is as follows:

To the President of the United States:

Accept, sir, our grateful acknowledgments for your Address at the opening of the present session. We participate with you in the satisfaction arising from the continuance of the general prosperity of the nation, but it is not without the most sincere concern that we are informed that the reiterated efforts which have been made to establish peace with the hostile Indians, have hitherto failed to accomplish that desired object. Hoping that the measures still depending may prove more successful than those which have preceded them, we shall nevertheless concur in every necessary preparation for the alternative; and, should the Indians on either side of the Ohio persist in their hostilities, fidelity to the Union, as well as affection to our fellow-citizens on the frontiers, will ensure our decided co-operation in every measure which shall be deemed requisite for their protection and safety.

At the same time that we avow the obligation of the Government to afford its protection to every part of the Union, we cannot refrain from expressing our regret that even a small portion of our fellow-citizens in any quarter of it should have combined to oppose the operation of the law for the collection of duties on spirits distilled within the United States: a law repeatedly sanctioned by the authority of the nation, and, at this juncture, materially connected with the safety and protection of those who oppose it. Should the means already adopted fail in securing obedience to this law, such further measures as may be thought necessary to carry the same into complete operation cannot fail to receive the approbation of the Legislature, and the support of every patriotic citizen.

It yields us particular pleasure to learn, that the productiveness of the revenue of the present year will probably supersede the necessity of any additional tax for the service of the next.

The organization of the government of the State of Kentucky being an event peculiarly interesting to a part of our fellow-citizens, and conducive to the general order, affords us particular satisfaction.

We are happy to learn that the high state of our credit abroad has been evinced by the terms on which the new loans have been negotiated.

In the course of the session we shall proceed to take into consideration the several objects which you have been pleased to recommend to our attention; and, keeping in view the importance of union and stability in the public councils, we shall labor to render our decisions conducive to the safety and happiness of our country.

We repeat with pleasure our assurances of confidence in your Administration, and our ardent wish that your unabated zeal for the public good may be rewarded by the durable prosperity of the nation, and every ingredient of personal happiness.

JOHN LANGDON,

President pro tempore.

To this Address, the PRESIDENT OF THE UNITED STATES was pleased to make the following reply:

I derive much pleasure, gentlemen, from your very satisfactory Address. The renewed assurances of your confidence in my Administration, and the expression of your wish for my personal happiness, claim and receive my particular acknowledgments. In my future endeavor for the public welfare, to which my duty may call me, I shall not cease to count upon the firm, enlightened, and patriotic support of the Senate.

G. WASHINGTON.

The Senate returned to their Chamber.

MONDAY, November 12.

SAMUEL JOHNSTON, from the State of North Carolina, and JOSEPH STANTON, from the State of Rhode Island, attended.

WEDNESDAY, November 14.

The petition of William Dunbar, executor of the last will and testament of George Galphin, deceased, late a Commissioner of Indian affairs, was presented and read, praying in behalf of the children of the said George Galphin, that the compensation allowed to the other Commissioners of Indian affairs may be extended to them, the legal representatives of their late father.

On motion that this petition be referred to a committee, it passed in the negative.

FRIDAY, November 23.

THURSDAY, January 3, 1793.

A motion was made and seconded that the Senate adopt the following resolutions, to wit:

"*Resolved*, That the Senate of the United States are individually responsible for their conduct to their constituents, who are entitled to such information as will enable them to form a just estimate thereof.

"*Resolved*, That the journals are too voluminous and expensive to circulate generally; and, if it were otherwise, that the information they contain, as to the principles, motives, and designs of individual members, is inadequate.

"*Resolved*, That this information, defective as it is, becomes more nugatory and delusive, in proportion as the occasion for it increases, since the Senate make their own Journals.

"*Resolved*, That the conducting of the Legislative and Judicial powers of the Senate in public, and suffering an account of their measures and deliberations to be published in the newspapers, is the best means of diffusing general information concerning the principles, motives, and conduct of individual members; and that, by withholding this information, responsibility becomes unavailing, the influence of their constituents over one branch of the Legislature, in a great measure, annihilated, and the best security which experience has devised against the abuse of power and a maladministration abandoned.

"*Resolved, therefore*, That it be a standing rule that the doors of the Senate Chamber remain open whilst the Senate shall be sitting in a Legislative and Judicative capacity, except on such occasions as, in their judgment, may require secrecy; and that this rule shall commence and be in force on the first day of the next session of Congress.

"*Resolved*, That the Secretary of the Senate request the Commissioners of the city and county of Philadelphia to cause a proper gallery to be erected for the accommodation of an audience."

On motion that the resolves now proposed be printed for the use of the Senate, it passed in the negative.

Ordered, That they lie on the table, and that the consideration thereof be the order of the day for the first Monday in February next.

FRIDAY, January 4.

The Senate resumed the second reading of the bill respecting fugitives from justice, and persons escaping from the service of their masters, and the report of the committee thereon; and, after debate, the consideration thereof was further postponed.

FRIDAY, January 18.

The bill respecting fugitives from justice and persons escaping from the service of their masters, was read the third time, and being further amended, on a motion to strike out "five hundred dollars," for the purpose of inserting a less sum in section 4th, the penalty on "any person who shall knowingly and willingly obstruct or hinder such claimant, his agent or attorney, in so seizing or arresting such fugitive from labor, or shall rescue such fugitive from such claimant, his agent, or attorney, when so arrested, pursuant to the authority herein given or declared, or shall harbor or conceal such person, after notice that he or she was a fugitive from labor as aforesaid;" it passed in the negative.

Resolved, that this bill pass, that it be engrossed, and that the title thereof be, "An act respecting fugitives from justice, and persons escaping from the service of their masters."

MONDAY, February 4.

RICHARD POTTS, from the State of Maryland, appointed in place of CHARLES CARROLL, resigned, produced his credentials, and took his seat.

Agreeably to the order of the day, the Senate proceeded to consider the motion made the 3d of January, 1793, "That the doors of the Senate Chamber remain open whilst the Senate shall be sitting in their Legislative and Judicative capacity."

On motion for the previous question, to wit: Shall the question be now put on the following preliminary resolutions?

"*Resolved*, That the Senate of the States are, individually, responsible for their conduct to their constituents, who are entitled to such information as will enable them to form a just estimate thereof:

"*Resolved*, That the journals are too voluminous and expensive to circulate generally; and, if it were otherwise, that the information they contain, as to the

principles, motives, and designs, of individual members, is inadequate:

"*Resolved*, That this information, defective as it is, becomes more nugatory and delusive, in proportion as the occasion for it increases, since the Senate make their own journals:

"*Resolved*, That the conducting of the Legislative and Judicial powers of the Senate in public, and suffering an account of their measures and deliberations to be published in the newspapers, is the best means of diffusing general information concerning the principles, motives, and conduct, of individual members: and that, by withholding this information, responsibility becomes unavailing, the influence of their constituents over one branch of the Legislature in a great measure annihilated, and the best security which experience has devised against the abuse of power and a maladministration abandoned:"

It passed in the negative—yeas 7, nays 21, as follows:

YEAS.—Messrs. Burr, Butler, Edwards, Gunn, Monroe, Potts, and Taylor.

NAYS.—Messrs. Bassett, Bradley, Brown, Cabot, Dickinson, Ellsworth, Foster, Hawkins, Henry, Johnston, Izard, King, Langdon, Morris, Read, Robinson, Rutherford, Stanton, Sherman, Strong, and Wingate.

And on motion to agree to the main question, to wit:

"that the doors of the Senate Chamber remain open whilst the Senate shall be sitting in a Legislative and Judicative capacity, except on such occasions as, in their judgment, may require secrecy; and that this rule shall commence and be in force on the first day of the next session of Congress."

It passed in the negative—yeas 10, nays 18, as follows:

YEAS.—Messrs. Brown, Burr, Butler, Edwards, Gunn, Hawkins, King, Monroe, Potts, and Taylor.

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NAYS.—Messrs. Bassett, Bradley, Cabot, Dickinson, Ellsworth, Foster, Henry, Johnston, Izard, Langdon, Morris, Read, Robinson, Rutherford, Sherman, Stanton, Strong, and Wingate.

On the question to agree to the last resolution moved for on this subject, it passed in the negative.

TUESDAY, February 5.

A message from the House of Representatives informed the Senate, that the House of Representatives have resolved, that a committee be appointed to join such committee as may be appointed by the Senate to ascertain and report a mode of examining the votes for PRESIDENT and VICE PRESIDENT, and of notifying the persons who shall be elected of their election; and for regulating the time, place, and manner, of administering the oath of office to the PRESIDENT; and have appointed a committee on their part.

This resolution of the House was read.

Ordered, That the consideration thereof be postponed until to-morrow.

The Senate proceeded to consider the amendment of the House of Representatives to the bill sent from the Senate for concurrence, entitled, "An act respecting fugitives from justice, and persons escaping from the service of their masters," and agreed to the amendment, to wit: To strike out the word "deemed," in section first.

Ordered, That the Secretary acquaint the House of Representatives therewith.

WEDNESDAY, February 6.

The Senate proceeded to consider the resolution of the House of Representatives, that a committee be appointed, to join such committee as may be appointed by the Senate, to ascertain and report a mode of examining the votes for PRESIDENT and VICE PRESIDENT, and of notifying the persons who shall be elected of their election, and for regulating the time, place and manner of administering the oath of office to the PRESIDENT.

Resolved, That the Senate concur in this resolution, and that Messrs. KING, IZARD, and STRONG be the committee on the part of the Senate.

MONDAY, February 11.

Mr. KING, from the joint committee, appointed the 6th February, instant, reported that the two Houses should assemble in the Senate Chamber on Wednesday next, at twelve o'clock; that one person be appointed a teller, on the part of the Senate, to make a list of the votes as they shall be declared; that the result shall be delivered to the PRESIDENT of the Senate, who shall announce the state of the vote, and the persons elected, to the two Houses assembled as aforesaid; which shall be deemed a declaration of the persons elected PRESIDENT and VICE PRESIDENT, and, together with a list of the votes, be entered on the journals of the two Houses, and the report was agreed to.

TUESDAY, February 12.

A message from the House of Representatives informed the Senate, that the House of Representatives agree to the report of the joint committee appointed the 6th of February, instant, respecting the manner of counting the votes for PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES.

Ordered, That Mr. KING be appointed, on the part of the Senate, a teller of the votes for PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES, conformably to the report of the joint committee, agreed to the 11th instant.

WEDNESDAY, February 13.

Ordered, That the Secretary notify the House of Representatives that the Senate are ready to meet them in the Senate Chamber, to attend the opening and counting the vote for PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES, as the constitution provides.

The two Houses having accordingly assembled, the certificates of the Electors of the fifteen States in the Union, which came by express, were, by the VICE PRESIDENT, opened, read, and delivered to the tellers appointed for the purpose, who, having examined and ascertained the votes, presented a list of them to the VICE PRESIDENT; which list was read to the two Houses, and is as follows:

FOR GEORGE WASHINGTON.

New Hampshire,	6
Massachusetts,	16
Rhode Island,	4
Connecticut,	9
Vermont,	3
New York,	12
New Jersey,	7
Pennsylvania,	15
Delaware,	3
Maryland,	8
Virginia,	21
Kentucky,	4
North Carolina,	12
South Carolina,	8
Georgia,	4

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FOR JOHN ADAMS.

New Hampshire,	6
Massachusetts,	16
Rhode Island,	4
Connecticut,	9
Vermont,	3
New Jersey,	7
Pennsylvania,	14
Delaware,	3
Maryland,	8
South Carolina,	7

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FOR GEORGE CLINTON.

New York,	12
Pennsylvania,	1
Virginia,	21
North Carolina,	12
Georgia,	4

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50

FOR THOMAS JEFFERSON.

Kentucky,	4
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FOR AARON BURR.

South Carolina,	1
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Whereupon the VICE PRESIDENT declared GEORGE WASHINGTON unanimously elected PRESIDENT of the UNITED STATES, for the period of four years, to commence with the fourth day of March next; and JOHN ADAMS elected by a plurality of votes, VICE PRESIDENT of the UNITED STATES, for the same period, to commence with the 4th day of March next.

After which, the VICE PRESIDENT delivered the duplicate certificates of the Electors of the several

States, received by post, together with those which came by express to the Secretary of the Senate.

The two Houses then separated, and the Senate adjourned.

THURSDAY, February 14.

Mr. KING, from the committee appointed the 6th instant, to join the committee on the part of the House of Representatives, to report a mode of notifying the person who should be elected PRESIDENT OF THE UNITED STATES of his election, submitted the following resolve:

Resolved, That a committee be appointed to join such committee as shall be appointed by the House of Representatives, to wait on the PRESIDENT and notify him of his unanimous re-election to the office of PRESIDENT OF THE UNITED STATES.

And the report was adopted. *Ordered*, That Messrs. KING, IZARD, and STRONG, be the committee on the part of the Senate.

A message from the House of Representatives informed the Senate that the House of Representatives have adopted the report of the joint committee, appointed the 6th instant, to ascertain and report a mode of examining the votes for *President* and VICE PRESIDENT OF THE UNITED STATES, and for other purposes; and have appointed a joint committee on their part to wait on the PRESIDENT, and notify him of his unanimous re-election to the office of PRESIDENT OF THE UNITED STATES.

FRIDAY, February 15.

Mr. KING, from the joint committee appointed for that purpose, reported:

"That pursuant to the resolutions of the 14th instant, the joint committee of the Senate and House of Representatives have this day waited on the PRESIDENT, and notified him of his unanimous re-election to the office of PRESIDENT OF THE UNITED STATES."

MONDAY, February 18.

On motion to adopt the following resolution, to wit:

Resolved, That the Secretary of the Treasury be instructed to revise the account of the pension granted by Congress for the education and board of Hugh Mercer, son of the late General Mercer, from its date to the present period, and correct any error that may have taken place therein, paying all arrearages, if any now due; and that he likewise pay hereafter without account, annually, and until his education shall be completed, for that purpose, to the guardian of the said Hugh, the sum of four hundred dollars.

It was agreed to postpone the consideration of this motion until to-morrow.

THURSDAY, February 28.

The VICE PRESIDENT laid before the Senate a certificate, purporting that the Legislature of the Commonwealth of Pennsylvania have this day chosen ALBERT GALLATIN a Senator of the United States.

FRIDAY, March 1.

The PRESIDENT laid before the Senate a Letter from the Secretary of the Department of State, enclosing a triplicate certificate of the votes of the Electors of the State of Kentucky for PRESIDENT and VICE PRESIDENT OF THE UNITED STATES, obtained by express, sent from the seat of Government, as the law provides.

SATURDAY, March 2.

Mr. KING, from the committee appointed this day on the communication of the PRESIDENT OF THE UNITED STATES, relative to his taking the oath of office, reported that the Secretary inform the House of Representatives that the PRESIDENT OF THE UNITED STATES will, on Monday next, take the oath of office required by the constitution, in the Senate Chamber, at twelve o'clock; and that he inform the PRESIDENT OF THE UNITED STATES that the Senate will be in session at that time. And the report was adopted.

SPECIAL SESSION.

MONDAY, March 4.

In conformity to the summons from the PRESIDENT OF THE UNITED STATES, the Senate assembled in the Senate Chamber.

The Hon. JOHN LANGDON, President *pro tempore*, read the summons of the PRESIDENT OF THE UNITED STATES, as follows:

Certain matters, touching the public good, requiring that the Senate shall be convened on Monday the 4th instant, I have desired their attendance, as I do yours, by these presents, at the Senate Chamber, in Philadelphia, on that day; then and there to receive and deliberate on such communications as shall be made to you on my part.

G. WASHINGTON.

March 1, 1793.

The following Senators were present:

JOHN LANGDON, from New Hampshire.
GEORGE CABOT, from Massachusetts.
THEODORE FOSTER, from Rhode Island.
OLIVER ELLSWORTH and ROGER SHERMAN, from Connecticut.
RUFUS KING, from New York.
JOHN RUTHERFORD, from New Jersey.
ROBERT MORRIS, from Pennsylvania.
GEORGE READ, from Delaware.
JOHN HENRY and RICHARD POTTS, from Maryland.
JAMES MONROE, from Virginia.
JOHN BROWN and JOHN EDWARDS, from Kentucky.
BENJAMIN HAWKINS, from North Carolina.
RALPH IZARD, from South Carolina.
JAMES GUNN, from Georgia.

SAMUEL LIVERMORE, from the State of New Hampshire, produced his credentials, and took his seat in the Senate; and the oath was administered to him by the PRESIDENT of the Senate, as the law provides.

Agreeably to notice given by the PRESIDENT OF THE UNITED STATES, on the 2d instant, he came to the Senate Chamber and took his seat in the chair usually assigned the PRESIDENT of the Senate, who, on this occasion, was seated at the right, and in advance of the PRESIDENT OF THE UNITED STATES; a seat on the left, and also in advance, being provided for Judge Cushing, appointed to administer the oath: the doors of the Senate Chamber being open, the Heads of the Departments, Foreign Ministers, the late Speaker, and such members of the late House of Representatives as were in town, together with as many other spectators as could be accommodated, were present.

After a short pause, the PRESIDENT of the Senate arose, and addressed the PRESIDENT OF THE UNITED STATES, as follows:

"SIR: One of the Judges of the Supreme Court of the United States is now present, and ready to administer to you the oath required by the constitution to be taken by the PRESIDENT OF THE UNITED STATES."

On which the PRESIDENT OF THE UNITED STATES, rising from his seat, was pleased to address the audience as follows:

"FELLOW-CITIZENS: I am again called upon, by the voice of my country, to execute the functions of its Chief Magistrate. When the occasion proper for it shall arrive, I shall endeavor to express the high sense I entertain of this distinguished honor, and of the confidence which has been reposed in me by the people of United America.

"Previous to the execution of any official act of the PRESIDENT, the constitution requires an oath of office. This oath I am now about to take, and in your presence; that, if it shall be found, during my administration of the Government, I have, in any instance, violated, willingly or knowingly, the injunction thereof, I may (besides incurring constitutional punishment) be subject to the upbraidings of all who are now witnesses of the present solemn ceremony."

Judge CUSHING then administered the oath of office required by the constitution; after which, the PRESIDENT OF THE UNITED STATES retired, and the spectators dispersed.

After acting upon several nominations received from the PRESIDENT, the Senate adjourned *sine die*.

SECOND CONGRESS.—SECOND SESSION.

PROCEEDINGS AND DEBATES IN THE HOUSE OF REPRESENTATIVES.

MONDAY, November 5, 1792.

This being the day appointed by law for the meeting of the present Congress, the following members appeared, produced their credentials, and took their seats:

From New Hampshire, NICHOLAS GILMAN, SAMUEL LIVERMORE, and JEREMIAH SMITH.

From Massachusetts, FISHER AMES, SHEARJASHUR BOURNE, ELBRIDGE GERRY, BENJAMIN GOODHUE, GEORGE THATCHER, and ARTEMAS WARD.

From Rhode Island, GEORGE LEONARD, BENJAMIN BOURNE.

From Connecticut, AMASA LEARNED, JONATHAN STURGES, and JONATHAN TRUMBULL, (Speaker.)

From Vermont, NATHANIEL NILES and ISRAEL SMITH.

From New York, EGBERT BENSON, JOHN LAURANCE, and THOMAS TREDWELL.

From New Jersey, ELIAS BOUDINOT, ABRAHAM CLARK, and JONATHAN DAYTON.

From Pennsylvania, THOMAS FITZSIMONS and FREDERICK AUGUSTUS MUHLENBERG.

From Maryland, PHILIP KEY and WILLIAM VANS MURRAY.

From Virginia, WILLIAM B. GILES, JAMES MADISON, ANDREW MOORE, JOSIAH PARKER, ABRAHAM VENABLE, and ALEXANDER WHITE.

From North Carolina, NATHANIEL MACON, JOHN STEELE, and HUGH WILLIAMSON.

From South Carolina, WILLIAM SMITH, THOMAS SUMTER, and THOMAS TUDOR TUCKER.

From Georgia, ABRAHAM BALDWIN and FRANCIS WILLIS.

A quorum of members being present, a message was sent to the Senate to inform that body thereof. And a similar message was received by the House from the Senate; and that JOHN LANGDON had been chosen their President *pro tempore*.

A joint committee were then appointed to wait on the PRESIDENT OF THE UNITED STATES, to inform him that a quorum of the two Houses is assembled, and ready to receive any communications he may think proper to make them.

Resolved, That two Chaplains, of different denominations, be appointed to Congress, one by each House, to interchange weekly.

The House then proceeded to appoint a Chaplain on their part, when a majority of votes appeared in favor of the Reverend ASHBEL GREEN.

The SPEAKER laid before the House a letter from the Governor of Georgia, enclosing a proclamation and return of the election of JOHN MILLEDGE, to serve as one of the members of this House for the said State, in the room of ANTHONY WAYNE, whose seat was declared vacant; which was read and ordered to lie on the table.

Mr. BOUDINOT, from the joint committee appointed to wait on the PRESIDENT OF THE UNITED STATES, and notify him that a quorum of the two Houses is assembled and ready to receive any communications he may be pleased to make to them, reported that the committee had performed that service, and that the PRESIDENT was pleased to say, that he would make a communication to both Houses of Congress to-morrow, at twelve o'clock in the Senate Chamber.

TUESDAY, November 6.

Several other members, viz: from New York, JAMES GORDON; from Pennsylvania, JOHN WILKES KITTERA; and from Virginia, SAMUEL GRIFFIN and JOHN PAGE, appeared, and took their seats in the House.

A message from the Senate informed the House that the Senate are now ready, in the Senate Chamber, to attend this House in receiving the communication from the PRESIDENT OF THE UNITED STATES, agreeably to his notification to both Houses yesterday.

The SPEAKER, attended by the members of this House, then withdrew to the Senate Chamber for the purpose expressed in the message from the Senate; and, being returned, the SPEAKER laid before the House a copy of the Speech delivered by the PRESIDENT OF THE UNITED STATES to both Houses of Congress, in the Senate Chamber. [A copy of the Speech appears in the proceedings of the Senate.]

Ordered, That the said Speech be committed to the consideration of a Committee of the whole House to-morrow. [Pg 389]

WEDNESDAY, November 7.

Defeat of General St. Clair.

Ordered, That the report of the committee appointed to inquire into the causes of the failure of the late expedition under Major General St. Clair, which was made on the 8th day of May last, be referred to the consideration of a Committee of the whole House on Wednesday next.

Answer to the President.

The order of the day being called for, (Mr. LAURANCE in the chair,) the Speech of the PRESIDENT, delivered yesterday to Congress, was taken up; and, on motion of Mr. SMITH, of South Carolina, the following resolve was agreed to: "That a committee be appointed to prepare and report a respectful Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech delivered to both Houses of Congress at the opening of the present session; with assurances, that they would take

into consideration the important matters therein contained." An amendment was now moved, to strike out the word "important;" but it was negatived, as being a word of too much importance to be neglected. The resolution was carried, in substance, as above, and the committee rose and reported it. The House immediately agreed, and a committee of three—Messrs. MADISON, BENSON, and MURRAY—were appointed by the SPEAKER to prepare the answer in conformity with the said resolve.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and of the House of Representatives:

I lay before you copies of certain papers relative to the Spanish interference in the execution of the treaty entered into in the year 1790, between the United States, and the Creek nation of Indians, together with a letter from the Secretary of State to the President of the United States, on the same subject.

G. WASHINGTON.

UNITED STATES, November 7, 1792.

The papers accompanying the said message were read and ordered to lie on the table.

The SPEAKER laid before the House two letters from Thomas Barclay, Consul of the United States at the Court of Morocco, one dated the 28th of May, the other the 17th of July, 1792, enclosing petitions from Richard O'Brien, in behalf of himself and other citizens of the United States, now in captivity at Algiers, stating the peculiar hardships they have undergone during the time they have been kept in slavery, and praying that Congress will consider their distressed situation, and take such measures for their releasement as to their wisdom shall seem meet.

Ordered, That the said letters and petitions be referred to the Secretary of State, for information.

THURSDAY, November 8.

Several other members, to wit: from Connecticut, JAMES HILLHOUSE; from Pennsylvania, WILLIAM FINDLAY and ISRAEL JACOBS; and from Kentucky, ALEXANDER D. ORR, appeared, and took their seats in the House.

SATURDAY, November 10.

Two other members, to wit: PETER SYLVESTER, from New York, and THOMAS HARTLEY, from Pennsylvania, appeared, and took their seats in the House.

Address to the President.

The House resolved itself into a Committee of the whole House on the Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech to both Houses of Congress; and, after some time spent therein, the SPEAKER resumed the chair, and Mr. LAURANCE reported that the committee had had the said Address under consideration, and made several amendments thereto; which were severally twice read, and agreed to by the House.

And then the said Address, as amended, being again read, was, on the question put thereon, agreed to by the House, as follows:

"SIR: The House of Representatives, who always feel a satisfaction in meeting you, are much concerned that the occasion for mutual felicitation afforded by the circumstances favorable to the national prosperity should be abated by a continuance of the hostile spirit of many of the Indian tribes, and, particularly, that the reiterated efforts for effecting a general pacification with them should have issued in new proofs of their persevering enmity, and the barbarous sacrifice of citizens, who, as the messengers of peace, were distinguishing themselves by their zeal for the public service. In our deliberations on this important department of our affairs, we shall be disposed to pursue every measure that may be dictated by the sincerest desire, on one hand, of cultivating peace, and manifesting, by every practicable regulation, our benevolent regard for the welfare of those misguided people; and by the duty we feel, on the other, to provide effectually for the safety and protection of our fellow-citizens.

"While with regret we learn that symptoms of opposition to the law imposing duties on spirits distilled within the United States, have manifested themselves, we reflect with consolation, that they are confined to a small portion of our fellow-citizens. It is not more essential to the preservation of true liberty, that a Government should be always ready to listen to the representations of its constituents, and to accommodate its measures to the sentiments and wishes of every part of them, as far as will consist with the good of the whole, than it is, that the just authority of the laws should be steadfastly maintained. Under this impression, every department of the Government, and all good citizens must approve the measures you have taken, and the purpose you have formed, to execute this part of your trust with firmness and energy; and be assured, sir, of every constitutional aid and co-operation, which may become requisite on our part. And we hope that, while the progress of contentment under the law in question, is

as obvious as it is rational, no particular part of the community may be permitted to withdraw from the general burdens of the country, by a conduct as irreconcilable to national justice, as it is inconsistent with public decency.

"The productive state of the public revenue, and the confirmation of the credit of the United States abroad, evinced by the loans at Antwerp and Amsterdam, are communications the more gratifying, as they enforce the obligation to enter on systematic and effectual arrangements for discharging the public debt, as fast as the conditions of it will permit; and we take pleasure in the opportunity to assure you of our entire concurrence in the opinion, that no measure can be more desirable, whether viewed with an eye to the urgent wish of the community, or the intrinsic importance of promoting so happy a change in our situation.

"The adoption of a constitution for the State of Kentucky, is an event on which we join in all the satisfaction you have expressed. It may be considered as particularly interesting, since, besides the immediate benefits resulting from it, it is another auspicious demonstration of the facility and success with which an enlightened people is capable of providing, by free and deliberate plans of government, for their own safety and happiness.

"The operation of the law establishing the Post Office, as it relates to the transmission of newspapers, will merit our particular inquiry and attention, the circulation of political intelligence through these vehicles being justly reckoned among the surest means of preventing the degeneracy of a free government, as well as of recommending every salutary public measure to the confidence and co-operation of all virtuous citizens.

"The several other matters which you have communicated and recommended, will, in their order, receive the attention due to them, and our discussions will, in all cases, we trust, be guided by a proper respect for harmony and stability in the public Councils, and a desire to conciliate, more and more, the attachment of our constituents to the constitution, by measures accommodated to the true ends for which it was established."

Resolved, That the SPEAKER, attended by the House, do present the said Address, and that Mr. MADISON, Mr. BENSON, and Mr. MURRAY, be a committee to wait on the PRESIDENT, to know when and where it will be convenient for him to receive the same.

Mr. MADISON, from the committee appointed to wait on the PRESIDENT OF THE UNITED STATES, to know when and where it will be convenient for him to receive the Address of this House, in answer to his Speech to both Houses of Congress, reported that the committee had waited on the PRESIDENT, who signified to them that it would be convenient to him to receive the said Address at 12 o'clock on Monday next, at his own house.

MONDAY, November 12.

Another member, to wit, JOHN BAPTIST ASHE, from North Carolina, appeared, and took his seat in the House.

Address to the President.

The SPEAKER, attended by the House, then withdrew to the house of the PRESIDENT OF THE UNITED STATES, and there presented to him the Address of this House, in answer to his Speech to both Houses of Congress; to which the PRESIDENT made the following reply:

"GENTLEMEN: It gives me pleasure to express to you the satisfaction which your Address affords me. I feel, as I ought, the approbation you manifest of the measures I have taken, and the purpose I have formed, to maintain, pursuant to the trust reposed in me by the constitution, the respect which is due to the laws; and the assurance which you, at the same time, give me, of every constitutional aid and co-operation that may become requisite on your part.

"This is a new proof of that enlightened solicitude for the establishment and confirmation of public order, which, embracing a zealous regard for the principles of true liberty, has guided the deliberations of the House of Representatives; a perseverance in which can alone secure, under the Divine blessing, the real and permanent felicity of our common country.

"G. WASHINGTON."

The House having returned to their Chamber, resumed the reading of the papers communicated by the Secretary of War, on Wednesday last, relative to the Indians north-west and south of the river Ohio, and to the troops in the service of the United States, and made a farther progress therein.

TUESDAY, November 13.

Two other members, to wit: ROBERT BARNWELL and DANIEL HUGER, from South Carolina, appeared, and took their seats in the House.

Defeat of General St. Clair.

On a motion made and seconded, that the House do come to the following resolution:

"Resolved, That the Secretary of the Treasury and the Secretary of War be notified that this House intend, on Wednesday next, to take into consideration the Report of the committee appointed to inquire into the causes of the failure of the late expedition under General St. Clair, to the end that they may attend the House, and furnish such information as may be conducive to the due investigation of the matters stated in the said report:"

Mr. WILLIAMSON moved to strike out the latter part of the resolution, which respected the attendance of the Secretaries on the House. This motion, if carried, leaves the resolution a simple proposition to inform those officers that the House were, on Wednesday, to take the report on the failure of General St. Clair's expedition into consideration.

Mr. VENABLE objected generally to the resolution, as inconsistent with the dignity of the House. He doubted the propriety of the measure altogether. The gentlemen are not impeached, and therefore the House has no right to cite them to make their appearance; and, with respect to information, the House can command such from the Heads of Departments as they may see proper to require. He was at a loss in attempting to investigate the object of the resolution. He could see no purpose that it would answer, which could not as well be obtained without it.

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Mr. WHITE offered several objections to the resolution, of a similar import with the above.

Mr. DAYTON supported the motion by a few remarks, stating the importance of that information which those gentlemen alone could give. He adverted to the report of the committee, which he observed had exculpated the commanding General on that expedition, whereas he was of opinion that the failure was owing to the misconduct of that gentleman.

Mr. TUCKER objected to the resolution. He preferred the mode of requiring that information which the House might think necessary, in writing.

Mr. MADISON objected to the motion on constitutional grounds, and as being contrary to the practice of the House. He had not, he said, thoroughly revolved the matter in his own mind, and therefore was not prepared to state fully the effects which would result from the adoption of the resolution; but he would hazard thus much, that it would form an innovation in the mode of conducting the business of this House, and introduce a precedent which would lead to perplexing and embarrassing consequences; as it involved a conclusion, in respect to the principles of the Government, which at an earlier day would have been revolted from. He was decidedly in favor of written information.

Mr. CLARK was opposed to the resolution; as a member of the committee who made the report, he had no apprehension; with respect to information, the report and the vouchers are before the House; and such further inquiry may be made of the proper officers as the House may think necessary.

Mr. AMES supported the resolution. He noticed the impressions which the failure of the late expedition had made on the public mind. Characters had suffered in the general estimation. It was of the utmost importance that a thorough investigation should take place, that if the failure of the expedition was a mere casualty, and the fortune of war, it might be made to appear; or if it was owing to misconduct, the blame might fall on the proper subjects. The mode suggested to obtain information appeared to him the best that could be adopted—the most adequate to the object. It was due to justice, to truth, and to the national honor, to take effectual measures to investigate the business thoroughly. This inquiry appears to be the beginning of an arrangement preparatory to an impeachment; on whom this will fall, he should not presume to say; but still it places the subject in an important point of view, and shows in the strongest manner the necessity of adopting the best possible mode of ascertaining the real state of facts. This, he conceived, could not be done so effectually as by the mode proposed in the resolution.

Mr. GILES objected to the resolution. He preferred a thorough discussion of the report, in the first place, and a comparison of the vouchers with the report; and if, in the issue, it should appear necessary to call for information from these officers, it could then be done; but, in the present state of the business, to adopt the resolution would place the committee in a very disagreeable situation.

Mr. LAURANCE observed that the committee, in their report, say that, for want of time, they had not been able to complete it; it is, then, apparent from the report itself that it is immature. He stated several particulars in the report which were incomplete, and from hence inferred that there was material information to be received previous to being able to form a competent judgment on the matter. He observed that, as the information must be had, he saw no necessity of postponing the attendance of those officers in the first instance.

Mr. MADISON, in reply to Mr. AMES's remark, that the best possible mode ought to be adopted, observed, that there seemed to be different ideas entertained by the different advocates of the resolution; one seemed to implicate the officers alluded to as parties concerned; another appeared to consider them merely as witnesses. For his part, he thought there was no other way of proceeding, but that of adopting one or the other of these alternatives: either to take up the report and discuss its merits, or for the House to begin the inquiry themselves, *de novo*.

Mr. LIVERMORE objected to the resolution. He could not see any advantage which would result from adopting it. He thought the causes of the failure of the expedition were sufficiently obvious,

without criminating any body. He adverted to these causes—they were, the rawness of the troops, and the superiority of the Indians as marksmen. On these points he could not see what information could be derived from the Secretary of the Treasury. He thought that the Legislature had gone too far already, and that no satisfaction would result from further proceedings, but that the subject would appear more and more involved.

Mr. BOUDINOT, after stating sundry particulars relative to the state of the public mind at the time of the report, adverted to several parts of it which appear to criminate particular persons, some of whom were absent at the time of the investigation on which the report is founded. He therefore urged the necessity of receiving from the Heads of the Departments that information which was requisite to throw light on several parts of the report, and that this ought to be done previous to taking the report into consideration.

Mr. FITZSIMONS said he should vote against the resolution. He did not think this the proper time to call for the information alluded to; nor the mode proposed a proper one. Some remarks have been made on the report, though it is not before the House; to these he should not particularly reply, but would only observe, that no person had applied to the House for redress of any supposed injury received by the report. It has been said that the inquiry ought to have been a military one; but it was well known that it was impossible to institute such an inquiry by reason of the want of officers. He then gave a sketch of the mode of proceeding adopted by the committee in conducting the inquiry, to show that they had availed themselves of every means of information within their power.

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Mr. WILLIAMSON said he had moved to strike out the latter part of the resolution, but he was equally opposed to the whole of it; and since he had heard the remarks of several gentlemen, on both sides of the House, he was clearly of opinion that the best way was to dispose of it altogether, and let the subject proceed in the course which it had already taken.

Mr. GILES observed, that he thought there was less delicacy observed on this occasion, in respect to the committee, than was usual in this House. With respect to the report, the vouchers on which every assertion is founded are before the House. As to the incompleteness of the report, it is an immaterial object; the few blanks it contains are occasioned by the want of time to examine the voluminous papers necessary to be examined, in order to ascertain some of the facts—facts not in themselves of the first importance. He observed, that he had not the smallest objection to the fullest investigation of the subject; he was in favor of all the information that could be possibly obtained; he objected not only to the mode now contended for, which he thought not only liable to all the objections which had been made, but to many others which might be offered.

Mr. DAYTON observed that he was one of those who were not satisfied with the report; he did not think the conclusion which exculpated the commanding officer could be supported by the report itself. He adverted to several facts stated in it, which showed that the commander must have been highly culpable; he instanced the slowness of his movements, the dilatoriness in constructing forts, and his being surprised by the enemy. He thought that the remarks which had fallen from gentlemen, on what he had said, were illiberal, as they had virtually impeached his candor, when he was not conscious of deviating from its dictates. It was not his intention to have touched on the merits of the report, but he had been impelled to do it from the turn the debate had taken.

Mr. GERRY was in favor of the resolution. He enlarged on the magnitude of the object of investigation, and insisted that it was the indispensable duty of the House thoroughly to probe the subject to the bottom, that if any persons have been to blame they may suffer, or if the event which has taken place, by which the national character has suffered, and so severe and unproductive an expense has been incurred, amounting probably to one million dollars, has been owing to circumstances which could not be avoided or controlled, the public may receive satisfaction as to the whole matter.

Mr. PAGE objected to the resolution, particularly to the precedent it would establish; but, at the same time, he was in favor of the fullest inquiry the subject was susceptible of. He said, the mode proposed would operate to clog the freedom of inquiry, and the freedom of debate.

Mr. AMES, adverting to the spirit of the report, pointed out the peculiar situation of the two Secretaries, and that they did not stand on the same ground with other persons who are not so intimately implicated in the matter. He alluded to the various objections which had been urged from precedent, from the fulness of the investigation which the subject had undergone in the hands of the committee, and from the remark by Mr. LIVERMORE, that sufficient had already been done. To this last objection he particularly replied, by saying that the public wanted further satisfaction, and that the House could not justify themselves to their constituents without a stricter and fuller investigation, that the whole of the facts might be laid before them.

Mr. MADISON said, the mode now proposed involved a dereliction of the only practicable mode of transacting public business; and that, however imperfect that mode might be, still he believed that it was the only one that had received the sanction of experience and utility. He therefore hoped that the resolution would be rejected, and the mode already adopted persevered in, and the necessary information called for in writing, from every person in anywise interested or competent to give it.

Mr. W. SMITH supported the resolution. He showed by the report itself, and from the reasoning used by gentlemen in opposition to the resolution, that the two Secretaries were implicated in the causes of the failure of the expedition; from hence, he inferred the justice and propriety of giving them an opportunity of exculpating themselves.

Mr. GERRY expressed surprise at the apprehension which some gentlemen appear to entertain of the measure of introducing the Heads of Departments into the House; for his part he had no such apprehensions. The Secretary will attend at the orders of the House merely to give such information as may be required, and not as members or ministers to influence and govern the determinations of the House.

Mr. VENABLE objected further to the resolution; he urged the impropriety of any of the Heads of Departments coming forward, and attempting in any way to influence the deliberations of the Legislature.

Mr. LAURANCE replied to Mr. VENABLE; he observed that the gentleman appeared to mistake the object of the resolution; it was not contemplated that either of the Secretaries should appear on the floor of the House to influence, in any degree, its decisions; they are to be called on merely for information.

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Mr. MURRAY objected to the resolution. The report, he observed, is made to the House; if in the course of its discussion any further light or information should be deemed necessary, it may then be called for, and in that mode which shall appear most eligible; at present the question appears to be premature. Mr. MURRAY added several other remarks, and then the question being put, Mr. WILLIAMSON'S motion for striking out was carried.

And then the main question being put, that the House do agree to the said resolution as amended, it passed in the negative.

Resolved, That the Committee of the whole House, to whom is referred the report of the committee appointed to inquire into the causes of the failure of the expedition under Major General St. Clair, be empowered to send for persons, papers, and records, for their information.

WEDNESDAY, November 14.

Another member, to wit, WILLIAM BARRY GROVE, from North Carolina, appeared and took his seat in the House.

The SPEAKER laid before the House a letter from the Secretary of War, together with a memorial of Samuel Hodgdon, late Quartermaster General to the Army, respectively praying that they may be heard, and permitted to give information and explanations as to the causes of the failure of the expedition under Major General St. Clair; which were read. The letter of the Secretary of War is as follows:

WAR DEPARTMENT, *November 14, 1792.*

SIR: After the close of the last session of Congress, I saw with much concern the report to the committee appointed to inquire into the causes of the failure of the expedition, under Major General St. Clair, of the 8th of May, 1792; which, having been presented to the House in the last moments of the session, was ordered to be printed, and has since circulated in the public newspapers throughout the United States, containing suggestions, most of them founded upon *ex parte* investigation, which have been understood in a sense very injurious to my reputation.

Learning that the present day was appointed for taking into consideration the above-mentioned report, I have waited with anxious expectation for some act of the House enabling me to attend the progress of the examination upon which they are about to enter, for the purpose of furnishing such information and explanations as might conduce to a right understanding of facts, in which I am so materially implicated. The failure of a proposition, which I am informed was made to the House with that view, has added to my solicitude and regret.

Thus situated, I feel myself called upon to ask of the justice of the House that some mode may be devised, by which it will be put into my power to be present during the course of the intended inquiry, as well to hear the evidence on which the several allegations contained in the report are founded, as to offer the information and explanations to which I have alluded.

To this step I am impelled by a persuasion that an accurate and satisfactory investigation cannot otherwise be had with equal advantage, if at all. And my entire reliance upon the equity and impartiality of the House, will not permit a doubt to exist on my part that such an investigation will be exclusively the object of their desire and pursuit.

I have the honor to be, sir, with the highest respect, your most obedient humble servant,

H. KNOX.

The SPEAKER of the honorable the House of Representatives of the U. S.

Defeat of General St. Clair.

And then the order of the day, that the House do resolve itself into a Committee of the whole House on the report of the committee appointed to inquire into the causes of the failure of the expedition under Major General St. Clair, being taken up—

Mr. MADISON suggested that the most simple, most practicable and consistent plan would be, to

recommit the report of the select committee, and refer the present applications^[44] to the committee to whom the report shall be recommitted. He therefore moved that the Committee of the Whole should be discharged from considering the reports on the causes of the failure of the late expedition.

Mr. SMITH (S. C.) observed that several objections struck him in opposition to this motion. The House must at some period, said he, meet this case; if it is recommitted, there will be an impropriety in referring it to the same committee; if a new committee is appointed, they must begin the whole subject *de novo*; and, if their investigation should take up such a length of time as that of the former committee, the session will be expended, and at the close of it the business will recur on the House, and the same discussion will occur again that is now proposed. He hoped the House would therefore proceed in the consideration of the report, assign two or three days in the week for the purpose, and continue the investigation till the whole is finished.

Mr. GILES replied, that he had no doubt that the vouchers on which the committee had founded the report would appear sufficient to justify the decisions that they had made. He said that he did not suppose that the applicants would adduce any new information; one of them had been called on, he attended the committee, and he supposed that he had furnished all the information he was in possession of. He objected to a recommitment; as one of the committee, he was perfectly satisfied with the report; nor did he conceive there was any additional evidence to be produced, except it was of a recent date.

Mr. AMES said, he perceived such a disinclination to go into the subject as indicated a proper temper of mind in relation to the persons supposed to be in any ways interested in the ultimate decision of the House. He was opposed to a recommitment, as it would procrastinate instead of expediting the inquiry. He adverted to the report. Facts are stated; the public have been left to draw the inferences; the committee have not explicitly criminated any body; but they have determined, in several instances, who is not to blame. What is the situation of those who are implicated in the causes of the failure? Every citizen knows that, in consequence of the issue of the expedition, clamors against the War Department, in respect to Indian affairs, have rung through the Continent. Should public officers, who have been placed in situations of such importance, be silent, and submit calmly to such imputations, they would be unworthy of public confidence, unworthy to breathe the vital air. They now apply for an opportunity to be heard in their own vindication. Shall they be sent to a committee-room, and make their defence against the allegations brought forward to their disadvantage, which have been published to the world, in the hearing of perhaps ten or a dozen persons only? He hoped not—he thought justice to them and to the public required that they should be allowed to make their defence in the face of the world. Will not precluding them look like a wish to smother all further inquiry into the matter?

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Mr. BALDWIN was in favor of recommitting; he said it was the most eligible mode, and was consonant to the practice of the House.

Mr. MADISON remarked that it had been said a disposition was discovered to smother inquiry. In reply he observed that, if he wished to prevent a thorough investigation, he should be in favor of the whole subject being undertaken by the House; because, he observed, that if a select committee of a few members took seven weeks to form an incomplete report, it must appear evident that so large a body as this House could never get through the matter. He further observed, that the same reason existed for referring the residue of the evidence to a select committee as induced the measure in the first instance.

Mr. FITZSIMONS said he was at first in favor of a recommitment, but on further consideration he was convinced the House would be able to get through the subject in a shorter time than a select committee. He added several other reasons which induced him to be in favor of the House proceeding with the report.

Mr. GERRY said it appeared to him that the only question seemed to be, whether the House or the select committee shall establish the facts. If these facts are established by the committee, would it give equal satisfaction as if they were established by the House? He conceived it would not; but, should the result be a conviction on the part of the House that some of the officers are culpable, will the House rest an impeachment on the report of the committee? He conceived the House ought to found their decisions on facts ascertained by themselves. It has been said there is no difference between the House and the committee. If this is the case, does it not imply a censure by the House on certain characters? He thought it did. It therefore becomes the House to discuss the report, that it may be determined on what footing it stands. If, in the case of a contested election, the House revolted from the idea of submitting their judgment to facts substantiated by a committee, the case before us is of unspeakably greater magnitude. For these, and several other reasons, he hoped the report would not be recommitted.

Mr. WILLIAMSON was in favor of the motion for recommitting; he supported his opinion by the uniform practice of the House, which in every case where new evidence was adduced, always provided that the new evidence should be examined by the same committee, who had originally brought in the report. He said if this mode was departed from, we should find no committee would bring forward a state of facts in future. He thought it was not treating the committee with proper candor to decide on their report in its present situation.

Mr. SYLVESTER observed, that the resolution of the House at the close of the last session, that they would take up the subject early in the present session, precluded a recommitment; he was therefore opposed to the motion.

Mr. BOUDINOT was in favor of a recommitment; he said, if there is new evidence to be brought, the

House ought to wait till that is received and reported at the Clerk's table; and this he conceived ought to be done in the usual way, by a select committee; till the whole testimony is completed it appeared to him the House was not prepared to take one step in the matter.

Mr. MADISON replied to Mr. GERRY's allusion to the ease of the contested election. He inquired of him whether the House itself went into an investigation of facts in the first instance? He believed he would not say they did. With respect to the memorials, he inquired, whether, if they had been presented at the time of the investigation of the subject by the select committee, they would not have been referred to the committee? If they would then have been referred, the same reason exists for referring them to a select committee at the present time.

Mr. LAURANCE was of opinion that a recommitment would tend to a saving of time; the committee will not be obliged to go over the same ground again that has already been explored; all they will be obliged to do is, to investigate the new testimony which will be adduced. He hoped, therefore, that the motion would prevail.

Mr. GILES said, that the proceedings of the committee were public, and that the Secretaries could have attended all the time, had they seen proper. They attended but once, and then appeared extremely anxious to get away to attend to their offices. The committee would have been extremely glad to have had those gentlemen present oftener, and to receive all the information they could give, and supposed they had done it.

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Mr. GERRY replied to Mr. MADISON. He said, if gentlemen would recur to the proceedings of the House on the contested election, they will find that the House expressly reserved to itself the right of substantiating the facts, which should appear from an examination of the depositions, taken in conformity to the resolutions of the House; and here he adverted to the mode pointed out by the House in taking those depositions. The adverse party was to be summoned to attend to the taking them; but in this report it appears that *ex parte* evidence has been admitted as the foundation on which some of the decisions have been made.

Mr. MURRAY supported the motion for a recommitment. He observed that the matter, in its present state, was so incomplete that he could not see how the House could proceed upon it. One part of the evidence only is finished, and the report is made on that evidence. Now, we are told new testimony is offered; let the whole be brought into view at once, and then the House will be in a situation to judge.

Mr. PAGE was in favor of a further commitment of the subject; but whether to the committee who made the report, or to a new committee, he should not take upon him to say. With respect to the admission of any head of a department to the bar of this House, except in case of an impeachment, he would never consent to it. It would be a precedent of a most dangerous nature, tending to a destruction of all freedom of inquiry by committees.

Mr. FINDLAY observed, that the committee wished that Mr. Hodgdon should have been present, but he did not make his appearance; the committee therefore proceeded on the testimony they had, and as there is now new evidence brought forward, he thought it was proper that the report should be recommitted. As one of the committee, he should have no objections to such alterations as might appear proper on further and more complete investigation of the matter.

Mr. STEELE called for the reading of a clause in the memorial of the Secretary of War, which states that the committee had drawn conclusions from *ex parte* evidence. This being read, Mr. STEELE remarked on the want of candor towards the committee, which had been shown by some of the members in the course of their observations. He then adverted to the above clause respecting *ex parte* evidence, and observed that, with respect to the Secretary of War, it was not true that the committee had proceeded on *ex parte* evidence; that officer, said he, was notified of the meetings of the committee; he attended those meetings; he furnished the committee with papers and documents, &c.; and further, he was requested to detain officers in town whose testimony was necessary in the matter, and that he complained of some of those officers being detained by the delays of the committee from the recruiting service. With respect to Mr. Hodgdon the same cannot be said, as he was not then in the country.

Mr. STEELE then concluded by some additional remarks on the indelicacy manifested by some gentlemen in their treatment of the committee, and observed that he did not apply it to himself personally, but as it respected the committee at large, he thought proper to express the contempt which he conceived it merited.

Mr. DAYTON replied to Mr. STEELE. He repeated the substance of his original remarks on the report, and added, that in the course of the discussion he should attempt to show that the deductions made in several parts of the report were false. Mr. D. added, that whatever the gentleman last speaking might say, as one of the committee who signed the report, he was certainly implicated in whatever censure it merited.

The question for a recommitment was then agreed to, 30 to 22. And it was accordingly

Resolved, That the Committee of the whole House, to whom was committed the report of the committee appointed to inquire into the causes of the failure of the expedition under Major General St. Clair, be discharged from the consideration thereof; and that the said report, together with the documents relating thereto, including the letter of the Secretary of War, and the memorial of Samuel Hodgdon, be recommitted to Mr. FITZSIMONS, Mr. GILES, Mr. STEELE, Mr. CLARK, and Mr. FINDLAY.

THURSDAY, November 15.

Another member, to wit, THEODORE SEDGWICK, from Massachusetts, appeared, and took his seat in the House.

MONDAY, November 19.

Another member, to wit: JOHN FRANCIS MERCER, from Maryland, appeared, and took his seat in the House.

Protection to American Commerce.

Mr. WILLIAMSON moved that a committee be appointed to prepare and bring in a bill or bills for promoting commerce, by the increase of American seamen. In moving the above, Mr. W. addressed the House as follows:

Measures have already been taken by Congress for increasing the number of our shipping; but no effectual and *general* measure has been adopted for increasing the number of native American seamen. Every gentleman in my hearing knows that there are always a considerable number of foreigners employed on board American vessels; but none of us could have expected, and some of us may not have heard of the injury and insults to which our commerce has been exposed, from having British seamen on board our ships.

A schooner called the David and George, belonging to Portsmouth, in Virginia, and commanded by Captain Goffigan, lately touched at Sierra Leone, on the coast of Africa; she was navigated by eleven persons. Three of that number who had been on shore, informed Captain Wickham who commanded an armed vessel, that they were British subjects. Captain Wickham went on board the American vessel and claimed the three seamen; he also claimed wages for them. Captain Goffigan refused to deliver the men, and declared with truth that nothing was due them. Captain Wickham took the men by force, and by the same regulation he went into the hold, and took as much of the cargo as he thought fit, under the cover of substitute for wages. Captain Goffigan complained of this violence and robbery to Mr. Clarkson, who is Governor of the Province. The Governor replied, that he should have done the same thing, and that *he had orders from his superiors* so to act in such cases.

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The ship Illustrious President, belonging to Virginia, commanded by Captain Butler, touched some time ago at Madeira, on her passage to the East Indies. The British frigate Hyena, commanded by Captain Hargood, lay at that time in the road. Seven of Captain Butler's sailors being British subjects, Captain Hargood sent to take them by force from on board the American ship, and he would have done so, had not the Governor of the Island, remembering what he owed to the honor of his nation and to every ship under his protection, interrupted his authority.

The ship Fame belonging to Philadelphia, commanded by Walter Sims, on her way to the East Indies, lately touched at Table Bay, at the Cape of Good Hope. Captain Blith, who commanded a ship of twenty guns, then lay in the road. One of Captain Sims' sailors, a native of Scotland, offered his service to Captain Blith, calling himself a British subject. That very man in Philadelphia had taken the oath of allegiance to the United States; but the British claim was best, for Captain Blith's ship was strongest. He took the man, sent an officer on board the American ship, who took the liberty of opening the after hatch, searching the hold and looking out a chest and clothes. Captain Blith justified these acts of violence, by saying, that he had *printed instructions* to take all who called themselves British subjects.

These are a few out of the numberless cases in which our ships have been robbed of their seamen, and they are samples of the manner in which we shall be constantly treated, while we depend on foreigners to navigate our ships. If these cases had terminated in threats and abusive language, to which our flag is too much accustomed, it might have been questioned whether the nation of the offending party was to blame. When you are told by one officer and another, that he is instructed to distress our trade, we should, if possible, deprive them of the present excuse. Is it not our business to inquire into the cause of this strange conduct? By a vitiated passion for British goods, we are universally clothed in the manufactures of that nation. Our debts increase every year, and we labor to make her rich, while we are becoming poor. We pour our treasures into her lap more than any other nation under the sun. Observe the rewards! I say nothing about her measures on our Western Frontier; but our trading ships are boarded and plundered at discretion by her ships of war; and yet, Great Britain, whose commerce we cherish, is the only nation that treats us in this manner. Perhaps it is conjectured that Americans are of that species of animals whose favor is increased by rough treatment. Be this as it may, it is our duty to consider of the safest and surest mode of extending our commerce. After we have been told that an American vessel having sailors on board, who chance to have been born in the British dominion, is subject to be deprived of her hands, robbed of her property, and turned adrift without help, it can hardly be necessary to adduce other arguments in favor of native American seamen; but other strong and conclusive arguments in favor of the measure present themselves. The merchants' property in critical situations, or in distant or obscure parts of the world, is always most safe when a ship is navigated by men who uniformly strive to return to their native home, and whose hopes and happiness centre in that country to which their ship belongs. The crew of a French brig some weeks ago, murdered their captain and mate on our coast; that misfortune, in all probability, would not have happened, if the seamen had been natives of France. Two of them only were of that kingdom. Is it necessary to add, that a powerful body of seamen, at some future day, may save us from the vast expense and danger of a standing army? Upon this single argument of native seamen we might rest the question. It needs neither support

nor illustration. I shall, therefore, presume, that it is our duty as soon as possible, to provide for the daily operations of pride or injustice, by furnishing the merchant with seamen, of whom he cannot be robbed, except by open declaration of war—with seamen in whom he can trust—with men, who, actuated by those passions which are inseparable from the human breast, the pride of nation and the love of country, may serve him in every part of the world,—to furnish the nation with a safe and strong bulwark against foreign tyranny and invasion.

I shall now take the liberty of moving that committees may be appointed to bring in bills for the purposes mentioned.

Mr. WILLIAMSON, Mr. LAURANCE, Mr. GOODHUE, Mr. BENJAMIN BOURNE, and Mr. BARNWELL, were appointed to prepare and bring in the same.

THURSDAY, November 22.

Another member, to wit, JOHN MILLEDGE, returned to serve in this House for the State of Georgia in the room of ANTHONY WAYNE, whose seat was declared vacant, appeared, produced his credentials, and took his seat in the House.

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WEDNESDAY, November 28.

Warner Mifflin's Petition.

Mr. STEELE called the attention of the House to the memorial and representation of Warner Mifflin on the subject of Negro slavery. Mr. S. said that after what had passed at New York on this subject, he had hoped the House would have heard no more of it; but, to his surprise, he found the subject was started anew, and had been introduced by a fanatic, who, not content with keeping his own conscience, undertook to become the keeper of the consciences of other men, and in a manner which he deemed not very decent, had intruded his opinions into this House. Had an application been made to him to present such a petition, he thought he should have avoided a compliance with it. Gentlemen in the Northern States do not realize the mischievous consequences which have already resulted from measures of this kind, and if a stop were not put to such proceedings, the Southern States would be compelled to apply to the General Government for their interference. He concluded, by moving "that the paper purporting to be a petition from Warner Mifflin, be returned to him by the Clerk of the House; and that the entry of said petition be expunged from the Journal."

Mr. AMES rose to explain his motives in presenting the petition. He said it was his opinion, which he had expressed to the House long ago, that this Government could not, with propriety, take any steps in the matter referred to in this petition; but, on the general principle that every citizen has a right to petition the Legislature, and to apply to any member to present his request to the House, he had handed it in. The petitioner is a citizen of Delaware; and had the member from that State been in the House, he should not have thought himself obliged to have introduced it; but that gentleman being absent, the petitioner had a right to apply to a member from any other State. He had no idea of supporting the prayer of the petition, his mind having been long made up on the subject. He considered it as totally inexpedient to interfere with the subject, and had uniformly opposed the applications made at a former session of Congress.

Mr. LIVERMORE did not consider the motion in order, the subject not being properly before the House; nor did he believe there was any disposition to bring it forward.

Mr. W. SMITH said he had seconded the motion, with a view of putting it out of the power of any member to call it up when persons might be absent who would find it their duty to oppose it. Mr. S. said he admitted, in its full extent, the right of each citizen to petition for a redress of grievances, and the duty of the House to consider such petitions; but the paper in question is a mere rant and rhapsody of a meddling fanatic, interlarded with texts of Scripture, and concluded with no specific prayer. He observed it was the general practice of Legislative bodies for members presenting petitions to read them, in order to make known their objects, and to have them entered on the journal. In this particular instance the practice might be attended with danger. Citizens of the Southern States learning that papers of this kind meet with countenance here would be alarmed. The gentleman who presented this paper had not, on this occasion, shown his usual regard to Southern interests. Had he stated its dangerous object, the House would undoubtedly have refused its reception. After the proceedings at New York, when a similar application was made, his constituents had a right to expect that the subject would never be stirred again. He would assure the House, that while he continued a member of it, he should never fail to express his abhorrence against all such applications, as they could have none but a mischievous tendency. So far from being calculated to meliorate the condition of the race who were the object of them, they had a tendency to alienate their affections from their masters, and by exciting in them a spirit of restlessness, to render greater severity towards them necessary. He therefore earnestly called on the House to agree to the motion, and thereby convince this enthusiast, and others, that they can never meet countenance in the Legislature of the Union.

The part of the motion directing the petition to be returned by the Clerk was agreed to. The remainder was withdrawn by Mr. STEELE, the mover.

THURSDAY, December 13.

TUESDAY, December 18.

A memorial of the officers, now residing in the State of New York, of the late American Army, in behalf of themselves and their brethren, the soldiers of the said Army, was presented to the House and read, praying that the depreciation which accrued on the certificates of debt granted them in reward for their military services during the late war, may be made good to them, or such other relief afforded them as the present circumstances of the United States will admit. Also, a memorial of the Pennsylvania line of the late Army, to the same effect.

Ordered, That the said memorials do lie on the table.

THURSDAY, December 27.

The SPEAKER laid before the House a letter from the Secretary of War, accompanying a statement of the present organization of the troops; also, Returns of the commissioned officers, non-commissioned officers, and privates, in the service of the United States; which were read, and ordered to lie on the table.

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FRIDAY, December 28.

A memorial of the officers and soldiers of the late New Hampshire line of the Continental Army was presented to the House and read, praying that the depreciation which accrued on the certificates of debt granted them in reward for their military services during the late war may be made good to them, or such other relief afforded them as the present circumstances of the United States will admit; which was laid on the table.

Reduction of the Army.

Mr. STEELE called up his resolution laid on the table some days ago, as follows:

"Resolved, That a committee be appointed to prepare and bring in a bill to reduce the military establishment of the United States to — regiments or corps, consisting each of — non-commissioned officers, privates and musicians, with such proportion of commissioned officers as the PRESIDENT may think proper to continue in service; and to repeal so much of an act, passed the fifth of March, one thousand seven hundred and ninety-two, entitled 'An act for making farther and more effectual provision for the protection of the frontiers of the United States,' as may contravene this intention."

Mr. STEELE, in proposing the above resolution, said, the situation of the frontiers, and the inefficiency of the measures adopted through the medium of the War Department, to relieve them; the extreme burdens which those measures were heaping on the people, and the probability of their continuance, afforded ample scope for inquiry; and to sit silent on such an occasion, he thought, would be to partake of and support the errors from which those misfortunes may have arisen. The citizens of the United States, he said, were of a peaceable and patient disposition, and they have with cheerfulness acquiesced in the measures of the National Legislature; but they were not become so tame as to submit to immense and fruitless expenses, and the disgrace of their military character, to answer any vain projects of folly and ambition, without a prospect of guaranteeing a peace. Is it not evident, said he, that plans have been persevered in without regard to common sense, by an unnecessary increase of our army, until the indignation of the whole continent has been roused up against it?

To elucidate this position, Mr. S. recited the expenses, charges, and increase of the War Department from its first establishment under the present Government, to its present enormous demands, which for the year 1793, are no less, agreeably to the estimate furnished by the Secretary of the Treasury, than \$1,171,719;^[45] more than double the sum necessary for the support of all the other branches of the National Government. The better to illustrate this subject of the Indian war, he entered into comparative statements of the years 1790, '91, '92, and '93; and, animadverting on the different items of calculation, he asserted, in strong terms, that they exceeded every thing that the history of the Indian wars afforded for twenty years back; he wished any gentleman to enter into an investigation and comparison of the alarming increase of the expenses of the department, and to take a retrospect of the subject for twenty years back; and he was certain neither the Secretary of War nor any other person could account rationally for the occasion of such an establishment. There was no precedent to be found in any of the States; not one of them has a War Department; neither was it contemplated in the Constitution of the United States. Yet it has, in the short space of three or four years, been imposing on the country burdens which the people have at length expressed their abhorrence of; it has been increased from \$137,000 in 1789, to the extravagant demand now required, of \$1,171,719 and \$50,000 contingencies for the support of 1793. This is so alarming an increase, that it calls loudly for reformation, or the entire abolition of the department, and that another system shall be adopted for the protection of the frontiers. Armies of regulars will never afford protection; they have never answered any good purpose against the Indians from the time of Braddock's defeat down to that of Major General St. Clair, although this last-mentioned unfortunate expedition cost the United States an immense sum of money, and the lives of a great number of valuable officers and

citizens. History and the experience of ages have proved this fact, that unwieldy armies will never be able to fight the savages in the wilderness; indeed, the Secretary of War confesses the fact in one of his reports, which Mr. S. read, wherein the Secretary accounts for the ill success of the plans, by observing, "that it was owing to the extreme activity of the enemy and our ignorance of the wilderness through which our troops had to march." But the Secretary might have also added, our entire ignorance of the mode of carrying on the war.

Here Mr. S. took occasion to observe, that this alarmingly expensive and useless department had crept upon the country entirely from our fondness for taking up money on loans; for had it not been that the money was thus obtained with a sort of facility that was not directly felt by the people, they never would have consented to be directly taxed to support the parade of so unnecessary an establishment. This is my reason for being an enemy to loans; they deceive citizens, and lull them for a time, in order to levy double contributions afterwards.

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But it may be demanded, how are the frontiers to be protected, if the army was disbanded? In reply to this Mr. S. said he wished that the former two regiments might be retained to garrison the forts, and that a militia near the scene of action should be raised, who would be able to make five expeditions against the savages in a year, if necessary, instead of one solitary fruitless attempt, which, upon an average, is as much as a regular army can do; and sometimes not so much, for it does not appear that any expedition took place during the last twelve months: moreover, it is not so easy for the Indians to discover the plans and approaches of militia, as they do the slow motions of an unwieldy army, dragging their heavy artillery through the woods. The fact is, that the Indians have the best intelligence and know every motion of the army, and they can even calculate the time and place to meet them, and the numbers of their tribes that will be necessary to receive such a force; they will always be prepared when a regular army are to march against them. But if the business be left to a militia of the frontier inhabitants, who know the country, and have their property at stake, it would not cost the Government one-fourth part of the expense to give a complete protection, and to repel all the depredations of the savages, if that be our intention. If it be the protection and happiness of our brethren on the frontiers—if we are serious to check the progress of expense, the motion which I have brought forward will be the most effectual means, and to establish a proper Militia System. On this motion, therefore, will depend the question, whether we are to continue a fruitless warfare in the present mode for seven or ten years, or shall we adopt a better system, which will not cost one-fourth of the expense, and which would completely check the Indians; nay, it would entirely exterminate them, if that was thought to be necessary.

In order to bring the matter to a point, Mr. S. suggested, that it would be proper to disband all the troops except the two former regiments of two thousand one hundred and twenty-eight men, which would be more than sufficient to garrison all the fourteen posts on the frontier. These, with a militia, under proper regulations, and the officers appointed by the PRESIDENT, would be found a more certain protection. The garrisons are at Fayette, Hamilton, Steuben, Knox, Tammany, Telfair, Harmar, Franklin, Jefferson, St. Clair, Marietta, Massachusetts, Matthews, and Knoxville. Most of these are commanded by captains, except two that are commanded by majors: now, reducing the establishment to two thousand one hundred and eighteen non-commissioned and privates, and average them amongst the garrisons, it will give one hundred and fifty-two men for each; the sum saved by this reduction would be six hundred and twenty-four thousand six hundred and seven dollars—the difference between the appropriations for 1792 and those required for 1793.

With regard to the expense that would be incurred from militia expeditions, none of them would cost above thirty thousand dollars; and four or five of those, if made in a year, would have ten times the success and effect that could be expected from the present system. Had the militia plan been adopted, we should not at this day hear such murmurs from our constituents, nor would the people be saddled with heavy taxes and imposts; but, on the contrary, the money that has been actually wasted would have sunk a considerable part of our National Debt. But by the system of warfare lately adopted of dragging heavy cannon and camps into a wilderness, of which we have confessed our ignorance, if it be allowed any longer, our Treasury will be exhausted, and the public revenues which the Secretary of the Treasury reported as affording a prospect of income beyond the permanent wants of Government, will not all together be sufficient for our War Establishment; we must fly to loans, and pursue a system of ruin and distress to the country. Under these impressions, said Mr. S., I have introduced the proposition now before the House; and I entreat gentlemen to think seriously of it, for thereon, in a high degree, will depend the real protection of our frontier, the safety of our garrisons, and the ultimate ease, happiness, and tranquillity of the continent.

Mr. HARTLEY, although he did not wish to advocate the continuance of a standing army, yet he was averse to disbanding the troops at present, while it is known that a negotiation for a peace is going forward, and may not perhaps be brought to a decision before the spring. It is a well-known maxim in politics, that a peace can always be easiest obtained by a nation which is prepared for war. He noticed the great prudence and economy of the PRESIDENT in forming the army into a legion; and he differed in opinion with Mr. STEELE respecting the insufficiency of regular troops. No instance could be quoted where regulars had engaged the Indians without beating them.

Mr. PARKER said he had always abhorred the idea of keeping up standing armies in this country; and he believed he could from experience demonstrate that it was an unwise measure at the commencement of the present Government; for it answered no better purpose than throwing out a hint to the British and Spanish Governments, on our Northern and Southern frontiers, to increase their forces, and even to administer countenance and support to the Indians, which they

never would have thought of doing, but for our vain attempt at military parade. He mentioned a letter which had been written by Lord Dorchester to the Indians, informing them "that Prince Edward had arrived with a number of chosen warriors to protect them," meaning against the United States.

Thus, said Mr. P., we have been warring with our finances for the last three years, by keeping up an army in imitation of European plans, which are formed in countries altogether unanalogous to America in every possible view. The consequences have been unsuccessful, and produced military disgraces, by sending into the field a collection of beings, collected from stews and brothels and from the most unprincipled of their species, to fight against Indians well supported on both sides, and fighting, as they do, for their property, their hunting ground, their wives, and children, instead of calling forth the militia, the natural strength of the country. But the present plan has involved us in such difficulties that we are not now able to provide for the payment of our debts, without the medium of loans; nay, we are now called on for a small sum of two hundred thousand dollars at the bank, which would have been easily paid out of the surplus in the Treasury, were it not that our finances have been exhausted by those ill-judged expeditions under General Harmer and General St. Clair. He mentioned the naked, starved appearance of the men who were sent out—with shoes that would not last three days, clothes that did not half cover their miserable bodies from the inclemency of the weather, and food sometimes not fit for dogs. He could mention the particulars, if required, of some other very abominable abuses, but refrained from it at present. He concluded by expressing the same opinion of militia that Mr. S. had done; and, with regard to the starved soldiery who had appeared in the woods, they were despised so much by the Indians, that they called them Coatmen, and shot them down like wild turkeys.

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Mr. FITZSIMONS was apprehensive that it would be a dangerous experiment, so suddenly to alter the system of defence already adopted. He remarked, that when Mr. STEELE had stated the War Department to have cost the United States three million five hundred and forty thousand dollars, he had committed a great mistake, for there was one million one hundred and seventy-one thousand dollars of that sum not yet granted. [Mr. STEELE explained, that he had gone by the estimates for the appropriations proposed, &c.] Mr. FITZSIMONS did not wish to advocate a standing army; and if any better mode of defence for the frontiers could be digested, he would be amongst the foremost who would agree to it.

Mr. WHITE could not entirely approve of the motion for striking out, unless a proper substitute for defence was fairly brought forward.

Mr. WILLIAMSON said, it was not disbanding an army of men, but the disbanding an army of paper, that he conceived to be the object of the motion, and it should have his support. He mentioned an affair between ninety militia and two hundred and forty Indians, wherein the militia *received* them much better than any of the regulars could boast of having done!

Mr. SMITH (of South Carolina) reverted to a clause in the law which empowers the PRESIDENT either to raise those three additional regiments, or to forbear to raise them, or discharge them, &c., provided he thought it consistent with the safety of the country. From this Mr. S. said it was evident there was a sort of indelicacy in the motion, as it implies a doubt that the PRESIDENT might fail in this instance, or vary from his usual line of prudence.

Mr. DAYTON said, he would vote for referring the motion to a Committee of the Whole, although he disapproved of it. He should not have risen had he not heard from the two North Carolina members the strangest perversion of argument and the most extraordinary reasoning. The gentleman who has brought forward the motion, said Mr. D., has decried every idea of energy and efficacy in regular disciplined troops considering them not only inefficient, but contemptible, when employed against Indians; and, to confirm this assertion, he has instanced the expedition under General St. Clair, when it is well known that there were not, in fact, two companies of regular disciplined infantry among them. The other gentleman (Mr. WILLIAMSON) has extravagantly commended the back-country militia, and extolled them for their efficiency and success in Indian warfare; and instances the affair of a rencontre between Major Adair, with ninety militia, against two hundred and forty Indians. In reply to this, Mr. D. felt himself compelled to remark, that that affair did not appear so successful in his mind; for those very militia were unquestionably surprised and beaten, inasmuch as they were driven into a corner, until the Indians captured all their horses and other property in their camp; and what is still more disgraceful, one half of the Major's party deserted him at the commencement of the action, and secured themselves within their garrison.

Whilst he was up, Mr. D. would further observe on the extraordinary speech of the mover of the question, that it was such as no person could have ever expected to hear within the walls of that House. It seemed to be calculated to prejudice the minds of the people against the whole Administration; and it appeared still the more extraordinary that such a speech should come from a gentleman who so lately expressed the nicest delicacy in matters of order and decency; for, in this instance, he has committed the greatest breach of decorum and propriety, by a direct censure of the Secretary of War, the PRESIDENT, and both Houses of the Legislature. [Here several members called Mr. DAYTON to order.] He proceeded, however, and appealed to the House, whether he had not drawn a just picture of the expressions of the gentleman from North Carolina. The very calculations which he has so laboriously produced have been questioned by other members. In regard to the surprise expressed by the gentleman at the increase of the War Department from 1791 to '92 and '93, it was not so strange that five thousand men would require greater supplies than two thousand. Yet the gentleman is surprised at the increase of expense, and seems to imply that abuses have been committed; but if an increase of expense for protecting

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the frontiers has accrued, the censure ought to fall on the Legislature for directing it by their laws, and not upon the Executive, who are merely the instruments for carrying them into effect.

Upon the whole, Mr. D., however he might himself be in favor of a reduction of the army, if it stood simply on its own merits, yet, as it now struck him, it being connected with some recent circumstances, he would therefore oppose it as tending only to embarrass the Executive in their attempts towards a pacification. Moreover, he said he knew the temper of Indians so well, by having lived amongst them, that there was not a nation on earth more extravagant in their demands, when they saw the force against them was lessening. So that what is intended by the motion for reduction at present, as economical, may turn out to be, in the end, the most expensive of any.

Mr. WADSWORTH was also against the motion; and Mr. AMES closed the debate by a few observations on the necessity of committing to a Committee of the Whole, as there would be no other way of answering the industrious calculations of the mover.

The question on committal was carried, and made the order of the day for next Wednesday.

WEDNESDAY, January 2.

Military Establishment.

The House resolved itself into a Committee of the whole House on the motion of the 28th ultimo, for reducing the Military Establishment of the United States.

Mr. WADSWORTH rose and observed, that he had pledged himself to the House last Friday to show that the calculations of the gentleman from North Carolina were not true; and, if true, that the inferences drawn from them were not correct. There was a material difference (he said) between the appropriations quoted by the gentleman and those which he would now read to the House. Here he read a statement which he had prepared, from which it would appear that Mr. STEELE had overrated the contingencies, hospitals, quartermasters, forage, cavalry, ordnance, pay, and subsistence, each of them.

The total difference between Mr. STEELE'S and Mr. WADSWORTH'S calculations, from this representation, was \$27,080 in the year 1790.

In like manner, Mr. W. read his calculations for 1791. On comparing which with those of Mr. STEELE, he said there was a difference in the total of \$252,312; and in the total of 1792, he showed a difference of \$567,530. He also particularly objected to Mr. STEELE'S statements of the ordnance expense for 1793, which had been called \$23,000; but that sum, although it comes under the head of ordnance in the estimate, is not altogether appropriated for the purchase of cannon; the whole amount of the expense of cannon, he said, had been very trifling—about \$700 or \$800. Having proceeded thus far in attempting to controvert the calculations of the gentleman from North Carolina, Mr. W. said, it would indeed have been an alarming thing to the United States, had they been founded in reality. But the gentleman had not confined himself to misstatements—he had gone further; for he had "lamented the necessity of quoting even truths from that office"—the War Office. Here Mr. W. stated that the quotation which Mr. STEELE had made from a report of the Secretary of War had not been correctly quoted. After Mr. W. had thus represented Mr. STEELE'S calculations as erroneous, and his quotations as misstated, he said that the House ought to beware of not being led astray by them. He next observed, that the gentleman had laid a great deal of blame of the present hostilities between the United States and the Indians, and the expense attending them, to the War Department. But Mr. W. conceived that there were other causes to be assigned for the Indian war. There had never been a day, from the first settlement of America to the present moment, without our being at war with the Indians, in one place or another. The history of the country, the resolves of the old Congress, every book published by Congress, show this to have been the case. [Here he read some quotations from the resolves of 1784, to show the appropriations for defraying the expenses of Indian wars.] He wished the House to take a retrospect of the subject, from the beginning of those troubles down to the late application for assistance from the National Government by the Governor of Georgia. Although they have three thousand men on the frontier of that State, yet it is not found sufficient, and the Indians have driven them in. Indeed, there has been a time when the town of Savannah has been obliged to keep a guard.

It was not his intention to introduce commendations of the officer at the head of the War Department, but he thought it proper to observe, that he is not to be blamed on account of the expenses referred to. He is no more than an instrument acting under the Supreme Executive. It is the PRESIDENT OF THE UNITED STATES who has found it necessary and proper to recommend the establishment of a military force. It is, therefore, not the Secretary's, it is the PRESIDENT'S war; and to assert that the Secretary has had any undue influence with the Legislature, would be altogether false; for, on the contrary, his reports have been treated with disrespect in this House. Was not his report at New York ridiculed, and called "preaching," &c., because it was in favor of peace, and spoke with great humanity respecting the hardships often inflicted by the whites on the Indians? Indeed, the Secretary of War has been uniform in his endeavors to bring about a durable peace. This, however desirable an object, has been found hitherto impracticable, and the Indians have lately carried their depredations to so great a length that the PRESIDENT has judged it necessary to repel them by force. They have murdered in cold blood our ambassadors of peace, whilst holding a flag of truce in one hand and reaching the other out in friendship to the Indians. Perhaps they may have been excited to this degree of barbarity by many causes. It is hard to

determine which are the greatest aggressors—the settlers on the frontiers or the Indians. The murder of the Moravian Indians, the proclamation of Congress against our own people, all show that the Indians have ground for complaint.

Here Mr. W. recapitulated the affairs of the banditti at Fort St. Vincennes; the representations of Judge Innis, of Kentucky, from 1783 to 1790, respecting the people there who could not be restrained from the commission of crimes against the peace of the country. From these causes and the common fatality of the times, our attempts towards peace have proved abortive, and the war has been prolonged, but the Secretary is entirely innocent of promoting it.

In regard to the other arguments of the gentleman (Mr. STEELE) respecting the militia, that they would afford either a cheaper or better defence for the frontiers, he had his doubts.

Mr. W. now went over the whole history of the frontier wars; a line of posts was once established and garrisoned by militia, yet they could not prevent the Indians from coming within sixty miles of Winchester, and murdering, scalping and plundering the women and children. After the peace of 1762, the Indians drove in the militia, and advanced as far as Cumberland and Carlisle, in the State of Pennsylvania.

But Colonel Boquet, with the remains of two regiments of regular troops, who had just before arrived from the West Indies, marched against the savages, and hired pack-horses to carry some of his sick men. With these regulars, Colonel Boquet fought them and drove them with the bayonet from one end of the country to the other. The battle began at one o'clock the first day and lasted until night, and was renewed the next morning with superior force by the Indians; yet they were entirely discomfited. This news went to Fort Pitt and Virginia, and revived the spirits of the country. Virginia raised more troops—and Colonel Boquet dictated a peace to the savages.

These instances furnished sufficient arguments to show the superiority of regular troops over militia. But he could mention many others, viz: General Hartman, with eight hundred chosen men, giving a total defeat to the Indians; Colonel Willet's attack and defeat of them; and General Sullivan's affair in South Carolina.

As to the defeat of Harmer and St. Clair, their men ought not to be reckoned regular troops. They were raw recruits, undisciplined, &c. But even they stood better than the militia; for the militia ran away, and those who remained to fight the savages fell, to their honor be it spoken, whilst the militia, who were the advanced guard, ran and threw away their guns, nay, their coats.

Upon the whole, the balance of argument, Mr. W. thought, must appear in favor of regular troops.

He further took occasion to animadvert on what Mr. WILLIAMSON had said, when that gentleman expressed himself so strongly in favor of the militia under Major Adair. That officer, Mr. W. observed, had been a Continental officer, and from his own words, it appeared that he had no very great opinion of the militia, for they had fled to the garrison; and the Indians obtained their ends, notwithstanding the *reception* given by Major Adair. Theirs was the triumph, and when they retired, it seems to have been not so much a matter of necessity, as a thing of choice, on their part. The loss of horses, one hundred, perhaps, and the expense of this affair, amounted to a much greater sum than any regular troops would have cost. The party under Major Adair, supposing it to consist of a hundred men, cost one hundred dollars a day, reckoning the attendant circumstances—and considering it, as Mr. W. did, a complete defeat—for there are no circumstances to prove that it was otherwise—the militia having deserted him and left the few regulars he had exposed to the whole of the danger.

Mr. W. did not stop here in his details of military disgraces—he recounted many other cases. He mentioned the Grant's expedition against the Cherokees, &c. And still he drew a balance against the successes of the militia; for, he said, they had constantly been defeated, and the country left exposed to the depredations of the enemy.

Much has been said, observed Mr. W., of Clark and Sevier's successes. They, indeed, afford an exception to the cases above mentioned; but how far were they successful? The immense expense of men and money, and the interruption given to the agriculture of the country by calling away from their business so many industrious citizens, is a thing beyond the power of calculation; for my part, said he, I do not know figures enough to count it up. For the truth of this position, and for the enormous waste and expense incurred by militia, he appealed to one of the members (Col. PARKER) on the other side of the House, who had experience in the matter, whether it was not absolutely impossible either to bring militia under a proper discipline, or prevent their enormous waste. A whole brigade of regular troops would not cost so much as one regiment of militia to a country. The militia of Kentucky have cost more blood and wealth than all the American war; when the circumstances are considered of calling out men from the tillage of the field, &c. It is enormous the number of lives, and the aggregate loss is countless. The causes of these things are, want of order and discipline, &c. And those causes have produced a *universal reprobation of the war establishment*; but all those who condemn are not well acquainted with those causes; they judge from hearing only one-half of the truth in our newspapers. It is supposed a peace can be easily effected, but I know of no peace that has not been effected by force; for, although promises have been made and peace often treated for with the Indians, yet they have as constantly broken those promises. This is a good reason for keeping up the present force of the United States. We are now able to meet the Indians and demand a safe peace. But the gentleman from North Carolina calls our establishment a mere military parade, which, it is said by another gentleman, (Mr. PARKER,) will only tend to rouse the Spaniards and the British, &c.

He went on quoting the conduct of the Indians and their threatening manner, when they told you,

"go to your own side of the Ohio," &c. What language do they now hold out? But I am not at liberty, said Mr. W., to mention it, as it was confidentially communicated to this House, and read with our doors shut. However, it is well known to all the members present the insolence of that language. For my part, I have little hopes of a peace from any promises of the Indians; and although a negotiation is said to be upon the carpet, I can never depend upon the promises of savages who have so often broken them.

In speaking of the recruits that have been lately raised for the regular army, Mr. W. opposed his opinion to that of Mr. PARKER, who mentioned them in such contemptible terms as having been collected from the stews and brothels of the cities, &c. For his part, Mr. W. had often seen them, and he believed they were equal, if not superior in spirit and appearance, to most of the soldiery during the British war, and better than the soldiery were at the close of the war, with some exceptions, such as respects the men who cost £300 each. Before he could quit the subject, he begged leave to mention another instance of the efficacy of regular troops; it was the affair of General Wayne's surprise, when the light-horse dismounted, and cut the militia to pieces, and the infantry drove them off at the point of the bayonet.

He ridiculed the idea of calling out a militia upon every emergency. Where are they to be formed? In Pennsylvania it would be attended with a tenfold loss, if they must quit their daily labor. He would admit that the character of the Kentucky militia had been brave and intrepid; but there was still occasion for a new war, and no ultimate protection afforded to the frontier.

The Governor of North Carolina had complained of a friendly Indian being murdered, &c. On the whole, he thought it improper to take militia to fight Indian warriors. He admitted that some abuses might have been practised in the regular army, but they were as little, if not less, than in any other army he could remember.

He insisted that the scheme of the Department of War was not a scheme of the Secretary, but a scheme of the United States from the PRESIDENT down to the members of the Legislature, and the meanest of their constituents. He took a retrospect of the great skill of the PRESIDENT after Braddock's defeat. The PRESIDENT must be the best judge of the disposition of Indians, and the best way of treating with them; he approves the scheme of the present war, and shall we imprudently attempt to change his plan, by sending out a few men to be knocked on the head by the Indians, as those *coat* men were? so called by the gentleman from Virginia, (Mr. PARKER,) but instead of coat men, he, Mr. W. thought they might also have been called petty-coat men, &c. He finished his observations by again remarking, that the calculations of the gentleman (Mr. STEELE) who had introduced the motion for reducing the present war establishments were founded in error and ought not to have any weight with the House.

Mr. STEELE.—When the House have deliberated upon the merits of the gentleman's arguments, and the truth of my statements; and when they have decided the question, I will submit to their decision; but, in the mean time, I insist that my calculations are founded on the reports of the Secretary and the public printed documents on the table, of the appropriations and laws, &c. I wish the gentleman (Mr. WADSWORTH) had told us where he has found those papers, from which he attempts to controvert such authentic documents as I have quoted. I wish he had made the House understand them; for my part they appear unintelligible.

Mr. WADSWORTH said it was from the laws.

Mr. STEELE explained some things in his former statements; and in reply to some suggestions that might be thrown out with respect to his indelicate mode of attacking the Secretary of War, or the PRESIDENT, he defied any member to show that he had acted beyond the line of his duty, or that he had ever shown any disrespect towards the PRESIDENT. On the contrary, he was of opinion that that gentleman's character would for ever be secured against all the possible attacks of ingratitude or malice, &c. He also used some other very handsome expressions on this occasion. But whilst he was ready to declare these things, and to prove that he had no personal intentions of injuring the Secretary of War, yet, he would not suffer himself to be deprived of his privilege, whilst he had the honor of a seat in that House; and, in the present instance, he thought it his duty to hold up his opposition against the rapid increase of expenses in all the Departments of Government, which he said were grown to an enormous burden upon the people, and unwarranted by the constitution; that they therefore ought to be immediately checked. He hoped, for the future, gentlemen would confine their arguments to measures, and not apply them to persons. He sat down, for the present, with this proviso: that he would reserve to himself the right of answering to what might be advanced against his proposition, which he could prove to be salutary; and that the present system is fundamentally wrong.

Mr. HARTLEY was against adopting the motion under the present circumstances of the country, and he entered into a particular investigation of the merits of the question. When the last law for the more effectual protection of the frontiers passed, the subject now under consideration was very fully and ably discussed, and the gentlemen who were averse to the augmentation, had several alterations made to satisfy them.

Instead of the PRESIDENT's being obliged to raise the whole of the three regiments, he was to exercise his discretion either to make the augmentation complete, or raise a part, and he had authority to disband them after being raised.

The 12th section of that law is thus expressed: "It shall be lawful for the PRESIDENT OF THE UNITED STATES to forbear to raise, or to disband after they shall be raised, the whole or any part of the said three additional regiments, in case events shall in his judgment render his so doing consistent with the public safety."

We should therefore consider whether circumstances have so materially changed since that time as to render it proper that the Legislature should interfere, repeal the powers given to the PRESIDENT, and discharge the three regiments. This necessarily leads us first to view the situation of our finances, and the state of the frontiers at and immediately before the time of passing the law. The extent of our revenue was not as well known then as at present, and every good man deprecated the misfortune which obliged him to increase the taxes. The war was a disagreeable one, but necessary, if peace could not otherwise be obtained. The Legislature considered the expense, and were of opinion that we had means and abilities to defray the same. Many murders and ravages had been committed by the savages on the frontiers. One army had suffered in the year 1790, and nearly a whole army cut off on the 4th of November, 1791. And we had every reason to suppose that the Indians would act in great force against us. Our finances are still respectable. It is true, I should be happy if we could apply the money towards discharging the national debt already contracted, but the unfortunate situation of our frontiers prevent it. War, though an evil, may (from the present disposition of the world) be sometimes necessary, when nations are unreasonable and justice cannot be otherwise obtained. Hostilities have lately been committed on our troops commanded by Major Adair, and several of the Southern tribes show themselves inimical, and we have no absolute assurances that we shall have peace in the spring. The agreement by some tribes to a suspension of hostilities, was only convenient to them as it protected their families for the winter.

The great object of the additional armament was to obtain peace: this is not yet effected. May we promise ourselves more success in negotiation by laying down our arms, or by retaining them? History is in favor of the latter. Indeed, I hold it as a maxim, that the nation which is prepared for war can most easily obtain peace. For my own part, I can discover no existing causes for altering the system established by the act to which I have before referred. The expense has been made a very serious objection. It ought to have weight; but where measures have been proper, America has not regarded it. She has freely expended her treasure to support her rights. We are bound in justice and honor to protect our fellow-citizens on the frontiers; we demand from them an excise. They require from the General Government protection. I am for making peace with all the Indians upon reasonable terms; but any country which has been fairly purchased from the Indians, they should not be permitted to repossess or hold by conquest. If an offensive war be necessary says the gentleman from North Carolina, regular troops are not the most proper to carry it on. They are more expensive, and unfit to meet the savages of the wilderness. As to the expense, I have partly answered before. But if the gentleman is to have five expeditions in one year, I believe he would find that his calculations are not correct: a misfortune to either detachments or party would bear very hard upon the district they came from; the partial loss of regulars would not be equally felt, very few of them having families.

I have a high opinion of the backwoods riflemen, but I am confident that we cannot certainly rely upon their turning out as often as they might be wanted; we could not rely on such uncertainty; and yet this is offered as a favorite project. If you cannot rely upon them, you may say that the ordinary militia can be drafted. You would find them unfit for such a service; they would in general be composed of substitutes, inexperienced and undisciplined, and it would be unfair to take them all from the frontiers, and some of the States, or at least one, have no militia laws. I am for retaining the regular troops.

The PRESIDENT has practised economy in organizing the troops voted for, and I am told they have made considerable progress in discipline; they are formed into legionary corps, composed of horse, riflemen, light-infantry, and battalion-men. The three former will be fit for active service in the field, the latter for the common duties in the camp or garrison. I will allow volunteers and militia their full credit; but I do not think the regular troops merit the disparagement attempted. Volunteer corps have not been free from misfortunes. Colonel Crawford, at the head of five hundred volunteers from Virginia and Pennsylvania, was defeated in the Western country, and he was burnt at the stake. General Braddock, it is said, was obstinate, and his European troops were undisciplined for such a service. The army under General St. Clair was lost, because the men were undisciplined and unfitted for that service. I can mention several instances where regular troops have successfully penetrated the Indian country, among warlike tribes, with success: Colonel Montgomery, into the Cherokees; Colonel Armstrong to the Kittaning; Colonel Boquet's campaign of 1763, and 1764. Three detachments of the American army, in the year 1778, (one under the command of General Broadhead, one under Lieutenant Colonel Butler, and the last commanded by your humble servant,) penetrated the country possessed by the Six Nations. Neither of the detachments was large, and the last had to contend against superior numbers. In General Sullivan's campaign, the year following, his vanguard beat an equal, if not a superior number of Indians. I might mention the Roman legions; they almost constantly were successful against those they called Barbarians, until their enemies adopted the Roman discipline. I have a high opinion of the personal bravery and prowess of an Indian, but I do deny that they can act to the best advantage in large bodies. They have not an experience of that kind; disciplined troops would have the advantage. I reprobate the idea of a standing army, which might endanger the liberty of this country; but I consider the troops contemplated in the act of Congress to be absolutely necessary, until peace shall be obtained, and therefore shall vote against a reduction. Every step has been taken, and I dare say will be taken, by the PRESIDENT, to procure a peace without bloodshed. Our messengers of peace have, in some places, been murdered, and yet he has sent messengers to others.

Mr. CLARK.—One would suppose from the style of the debate, that we were going to abandon the frontiers, the safety of the country, &c., and to disband the whole of the army: for, the arguments of those gentlemen who are opposed to the motion seem to be calculated to mislead the House in

that way, and to prove that the question under consideration is for reducing the whole of the troops now existing. But this is so far from being the true state of the matter, that it is not even contemplated to disband a single man of them; it only goes to the prevention of raising any more troops, which perhaps would be the safest policy under the present circumstances and temper of the United States. There are about three thousand three hundred effective men already raised, who are sufficient to garrison the forts on the frontier, agreeably to the gentleman's statement who introduced the motion; and, indeed, it seems as if they were fully competent, if we believe the report that the whole of the Indian force, at the time of meeting General St. Clair, and when they exerted themselves to the utmost, was but one thousand two hundred warriors.

Mr. C. made some further remarks on the sentiments which had been expressed by the gentleman last up; and, in speaking of the discretionary powers vested in the PRESIDENT, he was of opinion that the situation of the Chief Magistrate in this respect was extremely delicate: for, supposing he might be inclined to stop the recruiting service, and reduce the war establishment; and supposing the frontiers to be again harassed, it might be charged to him for not having kept up the legal complement of men. Under this impression, Mr. C. wished that some way could be adopted of conveying to the PRESIDENT the sentiments of the Legislature on this subject, without the tedious form of a law.

Mr. PARKER.—The gentleman from Pennsylvania (Mr. HARTLEY) has been reading a section of the law, to inform us of the discretionary powers vested in the PRESIDENT, which we have heard from other members before he rose, and which we all knew as well as himself. I am sorry to hear gentlemen, when they have no other resource of argument left, so often resorting to the name of the PRESIDENT, to carry their measures; and yet, in the present instance, I much doubt whether those sentiments are avowed by the PRESIDENT, which have been laid to his charge in the course of this debate: however, if they were really so, this is not a sufficient reason to silence me, or to prevent me from delivering my own sentiments, and those of my constituents who sent me here to do so. He vindicated the character of the militia, in opposition to the disgraceful picture which Mr. WADSWORTH had painted of this respectable class of citizens, whom he (Mr. P.) insisted were always more spirited soldiery, and fitter for fighting the Indians than the regulars, although they did not always move at the sound of a trumpet or beat of a drum, which were necessary to rouse the attention of heart-broken, mercenary troops, who seldom act but from force, or fear of the whipping-post. Militia were not so well acquainted with military show, or the display of columns; neither did the PRESIDENT OF THE UNITED STATES, when acting Major of a regiment little better than militia, find that the doctrine of tactics was of any great service to him.

Mr. P. further mentioned, that the forerunners of General Burgoyne's army were taken by General Stark's militia near Bennington; and the capture of the whole of Burgoyne's army was chiefly brought about by militia, as General Lincoln had very few regular troops at the time of his surrender. In short, the militia bore a conspicuous share of almost every engagement during the war. At Trenton, the men who took the Hessians were little other than militia, as they had been raised but a short time before. Mr. P. could vouch for them, as he was a witness of their activity and bravery. Another instance offered of their success at Charleston, after it was taken by the British and the regulars drove off; the militia kept possession of the country and supported themselves. He also remembered having been called away from the regular army in the North to take the command of some militia in Virginia, who supported themselves for twelve months without either pay or provisions from the United States; and yet they were never once defeated or disgraced, neither did they leave the country unprotected and exposed; and all they received for their services was certificates which necessity obliged them to alienate at three shillings in the pound to persons who are now in possession of them drawing an annual interest of nearly as much, and who never perhaps had a good wish toward the Revolution. He next quoted the militia under Colonel Mercer, at Yorktown, who were successful in a skirmish with the enemy under Tarleton. These and several other arguments in favor of the militia, whom he still maintained to be the best security of a country, were used by Mr. P. He would not advocate the raising them from all parts of the United States, but only in such places as the safety of the frontiers required it most: they were not, to be sure, accustomed to the display of the column, &c., but they knew how to take the Indians in a proper way through the woods.

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It gave him pain to hear the character of the militia so much traduced, and it also was a painful reflection to think of the two disgraceful defeats of our armies under Generals Harmar and St. Clair; indeed, it would have a strange appearance to the world, to think that this country is inhabited by the same men who lived in 1776. He repeated what he had before asserted, that most of the present regulars were collected from the stews and brothels of the cities, and had none of the spirit or principles of the honest yeomanry, who composed the militia during former wars, when every man turned out impressed with a good cause.

It was not, he said, his desire to criminate any individual in office, although he would maintain his right of expressing his opinion on that floor, so long as he held a seat in the House. But with regard to myself, said he, I am not disposed to pour incense into any man's cup; I respect the PRESIDENT as much as any man, and think him incapable of doing wrong, at least on those principles that foreign despots are supposed to do no wrong, because the people are their subjects, and dare not to say their sovereigns do wrong, and dare not contradict this tyrannic maxim. If the House, or if the PRESIDENT, have committed an error, they ought to correct it; for my part, I conceived the whole of the plan wrong from the beginning. From the present appearances, he was convinced we should get no peace with the Indians, unless it were dictated by the British agents in Canada; for it was clear, as long as they can do us the injustice to withhold territory from us, we can have little reason to expect their aid or friendship in bringing about a peace

which is so desirable. He hoped to live to see the day that America will be able to show herself superior to her enemies, and chastise them: at present, it would be improper to engage in any war, if it could be avoided.

In addition to the foregoing reasons offered by Mr. P. for being opposed to a war establishment, he also remarked, that it was from a desire to see the public debt redeemed without resorting to new *taxes*; for if *they* once should get fixed *there*, (pointing up to the Senate Chamber,) we should never be able to withdraw them, whether they were necessary or not. He concluded by a hearty wish that the motion made by his friend from North Carolina might succeed.

Mr. BOUDINOT was against the motion, as he thought any immediate alteration of the present system would be attended with dangerous consequences, under the present circumstances of the United States. He did not think it would be justifiable to alter it. It would show an instability in our public measures, especially at this moment, when we have done every thing to bring about a peace with the hostile Indians: and, when it is just advancing to the season for effecting it—when it is at the eve of completion—shall we rashly counteract the whole? and after having brought the enemy, who were so much elated on account of their recent success, to a proper sense of our power and force to impose an honorable peace, would it not be extremely imprudent to lessen our own consequence before we have accomplished the object? The Indians would, in this case, most indubitably raise their demands in proportion to what they supposed to be our weakness. Mr. B. added several other observations.

Mr. WILLIS had always been strongly impressed with a dislike for standing armies; but when he considered the situation of the frontiers, and particularly of the State of Georgia, he must give his vote against the motion. Neither did he think two regiments by any means a sufficient force, even to garrison the posts.

On motion, the committee rose and reported progress.

The SPEAKER laid before the House a letter from the Secretary of State, enclosing a list of the several persons employed in his office, with the salary allowed to each, pursuant to the resolution of this House of the thirty-first ultimo; which was read, and ordered to lie on the table.

The House resolved itself into a Committee of the whole House on the bill making compensation to the widows and orphans of certain persons who were killed by Indians, under the sanction of flags of truce, and, after some time spent therein, the committee rose and reported progress.

THURSDAY, January 3.

Mr. WILLIAM SMITH, from the committee appointed, presented a bill to regulate the claims to Invalid Pensions: which was received, and read twice, and committed.

The House again resolved itself into a Committee of the Whole on the bill to make compensation to the widows and orphans of certain persons who were killed by Indians, under the sanction of flags of truce; and, after some time spent therein, the Chairman reported that the committee had again had the said bill under consideration, and made several amendments thereto.

Ordered, That the said bill, with the amendments, do lie on the table.

The SPEAKER laid before the House a letter from the Secretary of War, enclosing a list of the persons employed in the several offices of his Department, with the salary allowed to each, pursuant to the resolution of this House, of the 31st ultimo; which were read, and ordered to lie on the table.

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Military Establishment.

The order of the day being called for, the House went into Committee of the Whole, (Mr. *White* in the chair,) on Mr. STEELE'S motion for reducing part of the present military establishment of the United States.

In reply to the speech made yesterday by Mr. WADSWORTH, and which had been expressed in such strong language, Mr. STEELE thought it necessary to make a few observations, as a preliminary, before the House went further into the debate.

The gentleman from Connecticut had disputed the calculations which he, Mr. S., had produced. Perhaps the gentleman's calculations may be right, and perhaps both of our statements may be so; but with respect to those which I produced, if the acts of Congress are false, if the reports and estimates of the Heads of Departments on your table, Mr. SPEAKER, are false, then my statements are wrong, or "untrue" as the gentleman expressed it, and for which, I hope, on more cool reflection, he will not adhere to. Mr. S. then read the acts of Congress of the 29th of September, 1789, 26th of March, 1790, and 12th of August, same year; the 11th of February, 1791, and 23d December, 1792, &c., from which he clearly proved that every item of his calculations was exactly quoted. He knew of no surplusage unexpended at the War Department, but \$140,000 as reported by the Secretary of the Treasury; if any gentlemen in the House knew of any other, he hoped they would mention them. For his part, he thought the estimate for 1793 showed very little savings any where from the grants of the preceding year, but it contained demands for new grants much larger than for any former year. This, however, was a subject he did not at present mean to say much on, until he should hear the sentiments of other members. He therefore sat down with a reservation, that he would take the liberty of replying to such arguments as might be adduced against his proposition.

Mr. WADSWORTH disavowed any intention of being indelicate in his expressions yesterday, toward the gentleman from North Carolina; and if he had, in the warmth of debate, said any thing to which that gentleman could take offence, it was not meant so, and he was ready to retract it. He could not, however, avoid taking notice, that the gentleman's arguments appeared to him to convey a strong censure on the Executive, and to spread abroad improper impressions. The principal error which he dwelt on, was that of quoting the difference between the appropriations of 1789 and 1790, to be so great as appeared from that gentleman's statement. But the fact is, that the gentleman had overlooked the laws, and instead of quoting the amount of the *two* appropriations made in 1789, he had only mentioned the amount of *one*, consequently this was giving an improper impression of the real comparative appropriations of those two years; for, when they are taken in the whole, the difference is not so great, nor the increase so much as Mr. STEELE exhibited it, by \$27,080. In like manner, the comparative increases of the other years, 1791, 1792, and 1793, have been misstated, and the truth is, that the total increases are not less, but *more* than the gentleman represented them by the sum of \$567,530.72.

Mr. CLARK hoped the gentleman last up did not suppose that the House was going to war with the Secretary of War. He sincerely wished that some means should be adopted of conveying the sense of the House to the PRESIDENT, who would thereby be considerably relieved from the delicate situation in which he now stands with regard to the discretionary powers vested in him. Before Mr. C. sat down, he suggested the idea of filling up the blank in Mr. STEELE'S motion with the word three, so as to limit the military to three regiments.

Mr. MILLEDGE liked the spirit of the motion, in regard to the prevention of standing armies; but he was against its being put in practice at the present time. He differed from the gentleman from New Jersey, and as his motion had not a second he would proceed. He wished the question under consideration to go to a Committee of the Whole, that a fair and open discussion of every point of the important subject might be brought into view. The situation of the State he had the honor to represent, had been mentioned in the course of debate; he therefore felt himself called on to deliver his sentiments; that he was persuaded there was not a member in the House who more ardently wished for peace than himself, or who would go further to promote so desirable an object, as putting an end to a savage war, and an enormous public expense; but he was of opinion that the reduction of the military establishment would not answer either of those purposes; that it well became members to take into consideration such parts of the Union as lay exposed, and then judge the propriety of the intended measure; that it was well known that Georgia was a frontier State, bordered on one side by a nation with whom a just understanding and intercourse still remains to be settled by treaty, and on the other by a warlike tribe of Indians, the most numerous of any on the continent, ten thousand warriors, besides the Cherokee nation of three thousand and five hundred—a State, in proportion to its wealth, and in proportion to what it contributes to the General Government, of the fewest inhabitants, an extent of frontier from the river St. Mary to the northernmost line, full three hundred miles—a country hardly at any period enjoying perfect safety, since the commencement of the Revolution. My constituents said he, adopted the Federal system, from a hope that we should be protected: some of them at this moment, have never been able to return to their habitations, which they left at the commencement of the war; and I am warranted in saying that a part of my constituents are now throughout the State under arms. Let members for a moment place their constituents in the situation of mine, and let me ask them if they would not demand the protecting arm of Government? As yet we have experienced little more than the enforcing a treaty, that has not been complied with on the part of the British, which has reduced some of our first citizens to a state of dependence on those who not long ago were their avowed and open enemies, and a deprivation of our territorial right, for the yielding of which a permanent peace and permanent line were to be established. Of the peace we have experienced no great share, and as for the permanent line, it still remains to be run, and, from well-grounded information, the half-way conduct of the Creeks the other day with Mr. Seagrove, gives very little reason to expect it. Such was the situation of his State. But to the point: he was of opinion that we set out wrong in warring with the Indians at any rate. Unfortunately for us, the event has not answered the design, and we are now reduced to that state that hardly any change can mend. The unaccountable success of the Indians has so elated them with their prowess,—and which likewise has presented views to the English and Spanish they never dreamed of; and the federated situation of the different tribes occasioned him not to hesitate in pronouncing that the several frontier States would be more or less exposed to the cruel ravages of a savage warfare. If the customs of savage tribes did not direct them towards us, they were incessantly excited by the British and Spaniards to amuse us with false pretences of peace, while they were engrossing the advantages of their trade. The aged Indians kept to their hunting, and the young men were gratified in the military exploits with the blood of our fellow-citizens. In this situation the frontier of the United States, a distance of not less than fifteen hundred miles, must be garrisoned. He left it to gentlemen to calculate what force would be required for that purpose, if troops should be employed in no other way. Militia, he said, were for sudden invasion; they were scattered when they returned, and must be protected while at home. The jealousy of the English, and their augmenting their force, surely ought not to occasion the reduction of any part of ours; if any thing, it ought to have a contrary effect. He likewise said that it would be necessary to view the early history of our country, and find what had been the conduct of Spaniards and Indians about the commencement of the present century. The Spaniards, at the same spot where they now are, by their treachery, when they were at peace with the English, at a time when the Carolinians little suspected, when they imagined they were in perfect alliance with the Indians, the Yamasses, Creeks, and Cherokees, those Indians, by their instigation, massacred one hundred and thirty of their inhabitants, and drove the rest into Charleston. The inhabitants of the capital of Georgia are as much exposed as the Carolinians then were; a distance of twenty miles from

Savannah, places them in an open, uninhabited country, to the Creek nation, and within that twenty miles, thinly inhabited on account of the nature of their cultivation. What had happened, he said, might happen again: the Spaniards had not changed their policy. If, therefore, we are forewarned, ought we not to be forearmed? That, from their dangerous situation, even on a peace establishment, there ought to be at least five hundred troops on that frontier.

If public officers have misapplied the public money, the constitution pointed out a mode to punish them. The Government belongs to the people, the officers are their servants, we are their Representatives, and we ought to do them justice. He conceived it was praiseworthy in any member to afford any aid or information in his power to bring these things to light; that he felt it his duty to make strict inquiry into the expenditure of public money; that he was sent by his constituents to protect their property, and in doing that should vote against the present proposition.

Mr. FINDLAY observed that a difference of opinion existed in respect to the motion for reducing the army. The mover was for filling up the blank with *two* regiments; but Mr. CLARK had proposed *three*, and was against discharging any of those already enlisted. The principle of the motion was what he wished to speak to. Passing by the comparative view, so much alluded to in the course of the debate, of militia and regulars, he struck at once into the heart of the question. The redemption of the public debt, from the savings to be made by the reduction of the army, seemed to be a principal object with some members, but in his opinion, it was no more than a secondary one: the defence of the frontier is of superior concern.

The origin of the war goes much farther back than that of the present Government; it arose out of the war with Britain; and it has been ever since changing for the worse, until it has at length assumed a very alarming complexion; for it has united a greater number of tribes than has ever been known, and it has exposed a much greater extent of our frontier. With regard to the mismanagement or abuses, if any there were, it was no place to discuss such subjects by desultory debating in this House, whilst there were other modes open. He did not, however, believe that any material abuses had taken place indeed. This war is not one of the faults chargeable to the Executive, for it might with more justice, perhaps, be said to have had its origin in the ineffectual measures of the Legislature. The first Congress assembled under the present Government found the Union in a state of war; and although one regiment was stationed at Pittsburg, yet the militia were not relieved from actual service. But the lately raised troops may perhaps be found more effectual, as it is said there is an excellent system of discipline established amongst them.

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With regard to the argument that the Union cannot support so heavy an expense by new taxes, he was of opinion that every consideration ought to give way to the safety and protection of the country.

A particular plan is set into operation for accomplishing a peace, and it ought not to be arrested without a trial being made. The ill-defined law authorizing the PRESIDENT to call out the militia, and the levies under General Harmar, did not answer the end intended, for the time of their enlistment had nearly expired ere they had reached their destination; but if General Harmar had carried out two regiments of permanent troops, he could, without the assistance of the militia, have destroyed all the Indian towns and villages that stood in his way, and he would have completed the object of erecting a line of posts which would secure a lasting peace; but from the weakness of the force and the inefficacy of the law, the purpose was arrested at a critical moment, and the vengeance of the Indians roused to the utmost pitch; instead of their fears being alarmed, the next step of raising another regiment was of a piece with the former weak policy; for the encouragement was insufficient, and the miserable two-dollar men who were raised for a six months' service—their fate is too well known, and will be long remembered. They arrived at the wilderness with clothing that lasted only to the time they reached the scene of action, and those who were not cut off by the enemy were left to starve with cold in the most inclement season.

The fatal catastrophe of this campaign has only served to elate the Indians, and render them insolent, as appears from their treatment of our messengers under flags of truce. The parsimony on those occasions has been the cause of a double expense.

In opposition to this it may be said that those parsimonious plans were recommended by the Executive, and only enacted into laws by the Legislature. This, however, if it were the fact, is no apology for the Legislature, for they have no right to cast their Legislative responsibility upon the Executive Department; nor can they do it without a breach of trust towards their constituents. The members knew that the encouragement of pay and time of enlistments would never answer any good purpose; the want of resources could have been no reason for that parsimony toward the defence of the frontiers, because it is known that we found revenue enough not only to pay the interest of the public debt, and to support the Government, but even to pay the debts of the individual States. The conviction of these mistakes induced Congress at last to make adequate provision, and now an attempt is made to withdraw the means before the end is accomplished. The other branch of the Legislature has prevented us from giving higher wages to encourage the recruiting service; but notwithstanding all this, it appears to go on with considerable success.

Here he mentioned something of the confidential communications which he was not now at liberty to explain. The gentleman who says that two regiments are sufficient to garrison the forts, ought to consider that garrisoning those is not the only object in contemplation. If we expect to exist as a nation we must protect the whole frontier, and make it the interest of the Indians to be at peace with us.

But do gentlemen consider the consequences of throwing all internal defence and distant expeditions upon the militia? Is it not enough that they already stand as a picket guard to their brethren who live at ease; that they eat their bread in the fear of their lives, and are frequently embittered with the view of mournful incidents; but that we must lay a deliberate plan for increasing the number of their fatherless children and childless parents?

To say that those States who have frontiers, ought to be left to protect themselves, is a very anti-Federal sentiment, which he was sorry to hear advanced in that House. Neither is it generous to say we will pay the expense, and let them fight for us. Do gentlemen contemplate to what issue these principles would lead? Do they not observe that the fate of the Government is deeply involved in the decision? Perhaps I may be asked, Did not the States depend chiefly upon their own exertion for the defence of the frontiers under the old Congress? Yes, they did, and were better protected than since that period. But let it be recollected that at the time the States had the command of their own resources, and the laying and executing their own plans, that the Indians were not so formidably combined. But that since the States had not the power of retaliating, nor the means of gratifying with presents; since the Indians have been solemnly told to look away from the little fires of the States, to the great fire of the Union, they have looked upon us as a more formidable and dangerous foe, and made their arrangements accordingly; and European nations, and emissaries among them, have improved upon the circumstance, and excited and aided them in their union and exertions.

He made some further remarks on the impolicy of oppressing the militia at Marietta, &c., and asked if it were possible that those unfortunate few could be able to protect the whole frontier against the united force of the Indians?

He agreed with those who said that the sense of the people of America was in favor of peace; but the question is come to this. It is not to begin a war that we have raised this army, but to procure a peace, and so soon as this end is attained, the army will be discharged. It is raised to protect, not to oppress, or to aid in governing our citizens. I know, said he, that standing armies have always been sources of oppression and aids of tyranny. Our people may long be governed without such aids; their situation will not admit of abuses from standing armies, nor would the citizens submit to them.

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He was confident that the army would be discharged by the next Legislature, as soon as a prospect of our affairs will admit it. The present prospects were not of a very flattering nature, and therefore it was good policy to keep up the force at the present crisis; and it would be dangerous to repeal the law under the circumstances.

The present Indian war is essentially different from any former one. When Britain and France divided North America betwixt them, if the emissaries of both excited the Indians to war, the power of both afforded protection. When Britain became possessed of the Western posts, and many tribes of Indians commenced a war, the British Government conducted the war, carried it into the Indian country, and by the dread of their arms procured peace; but the Indians were not then supported by other powers. In the present war, the Indians, who at that time knew nothing of us, have combined to make it a common cause; and no superior powers interest themselves in our favor. No: they conceive our interest to be inimical to theirs. But if they did not receive encouragement, protection, and supplies from our superior neighbors, a peace would soon be procured. The gentlemen who support this resolution know well how that matter stands, and they know explanations here are not convenient. He concluded by declaring that he could not vote for the motion.

The committee now rose, and had leave to sit again.

FRIDAY, January 4.

SAMUEL STERRETT, from Maryland, appeared, and took his seat in the House.

The House proceeded to consider the amendments reported yesterday by the Committee of the whole House to the bill to make compensation to the widows and orphans of certain persons who were killed by Indians, under the sanction of flags of truce; and the same being read, some were agreed to and others disagreed to. And then the said bill, being further amended at the Clerk's table, was, together with the amendments, ordered to be engrossed and read the third time to-morrow.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, enclosing lists of the persons employed in the several offices of his Department, with the salary allowed to each; also, a letter accompanying certain statements relative to foreign loans, which have been made by the United States, under the authority of the President, pursuant to the resolutions of this House of the 24th and 27th ultimo; which were read and ordered to lie on the table.

The House resolved itself into a Committee of the whole House on the bill to regulate the claims to Invalid Pensions; and, after some time spent therein, the committee rose and reported progress.

SATURDAY, January 5.

A petition of the inhabitants of the city of Hudson, in the State of New York, was presented to the House and read, stating the inconveniences under which they labor, from being obliged to register, enter, and clear their vessels at the port of New York, and praying that the said city of

Hudson may be made a port of entry. Referred to the Secretary of the Treasury, with instruction to examine the same, and report his opinion thereupon to the House.

An engrossed bill to make compensation to the widows and orphans of certain persons who were killed by Indians, under the sanction of flags of truce, was read the third time and passed.

The SPEAKER laid before the House a letter from the Secretary of War, accompanying the copy of a message of Cornplanter and New Arrow to Major General Wayne, dated the 8th of December last, relative to the measures which they have taken to conclude a peace, on behalf of the United States, with certain tribes of hostile Indians; which were read and ordered to lie on the table.

Military Establishment.

The House again resolved itself into a Committee of the whole House on the motion of the 28th ultimo, for reducing the military establishment of the United States.

Mr. MOORE said, that there was not sufficient information before the House respecting the prospect of a peace, to warrant a sudden reduction of the army. He referred to the abuses which had been hinted at in some of the branches dependent on the War Establishment, but he did not believe there had been any worth much notice. He also mentioned the abstruseness of attempting an investigation into the origin of the war—whether the frontier settlers, or the Indians, were in fault, was a difficult thing to determine; but from many circumstances, it appeared to him, the white people were often guilty of committing depredations. This was, in his opinion, a good reason why the protection of those frontiers should not be intrusted to the militia that would be raised there. Shall we intrust the conduct of that matter to the very persons who it has been alleged are often the aggressors? Can the President, at the distance he is situated from the Western territory, check all the irregular proceedings that might happen amongst such a militia? There were two obvious reasons for passing the law of the 5th of March, 1792, for the protection of the frontiers by regular forces. First, it could not be expected that militia would always prove successful against the Indians, because the latter are gaining more experience every day in the mode of warfare, and there can be no dependence on a treaty between those militia and the Indians. The second reason was, that the President was strongly impressed with the necessity of establishing the greatest degree of harmony between the United States and the Indians, by encouraging and protecting a trade with them, and that this could be easiest and best effected by establishing a line of forts along the frontiers, to be garrisoned by regular troops. Mr. M. next mentioned something of the manners and customs of the Indians, whose practice it is to spend most of their time on their hunting grounds, leaving their old men, women, and children, in their towns. They have no regular plan of government, and can only be attached by influencing some of their chiefs. The system of harassing them by burning and destroying their towns at the time they are employed in hunting, has come recommended to us by experience, and regular troops are the best to be employed in this service. Their present inexperience will soon be done away by a proper mode of discipline, and why may not these troops be soon instructed? Are they not as capable of receiving instructions as militia, and may we not expect more subordination amongst them, than could possibly be established over militia? He concluded by declaring himself against the motion.

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[Here the SPEAKER informed the Chair that he had received a confidential message from the PRESIDENT. The committee then rose, and the galleries were closed for some time.]

The House having gone into Committee, the debate was renewed by Mr. WILLIAMSON, Mr. MADISON, and Mr. STEELE.

Mr. STEELE rose after Mr. MADISON, and said he was perfectly in sentiment with that gentleman, in regard to the propriety of inserting an amendment to the motion, which might secure a sufficient appropriation to carry on offensive operations against the hostile Indians, by the militia of the frontiers; and if an alteration was proposed to that effect, he would second it. The attention of the House to this question speaks its importance; it is probable one more important will not occur during the present session. On its decision are suspended the hopes and fears of the people of this country, their hopes of a speedy and honorable peace, and their fears of a standing army, with its usual retinue of political evils.

The present is regarded as an interesting epoch in the affairs of the United States; and it has been perceived, with serious regret, that while our national character is forming, (he hoped it was not yet formed,) it seems to partake, in some respects, more of the unnatural spirit of monarchy, than of the mild and conciliatory temper of a republic. The principle of keeping up standing armies, though highly obnoxious to the great body of the people, has not been equally so to the Government; they have been maintained and increased without affording protection, or even defence to the frontiers. The supplies necessary to support the establishment begin to discover an alarming derangement of the public finances, and it is now incumbent on the House of Representatives to check this growing mischief.

Mr. S. then adverted to the effects of standing armies on the morals and political sentiments of the people, wherever they had been employed; of the expensiveness of all such establishments, and of the wicked purposes to which they had been, and might be subservient. He said he had prepared himself to have spoken largely to this point, and to have quoted the pernicious effects of such a policy in other nations; but the debate having been already lengthy, and the committee probably fatigued, it would be sufficient for his present purpose, for the members to make their own reflections, and to mark the rapid progress of the army from 1789 to 1792, both in numbers and expenses. Instances from foreign history are superfluous, when our own affords such ample

testimony. The establishment began with one regiment: it is now five. The House was called on in 1789 to appropriate a little more than \$100,000 for that Department; in the present year, above \$1,000,000 is demanded. The reason of this extraordinary additional expenditure, this unexpected increase of the army, if not enveloped in darkness, has been founded on policy hitherto not satisfactorily explained. He said, however lightly he was disposed to touch this part of the subject, he could not avoid reminding the committee of the memorable sentiments of 1776, in regard to standing armies; of the universal abhorrence of the Americans to them at that time; and, to illustrate it more clearly, he read the expressions of some of the States in their Bills of Right. These were the sentiments of the Whigs of 1776, and to such Whigs he wished to appeal on this occasion. He also reminded the committee of the recent debates of 1788, of the amendments proposed in several of the State Conventions; of the unanimity which prevailed among all ranks of people on this particular point; and it is now to be lamented, said he, that while the ink which recorded these objections to the constitution is yet drying, the evil then predicted has taken place.

If there is a subject on which much deliberation is unnecessary, in order to form a right opinion, it would be in regard to military establishments. The feelings of a free people revolt at their continuance, and every man who reads or thinks, can point out their dangers. He said he felt more anxiety for the fate of this motion, than commonly marks his conduct, because this is the last session that will ever afford him an opportunity to trouble the House with his sentiments on this or any other subject. The motion was brought forward to discharge a duty which he owed to his constituents, to satisfy his own conscience, and to afford that protection to the frontiers which they deserved, and to save the public money. If an uncommon degree of zeal was discovered in supporting the motion, it ought to be attributed to these, and no other motives.

The question will now soon be taken; if adopted, I shall be among those who rejoice; if rejected, among those who have always submitted with a proper degree of decency to the decision of the majority. But in any event, the public will know that we have asserted the sense of the people against standing armies; that we are anxious to defend the frontiers against their enemies; that we have recommended a system of economy and efficiency, instead of profusion and delay; that we have recommended a system calculated to produce victory and peace, instead of disgrace and war; and that we wish to rescue the Government from the intoxication of the times, and all the apery of military establishments.

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He said he had been attentive to the arguments of the opposition, and they led principally to four points. If neither of these positions be found tenable, the motion will certainly succeed; and that they are not tenable, is believed and will be shown.

1st. It has been boldly asserted that the PRESIDENT is the author of the existing system.

2dly. They call in question the sincerity of our declarations in wishing to afford effectual protection to the frontiers.

3dly. They deny the competency of the militia.

4thly. The impolicy of reducing the establishment, when a treaty is expected.

In regard to the first, we deny that the PRESIDENT is the author of this plan of prosecuting the war. Not having avowed explicitly himself that he is so, no document appearing to confirm that opinion, we are justified in attributing a system which appears to us ineffectual to his Secretary, and not to him.

It is true, that the Secretary is only a finger of his hand, and the intimate connection which must of necessity subsist between them, perhaps, is the ground upon which the assertion has been made. The Secretaries are all equally near to the PRESIDENT, and if it be admitted that he is the author of this, he may, with equal propriety, be said to have been the author of every system on general subjects which either of them have recommended.

Was he the author of the report on the fisheries? Was he the author of the plan for establishing the National Bank? It is known that he was not, and circumstances might be mentioned (which are withheld from delicacy) to confirm this opinion.

Was he the author of the Funding System? Some gentlemen in the opposition to this motion, would not be willing to give the PRESIDENT that credit if he claimed it, and some who support this motion would not only be sorry that the PRESIDENT had even claimed such a credit, but believe that it was in no respect attributable to him. The same gentleman (Mr. WADSWORTH) who first asserted that the PRESIDENT was the author of this military plan, in the same speech admitted it to be the war, as well as the plan of the House, and then argued on the necessity of stability in our measures. It is not very material to the present question whose plan it is; being a public measure, we are justified in offering our objections to it; and this is the first time that I have heard it publicly asserted that a Government should persevere in an error, because they had undertaken it. If the plan be a good one, it may be supported by reason; if a bad one, no name ought to be called in to prop it up.

The inconsistency of that gentleman's (Mr. WADSWORTH'S) arguments not only supports the motion before the committee, but shows the wretched shifts which have been used to defeat it.

It has been said, in the course of the debate, that individual members, and even this House, are incompetent to decide upon the efficacy or inefficacy of military plans. In answer to this it may be said, that if we are not all Generals, we are all members, and that we have the privilege of thinking for ourselves and for our constituents. To admit this doctrine in the latitude which has been expressed, would be to introduce military ideas indeed; it would be to make soldiers of us,

instead of Legislators: nay, worse than that, it would be to revive the exploded doctrines of passive obedience and non-resistance.

In regard to the sincerity of his intentions to afford effectual protection to the frontiers, Mr. S. said that he had been sufficiently explicit; that a feeling for the sufferers had dictated this motion; that he was sorry that it had been whispered in the ears of some of the members that it was intended to withhold the necessary appropriations, and divert them to other purposes.

If two regiments were insufficient to garrison all the posts necessary for defence, he would even, under certain restrictions, consent to continue the three sub-legions, thereby enabling the PRESIDENT to establish double the number of posts now erected, if he should deem it advisable. Regular troops being incapable of active expeditions against Indians in the wilderness, his wish was to abandon that system and confine them entirely to the garrison.

The next objection to the motion is the incompetency of the militia; and to support this opinion the gentleman from Connecticut (Mr. WADSWORTH) has made this expression, "that as to the expedition under General St. Clair, the regulars were few, and not to be named when compared with the number of the militia." The truth is, there was not a man engaged that day as a militia man, except the advance guard commanded by Colonel Oldham, which consisted of about three hundred, perhaps a few more. The field return of the day preceding the action being in the War Office, this can be ascertained with precision. The balance of the army on that unfortunate day, had been enlisted as regulars, were fought as regulars, even clothed as regulars, and, poor fellows, died like regulars. They suffered the fate which awaits every regular army destined for similar expeditions. Even the handful of militia employed that day, did not deserve that name; they were chiefly substitutes for drafted men from the ceded territory. This draft became unavoidable, from a misfortune to General Sevier, which Mr. STEELE related.

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The attack on Major Adair has also been mentioned as a proof of the incompetency of militia, and Mr. S. insisted that the only inference which could be drawn from thence was, that one hundred militia were able to repel, but not destroy, near two hundred Indians. This event he conceived was in favor of and not against his motion.

He next adverted to the arguments of Mr. WADSWORTH, in regard to the war of 1762; of the establishment of posts in Pennsylvania and Virginia, and of the success of Colonel Boquet's expedition. If two worn-out regiments at that time were sufficient to defend the frontiers, and, with the aid of the militia, to terminate the war, two new regiments, with all the vigor which the gentleman described them to possess, with the aid of established posts, and a much more effective militia, can certainly be equal to the same end. After examining Mr. W.'s arguments for some time, Mr. S. said, that when analyzed, it would be found that they proved more than they were intended to prove; but the merits of this motion did not require that he should take advantage of these indiscretions.

He showed from the history of 1762, that though posts were established, with a handful of regular troops in each, they never answered the purpose of effectual protection; but the frontier people were always obliged, in a great degree, to defend themselves; that they were best calculated for that service, and that they would perform it now with alacrity and success, if well rewarded.

Mr. S. then refuted the objection against the militia on account of their waste and expense which Mr. W. had alluded to. The law allows a mounted volunteer, furnishing himself with a good horse, good arms, provisions, and every other necessary, except ammunition, at his own risk and expense, one dollar per day. The exact expense of such an expedition can be calculated. Whether successful or not, the charge to the public cannot be increased. The contractors, quartermasters, and hospital departments, are all avoided, with the abuses, expenses, and frauds, attending such establishments. Mr. S. enlarged upon this point, and said that these were always found to be the most expensive departments in any army, and that the Federal Treasury had felt their effects already. In favor of the militia, it may be asked, who fought the battle of Bunker's Hill? Who fought the battles of New Jersey? Who have fought the Indians so often with success, under Generals Wilkinson, Scott, Sevier, and others? Who marched in 1776 under General Rutherford, through the Cherokee nation, laid waste their country, and forced them to peace? Who fought the battles of Georgia, under Clark and Twiggs? Who fought the battles of South Carolina, under the command of an honorable member now present? Delicacy forbids me to enlarge upon his successes in his presence.

Who fought the ever-memorable battles of Cowpens, King's Mountain, Hanging Rock, Blackstocks, the pivots on which the Revolution turned in the Southern States? In short, who fought all the battles of the Southern States, while we had a mere handful of regular troops, scarcely the shadow, much less the reality of an army?

They were all fought by freemen, the substantial freeholders of the country—the men attached to the Revolution from principle, men who were sensible of their rights and fought for them.

Such men will not enlist in regular armies, nor will any one who has the disposition or the constitution of a freeman. It would give me pain to describe the trash which composes all regular armies: they enlist for three dollars a month; which, in a country like the United States, is a sufficient description of their bodies as well as their minds. Such men are not fit to combat the most active enemy in the world. Here Mr. S. read Major Gaither's and Major Trueman's depositions, respecting the defeat of the 4th November, 1791, stating that they could not see the Indians, because they were behind trees, &c.; that the regular troops tried, but could not fight that way; that they seemed to be stupid, and incapable of resistance; and that if any General in

the world had commanded such men that day, he must have been defeated as they were.

An additional argument, and one of the most weighty, too, against regular expeditions, in this species of warfare, is, that, by the slowness of their movements, the force of the enemy may be concentrated; time is afforded them to form alliances, and to confederate against those whom they consider a common enemy. It is otherwise with militia incursions. He offered a number of reasons to show that it was so, and how essential for the interest of the United States to adopt a policy calculated to detach the tribes from each other as much as possible.

But it has been said, these men were not regular troops. Mr. S. asked, what, then, were they? They surely were not militia. The last objection, and the least serious of all, to this motion, is the expectations of a treaty in the spring. Mr. S. said, if he thought the gentleman who threw this difficulty in the way believed himself that we have any reason to expect a permanent peace from the treaty now proposed, it might deserve an answer. Facts are more to be relied upon than words. From the channel through which these propositions have come—from the whole complexion of their talks, and from the late attack on Major Adair, it may safely be asserted that no peace can be effected in the spring. He recapitulated some of the difficulties which this motion had to conflict with, and said that he could mention others, if he was at liberty to do so. Under such circumstances, success is hardly to be expected; but he knew the merits of the motion deserved it.

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Mr. HILLHOUSE, who had hitherto sat silent, observed that nothing new had been advanced in the whole course of this long debate, but what he had heard mentioned last winter in that House. He was then opposed in principle to a war establishment, and he still retained the same opinion; but, from the complexion of affairs, it appeared to him that he ought to submit, and give up his own opinion to the general sense of the Legislature, which at present seemed to be for persevering in the system already adopted, and which, as it had scarcely had time for a fair trial, he thought, therefore, ought not to be arrested, perhaps in the very instant when its efficacy was to be expected. If peace should not be established during the next summer, he would then join with such members as would propose a better system; but as the law provides for the discretionary powers of the Executive, it would be best to rely on them. A standing army, he said, was a thing impossible to be accomplished in the United States whilst the House of Representatives have the power of granting money only for two years at any time; he therefore had no fears on that score. An army existing in time of peace was the idea he had of a standing army, and not an army embodied for only a year or two. Upon the whole, it would be as expensive to disband the present force, and to institute another of militia, &c., as it will be to keep up the existing establishment for a little longer time; it was therefore his advice to let the matter rest where it is, with the Executive, for the present. But, in case of a peace not being accomplished within a reasonable period, he would join those who would be for a change in the system; and he was clearly of opinion that a system might easily be adopted, not only to protect our frontiers by repelling the savages, but to exterminate them altogether.

Mr. FINDLAY felt himself inclined to say a word or two more in reply to Mr. STEELE. He thought it would be unjust to lay so much of the weight of protecting the frontiers on the militia only. He expatiated on the meaning of the word *militia* as defined by law, &c. He also remarked that, however it might be fashionable to despise the levies, yet amongst them there were examples of great bravery to be found, and particularly in one battalion of the unfortunate army on the 4th of November, 1791. He noticed the well-conducted retreat of Major CLARK, and the success of General Broadhead up the Alleghany. It was unjust to expect to raise enough of militia in the back parts of Pennsylvania; and the inhabitants of Virginia are so dispersed near the frontiers that they cannot be expected from that State. With respect to the men who went out with General Harmar, and whose time of enlistment expired soon after they reached the scene of operations, many of them remained and settled in that country. He again repeated the injustice of calling out heads of families from one part of the frontier; and above all, he lamented the risk and loss of lives. But, if it should be determined to carry on the war with militia, let them be called from all parts of the United States. The burden already laid on a part of the inhabitants is extremely unequal, and must not lie longer on them. Let the troops now raising be disciplined. I am informed that many of them are considerably advanced in point of discipline, and may before spring become expert soldiers. Let these go on in the present system, and let the militia also be kept up or increased, until the object shall be attained for which the law was intended, and then, and not before, it may be proper to talk of reducing the present establishment. We are now in a situation that it would be extremely imprudent to retreat from.

Mr. MURRAY delivered some opinions on the preceding arguments of all the members, and remarked that the army, under the present establishment, had no right to be compared to or called a standing army; it bore no more comparison to a standing army than a chameleon to an owl.

Mr. WADSWORTH closed this tedious debate with a few further explanations. He accounted for the difference between his calculations and those of the gentleman from North Carolina by observing that he got some of his statements from the War Office. Mr. STEELE'S were taken from the appropriation laws, and in one instance he had underrated the appropriations. With regard to the opinions he had delivered on the militia, he had never meant to traduce the character of militia, because he had often experienced their brilliant actions; his arguments went no further than to show that the operations of regular troops were in general more effectual. He never wished to detract from the honor of militia, but only to remark that they were not so efficient as regular troops.

The question on the original motion being now put, was negatived.

Mr. WILLIAMSON did not entirely approve of the motion in its present form; the blanks might be so filled, he thought, as to import a thing opposite to his wishes—they might import a discharge of the regular troops already raised. He believed his colleague had no such desire; he thought the measure would be improper; but he wished not to have a regiment of officers without soldiers; he wished to fix a time at which the recruiting service should cease and the supernumerary officers should be discharged. As he intended to move that the proposition might be so amended, he should consider it in that light, and he believed the measure would not be imprudent nor inconsistent with the most vigorous measures of defence or offence.

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It should be remembered that the House of Representatives, when they had the bill before them, which last winter passed into a law, for defending the frontiers, sent it to the Senate, with a clause importing that officers below the rank of field-officers should not be put into commission any faster than troops could be enlisted. The Senate, adhering to their privilege, refused to agree to that clause in the bill, and it became necessary immediately to commission the officers for five thousand men, some of whom, if report speaks truth, not covetous of honor, are content with their pay, without having raised three men. By the proposed amendment the officers only would be dismissed, whom most of us wished never to have seen in commission.

The proposed regulation has been censured as implicating some kind of censure on the Executive. He viewed it in a different light. The Executive had done what was proper and necessary at the time. But if it should appear that other measures would fit the change of circumstances, he did not see why those measures should not be adopted. It should be recollected that, during the last winter, when the estimate of five thousand men as necessary for the defence of our frontiers was handed to Congress, there was no militia law. A well-armed effective militia, that palladium of liberty, had once and again been recommended by the PRESIDENT to the attention of Congress; but Congress, from year to year, as if they wished for a standing army, had neglected the militia. Towards the close of the last session, indeed, they passed a law. He hoped he might, without offence, call it the shadow of a law. It was saying, in a few words, that the several States might have a good militia if they pleased; and, if they pleased, they might have none at all. Was the Executive to trust the defence of a country to a militia formed under such a law? He thought not. But he observed that, since the last winter, it had come to be generally known that a class of our fellow-citizens exist on the frontiers who are at all times ready to serve, not as drafted militia, but as volunteers. These are the men by whom the Indians must be chastised, or we shall never have peace. They are the best woodsmen and marksmen, and they have no professional interest in spinning out the war. He must repeat the observation that volunteers of the militia are the only troops for vigorous offensive operations. Figure to yourselves an army of regulars creeping through the wilderness, with all its cannon and other military apparatus, in chase of a naked savage, who sees it without being seen. It is an elephant in chase of a wolf. The troops already raised may be pretty well disciplined before the season for action; they are sufficient, with the co-operation of the militia, to take a post, and build forts where they please; every thing else is beyond their power, if they were not five but fifteen thousand. They will never see an Indian unless he chooses to be seen. He wished to be indulged in a single observation respecting a case in which it was said the other day, the militia had been surprised. He was sorry that his naming Major Adair had produced the remark. He would nevertheless venture to repeat the case as an instance of vigilance and bravery. The Major, believing there was an enemy at hand, had visited all his posts at midnight in person; his Lieutenant, Madison, before the dawn of day, roused all the men, telling them that the Indians were coming. The Major, wishing to leave the ground before daylight, called in the sentinels; but the Indians, rushing in with them, gave a heavy fire before there was light by which they could be seen. The Major had not the merit, as he believed, of having been a continental officer, but he had the merit, not less honorable, of having served bravely in the militia. He questioned whether any of the green troops to be recruited next spring or summer will make so good a defence as Major Adair's militia had made. They had taken scalp for scalp, though they fought against the odds of three to one. He prayed it might be remembered that his ideas were not founded on any hopes of sudden peace with the Indians; on the contrary, every motion of the Indians, and every measure taken by those who had most influence over the Indians, induced him to regard an Indian war as the perpetual tax of at least one million per annum. It is fortunate, as he conceived, that the United States know the source of their misfortunes; and if they are compelled to spend one million per annum in opposing a savage enemy, who seems to be hunted upon them, perhaps they may be taught to indemnify themselves by refusing to expend several millions which they can easily save. If a perpetual tax on this head must be raised, sound policy will readily point to the proper object of taxation; but this must remain over for our successors. In the mean time, believing that the troops already raised are sufficient to maintain every fort that is or may be erected, and being confident that volunteers may be found at any time sufficient, if it shall be necessary, to extirpate every hostile tribe of Indians, he should vote for the proposition with the proposed amendment.

The question being taken on Mr. W.'s amendment, viz:

"Resolved, That a committee be appointed to bring in a bill to reduce the military establishment of the United States to — regiments, to consist of the men who are now in service, or who may be recruited before the — day of — next," &c.—

was negatived—32 to 24. The question then was on the original resolution, as moved by Mr. STEELE; which, being put, it was negatived—21 members only rising in favor of it. The committee then rose, and the Chairman reported accordingly. The report was laid on the table, and the House adjourned.

Mr. LIVERMORE, from the committee appointed, presented a bill to repeal part of a resolution of Congress of the 29th of August, 1788, respecting the inhabitants of Post Saint Vincents; which was received, read twice, and committed.

Mr. LAURANCE, from the committee to whom was recommitted the bill making appropriations for the support of Government for the year 1793, reported an amendatory bill; which was read twice, and committed to a Committee of the whole House immediately.

The House accordingly resolved itself into the said committee, and, after some time spent therein, the Chairman reported that the committee had had the said bill under consideration, and made no amendment thereto.

Ordered, That the said bill do lie on the table.

The House again resolved itself into a Committee of the whole House on the bill to regulate the claims to Invalid Pensions; and, after some time spent therein, the committee rose, and reported progress.

TUESDAY, January 8.

The House proceeded to the consideration of the bill making appropriations for the support of Government for the year 1793, which lay on the table; and the said bill being amended, was, together with the amendments, ordered to be engrossed, and read the third time to-morrow.

A message from the Senate informed the House that the Senate have passed a bill entitled "An act in addition to the act entitled 'An act to establish the Judicial Courts of the United States,'" to which they desire the concurrence of this House.

The SPEAKER laid before the House a letter from the Secretary of State, accompanying a report of the assays and experiments made by the Director of the Mint, on the gold and silver coins of France, England, Spain, and Portugal, pursuant to the order of the 29th of November last; which were read, and ordered to lie on the table.

The bill sent from the Senate entitled "An act in addition to the act entitled 'An act to establish the Judicial Courts of the United States,'" was read twice, and committed.

Military Establishment.

The House proceeded to consider the motion of the 28th ultimo, for reducing the Military Establishment of the United States, to which the Committee of the whole House had reported their disagreement on Saturday last. Whereupon,

A motion was made and seconded to amend the same by striking out the words "each of — non-commissioned officers, privates, and musicians," and inserting, in lieu thereof, the words "of — non-commissioned officers, musicians, and — of the privates who are now in service, or may be recruited before the — day of — next."

And the question being put thereupon, it passed in the negative—yeas 26, nays 32, as follows:

YEAS.—John Baptist Ashe, Abraham Clark, Elbridge Gerry, William B. Giles, Nicholas Gilman, Benjamin Goodhue, Christopher Greenup, William Barry Grove, Richard Bland Lee, George Leonard, Samuel Livermore, Nathaniel Macon, James Madison, John Francis Mercer, Andrew Moore, Nathaniel Niles, Alexander D. Orr, Josiah Parker, Jeremiah Smith, John Steele, Thomas Sumter, Thomas Tredwell, Thomas Tudor Tucker, Abraham Venable, Artemas Ward, and Hugh Williamson.

NAYS.—Fisher Ames, Abraham Baldwin, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Jonathan Dayton, William Findlay, Thomas Fitzsimons, Andrew Gregg, Thomas Hartley, Daniel Heister, James Hillhouse, Daniel Huger, Aaron Kitchell, John Wilkes Kittera, John Laurance, John Milledge, Frederick Augustus Muhlenberg, William Vans Murray, Cornelius C. Schoonmaker, Theodore Sedgwick, Peter Sylvester, Israel Smith, William Smith, Samuel Sterrett, Jonathan Sturges, George Thatcher, Jeremiah Wadsworth, Alexander White, and Francis Willis.

And then the main question being put, that the House do agree to the said motion, it passed in the negative—yeas 20, nays 36, as follows:

YEAS.—John Baptist Ashe, Abraham Clark, William B. Giles, Nicholas Gilman, Benjamin Goodhue, Christopher Greenup, William Barry Grove, George Leonard, Samuel Livermore, Nathaniel Macon, John Francis Mercer, Nathaniel Niles, Alexander D. Orr, Josiah Parker, Jeremiah Smith, John Steele, Thomas Sumter, Thomas Tredwell, Abraham Venable, and Artemas Ward.

NAYS.—Fisher Ames, Abraham Baldwin, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Jonathan Dayton, William Findlay, Thomas Fitzsimons, Elbridge Gerry, Andrew Gregg, Thomas Hartley, James Hillhouse, Daniel Huger, Aaron Kitchell, John Wilkes Kittera, John Laurance, Richard Bland Lee, John Milledge, Andrew Moore, Frederick Augustus Muhlenberg, William Vans Murray, Cornelius C. Schoonmaker, Theodore

Sedgwick, Peter Sylvester, Israel Smith, William Smith, Samuel Sterrett, Jonathan Sturges, George Thatcher, Thomas Tudor Tucker, Jeremiah Wadsworth, Alexander White, Hugh Williamson, and Francis Willis.

Ordered, That the committee to whom was committed the letter and representation from the Chief Justice and Associate Judges of the Supreme Court of the United States, referred to in the PRESIDENT'S Message of the 7th of November last, be discharged from the further consideration of the same.

The House again resolved itself into a Committee of the whole House on the bill to regulate the claims to Invalid Pensions; and, after some time spent therein, the Chairman reported that the committee had again had the said bill under consideration, and made several amendments thereto; which were read, and partly considered.

FRIDAY, January 18.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," in which they desire the concurrence of this House.

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MONDAY, January 21.

The bill sent from the Senate entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," was read twice, and committed.

MONDAY, February 4.

Fugitives from Justice and from Labor.

The House resolved itself into a Committee of the whole House on the bill sent from the Senate entitled, "An act respecting fugitives from justice and persons escaping from the service of their masters;" and, after some time spent therein, the Chairman reported that the committee had had the said bill under consideration, and made an amendment thereto; which was twice read, and agreed to by the House.

Ordered, That the said bill, with the amendment, do lie on the table.

TUESDAY, February 5.

Fugitives from Justice and from Labor.

The House proceeded to consider the bill sent from the Senate entitled "An act respecting fugitives from justice and persons escaping from the service of their masters," which lay on the table: Whereupon, the said bill, together with the amendment agreed to yesterday, was read the third time; and, on the question that the same do pass, it was resolved in the affirmative—yeas 48, nays 7, as follows:

YEAS.—Fisher Ames, John Baptist Ashe, Abraham Baldwin, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Abraham Clark, Jonathan Dayton, Wm. Findlay, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, James Gordon, Christopher Greenup, Andrew Gregg, Samuel Griffin, William Barry Grove, Thomas Hartley, James Hillhouse, William Hindman, Daniel Huger, Israel Jacobs, Philip Key, Aaron Kitchell, Amasa Learned, Richard Bland Lee, George Leonard, Nathaniel Macon, Andrew Moore, Frederick Augustus Muhlenberg, William Vans Murray, Alexander D. Orr, John Page, Cornelius C. Schoonmaker, Theodore Sedgwick, Peter Sylvester, Israel Smith, William Smith, John Steele, Thomas Sumter, Thomas Tudor Tucker, Jeremiah Wadsworth, Alexander White, Hugh Williamson, and Francis Willis.

NAYS.—Samuel Livermore, John Francis Mercer, Nathaniel Niles, Josiah Parker, Jonathan Sturges, George Thatcher, and Thomas Tredwell.^[46]

MONDAY, February 11.

Examining Votes for President, &c.

Mr. WILLIAM SMITH, from the committee appointed on the part of this House jointly with a committee appointed on the part of the Senate, to ascertain and report a mode of examining the votes for PRESIDENT and VICE PRESIDENT of the United States, and for other purposes expressed in the resolution of the fifth instant, made a report; which was twice read, and agreed to by the House, as follows:

"That the two Houses shall assemble in the Senate Chamber on Wednesday next, at twelve o'clock: that two persons be appointed tellers on the part of this House, to make a list of the votes as they shall be declared: that the result shall be delivered to the PRESIDENT of the Senate, who shall announce the state of the vote,

and the persons elected, to both Houses, assembled as aforesaid, which shall be deemed a declaration of the persons elected PRESIDENT and VICE PRESIDENT, and, together with a list of the votes, be entered on the journal of the two Houses."

Ordered, That Mr. WILLIAM SMITH and Mr. LAURANCE be appointed tellers on the part of this House, pursuant to the said report.

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WEDNESDAY, February 13.

Votes for President and Vice President.

A message from the Senate informed the House that a PRESIDENT of the Senate is elected for the sole purpose of opening the certificates, and counting the votes of the several States, in the choice of a PRESIDENT and VICE PRESIDENT of the United States; and that the Senate is now ready, in the Senate Chamber, to attend, with this House, on that occasion.

Resolved, That the SPEAKER, attended by the House, do now withdraw to the Senate Chamber, for the purpose expressed in the said message.

The SPEAKER accordingly left the chair, and, attended by the House, withdrew to the Senate Chamber, and, after some time, returned to the House.

The SPEAKER resumed the chair.

Mr. WILLIAM SMITH and Mr. LAURANCE then delivered in, at the Clerk's table, a list of the votes of the Electors of the several States, in the choice of a PRESIDENT and VICE PRESIDENT of the United States, as the same were declared by the PRESIDENT of the Senate, in the presence of the Senate and of this House; which was ordered to be entered on the journal, and is as follows:

[The same as in the Senate proceedings.]

THURSDAY, February 28.

Official conduct of the Secretary of the Treasury.

The resolutions brought forward yesterday by Mr. GILES, were called for by that gentleman. The reading being finished, Mr. AMES moved that the resolutions should be taken up.

Mr. MURRAY suggested the necessity of giving a preference to the Judiciary Bill reported by him some days since. He was seconded by Mr. KEY.

The motion for taking up the resolutions was carried, forty members rising in favor of it. The resolutions were accordingly read by the Clerk, and are as follow, viz:

1. *Resolved*, That it is essential to the due administration of the Government of the United States, that laws making specific appropriations of money should be strictly observed by the administrator of the finances thereof.
2. *Resolved*, That a violation of a law making appropriations of money, is a violation of that section of the Constitution of the United States which requires that no money shall be drawn from the Treasury but in consequence of appropriations made by law.
3. *Resolved*, That the Secretary of the Treasury has violated the law passed the 4th of August, 1790, making appropriations of certain moneys authorized to be borrowed by the same law, in the following particulars, viz: *First*, By applying a certain portion of the principal borrowed to the payment of interest falling due upon that principal, which was not authorized by that or any other law. *Secondly*, By drawing part of the same moneys into the United States, without the instructions of the President of the United States.
4. *Resolved*, That the Secretary of the Treasury has deviated from the instructions given by the President of the United States, in exceeding the authorities for making loans under the acts of the 4th and 12th of August, 1790.
5. *Resolved*, That the Secretary of the Treasury has omitted to discharge an essential duty of his office, in failing to give Congress official information in due time, of the moneys drawn by him from Europe into the United States; which drawing commenced December, 1790, and continued till January, 1793; and of the causes of making such drafts.
6. *Resolved*, That the Secretary of the Treasury has without the instructions of the President of the United States, drawn more moneys borrowed in Holland into the United States than the President of the United States was authorized to draw, under the act of the 12th of August, 1790: which act appropriated two millions of dollars only, when borrowed, to the purchase of the Public Debt: And that he has omitted to discharge an essential duty of his office, in failing to give official information to the Commissioners for purchasing the Public Debt, of the various sums drawn from time to time, suggested by him to have been intended for the purchase of the Public Debt.
7. *Resolved*, That the Secretary of the Treasury did not consult the public interest

in negotiating a loan with the Bank of the United States, and drawing therefrom four hundred thousand dollars, at five per cent. per annum, when a greater sum of public money was deposited in various banks at the respective periods of making the respective drafts.

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

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

Mr. GILES then moved that they should be referred to a Committee of the whole House.

Mr. W. SMITH was decidedly opposed to referring those resolutions to the consideration of the Committee of the whole House, because he neither viewed a discussion of them as necessary on the present occasion nor warranted by the nature of the inquiry into the Secretary's conduct. It was trifling with the precious time of the House to lavish it on abstract propositions, when the object of the inquiry ought to be into the facts. He was satisfied that should the House once involve itself in an investigation of theoretic principles of government, the short residue of the session would be exhausted, and no opportunity remain for examining the charges themselves. Those charges being made, it became the House, from a sense of duty to the public and justice to the accused, to proceed immediately to consider them. If the mover intended to apply the principles of the two first resolutions to the facts contained in the subsequent ones, it was unquestionably proper first to substantiate the facts, and then establish the principles which were applicable to them; but it was surely a reversal of order to spend much time in establishing principles, when it might happen that the charges themselves would be totally unsupported. He did not like this mode of proceeding, because it might tend to mislead the House; it was sometimes a parliamentary practice to endeavor to lead the mind to vague and uncertain results, by first laying down theorems from which no one could dissent, and then proceeding by imperceptible shades to move unsettled positions, in order ultimately to entrap the House in a vote which in the first instance it would have rejected. This mode of conducting public business, he considered as inconsistent with fair inquiry. The question was, had the Secretary violated a law? If so, let it be shown; every member was competent to decide so plain a question. He could examine the proofs, read the law, and pronounce him guilty or innocent without the aid of these preliminary metaphysical discussions.

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

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

The second resolution was liable to stronger objections. It might with propriety be questioned whether, as a general rule, the position was well founded. A law making appropriations may be violated in various particulars without infringing on the constitution, which only enjoins that no moneys shall be drawn from the Treasury but in consequence of the appropriations made by law. This is only to say, that every disbursement must be authorized by some appropriation. Where a sum of money is paid out of the Treasury, the payment of which is authorized by law, the constitution is not violated, yet there may have been a violation of the law in some collateral particulars. There may even have been a shifting of funds, and however exceptionable this may be on other accounts, it would not amount to that species of offence which is created by the constitution. The Comptroller of the Treasury must countersign every warrant, and is responsible that it be authorized by a legal appropriation; yet it cannot be supposed that he is to investigate the source of the fund.

One of the alleged infractions stated in the subsequent resolution, namely, the drawing part of

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

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

"*Resolved*, That a copy of the foregoing resolutions be transmitted to the PRESIDENT."

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

That constitution, peculiarly careful of the reputation of great public functionaries, directs that when accused of a breach of duty, the impeachment must be voted by a majority of the House of Representatives, and tried by the Senate, who are to be on oath, and two-thirds of whom must concur before a sentence can pass, by which the officer is to be deemed guilty. The officer is to be furnished with a copy of the charge, and is heard by himself or his counsel in vindication of his conduct. Such are the solemnities and guards by which they are protected, and which precede a sentence, the only effect of which is a removal from office. But if the House proceed in the manner contemplated by this resolution; if they first vote the charges, and send a copy of them to the PRESIDENT, as an instruction to him to remove the officer, they will violate the sacred and fundamental principles of this, and every free Government. They will condemn a man unheard, nay, without his having even been furnished with the charges against him; they will condemn to infamy a high and responsible officer convicted by the Representatives of the people, of a violation of the important trusts committed to him, without affording him one opportunity of vindicating his character and justifying his conduct.

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Mr. MURRAY said he was opposed to the reference of the resolutions to the Committee of the Whole. He had, as far as the time permitted, examined the several reports on which the examination depended, and was then ready to vote on them, though he confessed, from the intricacy which was inherent in such a subject, as well as from the vast variety of the detail involved, he had not had sufficient time for a complete investigation. Nor did he imagine that any man who had not previously meditated on the subject for a length of time, and made choice of his ground of attack, could say he was completely master of the subject. Some vote, however, was now rendered essential to the character, not only of Government, but of the gentleman who presided over the finances of the country. But three days were left for this inquiry, and to finish a great deal of other business; and he thought that despatch which was usual in the House ought to be used in preference to the indulgence which a committee afforded. As to the abstract propositions, if it were necessary now to go into them, he thought it would be proper to decide on them first. He thought it most logical to lay down principles of reasoning before facts were developed. Were they agreed to by the House, it would be under provisions and restrictions. They could not have the implicit force of axioms, but at most must be yielded to as wholesome maxims, the application of which must be frequently modified by a certain degree of discretion. With respect to all the other resolutions, he imagined they would, on examination, be found to be unwarranted by facts. He hoped the movers and supporters of the resolutions would not be gratified at so late a season by the House in resolving itself into a Committee of the Whole. The mode in which they were brought forward did not entitle them to much confidence. He said, a more unhandsome proceeding he had never seen in Congress. It had been a practice, derived from the lights of common liberty, common right, and the first principles of justice, that whoever was charged with a violation of law on which a punishment ensued, should have some mode of answering to the charge. It had, in a recent instance, been the practice of Congress, when an officer's conduct was even in the first instance inquired into, to afford the officer an opportunity of attending upon the examination on which his offence or his freedom from blame was to appear. He alluded to the conduct of the House when an examination took place relatively to the failure of General St. Clair's expedition. Suspicions were entertained that blame lay somewhere. A committee was appointed to examine. The three officers particularly concerned were, he understood, invited, as it were, to come before the committee, to explain, to interrogate, and to give information. Though the Secretary of War was not permitted to explain on this floor, justice and delicacy, and the most common principles of jurisprudence, to which we attempted to hold some analogy, demanded that he should be heard somewhere, and the committee was renewed for this purpose. The Quartermaster General asked to be heard on this floor. Though refused, he was permitted to attend that committee on whose examination his character as a Quartermaster depended. Were any man responsible as an officer to this House to fall under the suspicion of its members, a regard to decency and to the established rights of citizenship, would teach gentlemen to inquire formally before they hastily laid a charge on the table, to which they might move the assent of the House. But in this proceeding a Legislative charge was gone into before inquiry had been instituted. Every rule of justice, and all that delicacy which ought ever to attend her progress, had been disregarded, and in the very first instance, a number of charges are brought forward, not for inquiry, but conviction, which, if sanctioned by a majority of the House,

are to be followed by the dismissal of one of the highest officers in the Government. This mode was as tyrannical as it was new, and if any thing could throw a bias against the resolutions, independent of inquiry, it was the partial and unjust form in which the proceeding had commenced. Resolutions of conviction might rise out of the report of a committee of inquiry, who would act as a Grand Jury to the House, but could never precede it. He hoped the House would not refer to a Committee of the Whole what might be decided in the House with more despatch.

Mr. PAGE in reply to Mr. SMITH, spoke, in substance, as follows:

Mr. Chairman: The more precious our time, the more readily shall I vote for a consideration of the first resolution; for I think it of more consequence that we should decide on it, than on any other before us. We find, from the inquiry which has been set on foot into the conduct of the Secretary of the Treasury, that he differs from the mover of the resolution in opinion respecting his powers, and the constitutional obligation he may be under of regarding acts of appropriation; it therefore must be the wish of the Secretary himself, whether we agree with him or not; and it is our duty, as soon as possible, I conceive, to let our constituents know whether we approve, or not, of his opinion. The Secretary himself, I think, confesses "that a strict adherence to appropriations, in certain cases, would be pusillanimity." He preferred, no doubt, the public good, which he thought he had in view, to a strict compliance with an act of appropriation. It becomes us, then, to determine whether we wish that the Secretary shall hereafter be bound by our acts of appropriation or not.

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

The question was now taken on committing the first two resolutions, and negatived—25 to 32. On the question of referring the last, only fourteen members voted in the affirmative.

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

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

FRIDAY, March 1.

Official conduct of the Secretary of the Treasury.

The House again resolved itself into a Committee of the whole House on the third, fourth, fifth, sixth, seventh, and eighth resolutions contained in the motion of yesterday, respecting the official conduct of the Secretary of the Treasury.

The third resolution being under consideration, in the words following, viz:

Resolved, That the Secretary of the Treasury has violated the law, passed the fourth of August, one thousand seven hundred and ninety, making appropriations of certain moneys authorized to be borrowed by the same law, in the following particulars, to wit:

"1. By applying a certain portion of the principal borrowed to the payment of the interest falling due upon that principal, which was not authorized by that or any other law.

"2. By drawing part of the same moneys into the United States without the instructions of the President of the United States."

Mr. BARNWELL.—Mr. Chairman, before I proceed to discuss the observations which yesterday fell from the gentleman who introduced the resolutions now before us, I cannot refrain from saying that I am extremely happy that, in passing through the medium of that gentleman's examination, this subject has changed its hue from the foul stain of speculation to the milder coloring of an illegal exercise of discretion, and a want of politeness in the Secretary of the Treasury. I feel happy, because I always am so when any man charged with guilt can acquit himself; and the more so now, when a man in a high responsible office, and high in the estimation of his

countrymen, can reduce a charge from a quality calculated to have excited an alarm, even in Pandemonium, to such a shape as I fancy will scarce serve to satisfy the uncommon curiosity which it appears to have excited. As I have never been in the habit of taking notes, I shall depend upon memory in answering the gentleman from Virginia; although I imagine, as that gentleman usually sticks very close to his point, whatever it may be, that, in pursuing his charges, I shall substantially answer his arguments. In commenting upon the two first resolutions, to which I am by order confined, I shall consider, in the first instance, what regards the right of drawing money into this country. The gentleman appears not to have considered the law properly, for there cannot be a doubt that the PRESIDENT had a right to make what arrangements he pleased, in order to attain what he might consider a proper modification of the debt due by the United States abroad. He might have borrowed the money here, or have paid it here; he might have borrowed the money in England, or wherever he thought fit. I will ask the gentleman by what precise authority he borrowed the money in Amsterdam and Antwerp, and paid it in Paris? Certainly by none but that discretion which has been depended upon to modify the debt in the manner most conducive to the interest of the United States. I take it, then, for granted, Mr. Chairman, that the right of the PRESIDENT to draw the money borrowed here, or to send it any where, must be conceded. The question will then arise, whether the Secretary of the Treasury had a right to do this or not, and whether this has not been done without, nay, against the instructions of the PRESIDENT? I really consider this as one of the most extraordinary cases that I have ever known exhibited. Let us consider its form. A highly important trust, of no less import than the discretionary use of fourteen millions of dollars, is placed in the PRESIDENT OF THE UNITED STATES; he, by a general commission, and by special instruction, deposes this power to the Secretary of the Treasury, stating that he is to conform to these and whatever instructions he might from time to time give him. Let any man seriously examine these powers, and I am of opinion that the Secretary, under these, had a right to draw, if he thought proper, unless instructed to the contrary; for the PRESIDENT conveys a complete power to modify the debt, provided that it should be, with all convenient despatch, applied to pay the principal and interest due to France; for where the payments are to be made is certainly left to the Secretary. If this has not been exercised advantageously, this is another circumstance which the gentleman himself has not questioned. But, says the gentleman, the Secretary, under these instructions, had no special authority to draw; notwithstanding which, he began to draw in 1790, and has continued to draw, at different times, into this country the enormous sum of three millions of dollars, and therefore he must have done this without, nay, against the instructions of the PRESIDENT, who, it is presumed, having delegated this great trust, has never, for three years, inquired into the performance of it. Can this be the inference of common sense? Can this be the inference of the experience which we have had of the PRESIDENT, one of the prominent features of whose character always has been an industry to investigate particulars, as remarkable as his sagacity to frame generals? If, then, instructions have not been given, or have been exceeded, was it necessary for us to come in aid of the PRESIDENT, he who by our law has the power, which we ourselves cannot exercise, of removing any of the Executive officers at pleasure? It certainly cannot be necessary; for, as this officer continues to act, we must conclude that he has either acted by instructions, or in such manner as to have given satisfaction to his principal without them. Really, Mr. Chairman, I cannot but believe that if suspicion had not led the gentleman from Virginia astray, the usual correctness of his understanding would have prevented him from pursuing such an *ignis fatuus* as this.

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Mr. W. SMITH regretted that so important an inquiry had been instituted at the very close of the session, when the members were thronged with business of an indispensable nature, and it was scarcely possible for them to bestow that attention and deliberation which the nature of the subject called for. But, while he expressed this regret, he assured the committee that it was mingled with much satisfaction, in finding that the vague charges of mismanagement, with which the public had long been alarmed, were at length cast into a shape susceptible of investigation and decision. Previous to an examination of the specific charge then under consideration, he claimed the indulgence of the committee in offering a few preliminary remarks, which, though they did not bear precisely upon the charge itself, yet were intimately connected with the subject-matter of the inquiry, and were justified by the general remarks of gentlemen who had preceded him.

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

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

An officer, intrusted with the care and distribution of public moneys, is generally looked at with a watchful eye; mankind are too prone to suspect the purity of his conduct; slight insinuations are but too often sufficient to injure him in the public estimation. Such being the natural propensity

of things, it doubtless behoved those who wished for tranquillity in the country to withhold charges not clearly warranted by proof—to suspend animadversions which were not likely to terminate in conviction. A contrary proceeding had an inevitable tendency unnecessarily to alarm the public mind, to instil into it suspicions against the integrity of men in high stations, to weaken their public confidence in the Government, and to enervate its operations.

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

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Mr. S. proceeded next to examine the charge under consideration. It consisted of two items: the first, the application of a certain portion of the principal sum borrowed in Europe to the payment of interest falling due upon that principal, which it was contended was not authorized by any law; the second, the drawing part of the same moneys into the United States, without the instructions of the PRESIDENT.

The first item of this supposed violation of law appeared of so frivolous a nature that it did not merit much discussion; at any rate, it was more an objection of form than of substance. If he comprehended well the purport of the charge, it was nothing more than this—that the Secretary having moneys at his disposal in Europe applicable to the purchase of stock in this country, and having at the same time moneys in this country applicable to the payment of the interest abroad, had substituted the one for the other. He had paid the foreign interest out of the foreign funds, and he had purchased stock with the domestic funds. This was the heinous offence with which he was charged, and which was thought sufficient to remove him from office. If the moneys in Europe might have been drawn to this country by bills, for the purchase of the debt, it might have equally been drawn here, by ordering the application of a sum in Europe, for a purpose which would be represented by an equal sum here, to be applied to the purchase. The substance, not the form, is to decide whether this mode of negotiating the matter was proper. Suppose bills had been ordered to be drawn on the commissioners, and remitted to them on account of the foreign interest, would not this have been as regular as to draw them for sale? Did the execution of the law require that the Secretary, having funds in Europe with which the foreign interest might be discharged, should nevertheless remit moneys abroad for that purpose, and then, having funds in this country with which the purchases of the debt might be made, should draw bills to bring the foreign funds here? Was there any necessity for this complex operation, for the expense of remittance, the probable loss on the sale of bills, the loss of interest while the money was *in transitu*, when the whole matter could be negotiated by the simple and economical mode pursued? So far from this arrangement being a ground of censure, Mr. S. asserted that, had the Secretary pursued the other mode, he would have been animadverted upon with great severity for such an extraordinary course. He would have been accused of ignorance of his duty, and every loss incidental to the transaction would have been charged to his account.

The second division of the charge, being of more magnitude, required a more lengthy discussion. This instance of violation consisted in a supposed deviation from the instructions of the PRESIDENT, or a supposed acting without any instruction whatever. It was, however, begging the question; it was taking for granted that which did not appear, and which ought not to be presumed. And here, Mr. S. observed, the gentlemen on the other side had entirely reversed one of the fundamental maxims of criminal jurisprudence, which declared that innocence should be presumed and guilt proved; whereas they had presumed guilt, and called upon the accused to prove his innocence.

And what was the slender basis on which the presumption was built? Why, say the gentlemen, the instructions from the PRESIDENT to the Secretary, which have been laid before the House, relate only to the payment of the French debt, and convey no authority to draw any of the foreign loan into this country for the purchase of stock; and hence they infer, he had no authority for this latter purpose.

To comprehend the fallacy of the inference, it was only necessary to recur to the laws, and to the PRESIDENT'S commission to the Secretary to negotiate the loans. Two acts of Congress had passed; one on the 4th of August, the other on the 12th of August, 1790. The first authorized a loan of twelve millions of dollars, applicable to the payment of the French debt; the other, a loan of two millions, applicable to the purchase of the domestic debt. The PRESIDENT'S commission to the Secretary embraced both acts and both objects, and under that commission one loan was negotiated applicable to both objects. True it is, that the PRESIDENT'S first instructions were confined to one object, namely, the French debt; but the inference is not that no other instructions were given, and that the Secretary acted without authority; but the very reverse, that the PRESIDENT either left the other object to the general discretion of the Secretary, who was, *ex officio*, the proper agent and his representative; or that he reserved it for subsequent and occasional instructions.

This inference must be the true one; first, because a contrary supposition would impute to the PRESIDENT an illegal intention, that of applying all the moneys borrowed under both acts to the object of one only; secondly, because the commission extending to the borrowing fourteen millions of dollars, and embracing both objects, and the instructions being confined to twelve millions of dollars, and to only one object, it followed that the other either was left to discretionary management, or to after regulation, for the law enjoined the execution of both.

If presumption, then, was to govern, the more natural presumption was, that the officer acted according to some general discretion reposed in him, or according to instructions from time to time given. These instructions may have been verbal, as well as written. The written instructions given in the first instance were evidently confined to the object of the first act. The necessary conclusion is, that the application of the moneys borrowed under the second act was not meant to be included in that instruction, but was left to be regulated by a general discretion, or by occasional directions, verbal or otherwise.

Having gone through this resolution, Mr. S. observed, that, if there was as little of criminality in the subsequent charges as in that which he had just discussed—and from an attentive examination he sincerely believed it—he was satisfied that, notwithstanding all the severe animadversions within, and all the virulent calumny without, the walls of Congress, the conduct of the Secretary would come forth chaste and unblemished. Instead of any thing being detected which would disgrace Pandemonium, nothing could be chargeable to him which would sully the purest angel in heaven. Whatever difference of opinion might exist as to the wisdom and benefit of his measures, he was confident in saying, that in every thing the Secretary had done, he had been guided by principles honorable and patriotic, and he trusted that a very great majority of the committee would, by their votes, evince the same sentiment. The sword of justice, it was said, ought at times to be taken from its scabbard to keep great public functionaries within the pale of the law; but it should be remembered that if Justice had its sword to punish the guilty, it had likewise its shield to protect the innocent. If the Secretary had committed a wanton violation of law, let the sword be drawn forth for his punishment; but if he has pursued the dictates of an enlightened patriotism, the committee were called upon to raise the shield for the defence of a faithful officer.

Mr. FINDLAY addressed the Chair as follows:

Mr. Chairman: Being strongly impressed with the importance of our time, which is now so near an end, though I had the honor of seconding the resolutions, I took no part in the debates of yesterday; nor will I now detain you with replies to many of the arguments which have been offered against the resolution now under discussion.

Upon one argument frequently introduced by the gentleman last up, viz: the greatness of the Secretary's character, &c., I will only make a single remark. There is no character officially known in Executive departments of this Government, who merits pre-eminence, or to whom a degree of greatness can be ascribed, but in proportion to his prompt execution of the laws, and the attention with which he discharges the duties of his office. From this rule, the PRESIDENT himself is not exempt, much less a subordinate Secretary, whose appointment is during pleasure, and the duties assigned him of a changeable and temporary nature. But to come to the resolution before us. The first questions that offer themselves, are: Was the money in question appropriated to special and distinct purposes? Did the Secretary of the Treasury apply the money to other uses than the law directed?

In answer to the first, it is only necessary to advert to the law authorizing the loans. The law authorizing the twelve million loan, appropriates whatever amount may be borrowed solely to the payment of debts then due to France and Holland. The law authorizing the two million loan directs the application thereof to the redemption of the domestic debt, in aid of about ——— dollars, arising from the revenues previous to the 1st of January, ———. These appropriations are precise, distinct, and unconditional. With respect to the uses, no room was left for the exercise of discretion. The will of the Legislature was express and clearly defined; it left no room for evasion, nor any excuse for mistake; nor did the PRESIDENT transfer to the Secretary any other authority or instructions than what the law expressed.

But the gentleman from South Carolina says, that the presumption is, that the PRESIDENT did give other instructions than he has communicated; that, in this case, presumption should be admitted as conclusive testimony, and that neither the Secretary nor the PRESIDENT is obliged to communicate the instructions or authority to us. The gentleman is a lawyer: I will appeal to himself; I will appeal to all the professional members on the floor, whether presumptions can be admitted as proof, where, in the nature of the case, positive testimony can be procured. Surely, in courts of justice, positive testimony is always required, and presumptive is rarely admitted; but in this case, the presumptive is by the gentleman set in opposition to the positive. However, this is not the case in fact. The PRESIDENT did give commission and instructions, and those are fully communicated to us. If he conceived we had no right to demand them, he would have told us so; if he had kept any part of them back, he would have informed us, and assigned his reasons for doing so. I presume that the PRESIDENT has acted the part of a candid, honest man; the gentleman presumes the reverse. The suggestion that this House, which has the exclusive right of originating the appropriation of money, has no right to be informed of the application of it, is so novel and extraordinary, so inconsistent with every idea of propriety and good government, that it requires no reply.

Did the Secretary apply the money borrowed in Europe agreeably to the legal appropriations and the instructions of the PRESIDENT? No, he did not; though some of the gentlemen do not acknowledge this, yet the Secretary has clearly acknowledged it himself, and has filled his reports with labored and ingenious apologies for so doing. He has suggested a variety of motives, and taken infinite pains to charm us with the mighty public advantages resulting from his doing so. He acknowledges combining the loans, and directing the application of them, in the very offset, in a way contrary to law; he acknowledges having drawn to this country, and applied in Europe, to uses for which other moneys were appropriated, near \$3,000,000. Out of this he has paid upwards of \$400,000 of the French debt, to St. Domingo. I do not complain of paying the

interest due in Europe out of the money drawn here. The gentlemen apply the force of their arguments, with great attention, to support or apologize for this part of the Secretary's conduct, as if against this only the charge in the resolution lay. But we do not object to applying that money in Holland, which ought to have been brought here, if the money which, according to the appropriation, should have gone to Holland, had been put to the use here for which the other was intended. A simple exchange of money for the purposes of conveniency or economy, is properly one of those cases to which ministerial discretion may safely be extended; but the question before us is, the money has not been replaced. The amount of money has not been applied to the uses intended; consequently, the appropriation has been disregarded. It is acknowledged that though there were upwards of \$1,300,000 of the Domestic Sinking Fund, and upwards of \$2,300,000 drawn from Europe, besides the moneys applied to the relief of St. Domingo; yet, when these inquiries began, there was not \$1,000,000 applied to the redemption of the public debt, and even yet the whole of the domestic appropriation has not been applied to the Sinking Fund, notwithstanding that the public debt is now, and has for some time been under par. We have it on record that the Secretary never informed the commissioners of the drafts he made on Europe, although the fund was exclusively to be at their disposal.

Mr. GILES rose.—He was sensible that he stood in a peculiarly delicate situation, in which nothing short of the public good could have induced him to place himself. If a public and highly responsible officer had violated the laws, it was necessary that he should be called to an account for it; and to determine whether in the instances before the House, he had been guilty of that violation, it is necessary to compare the testimony with the facts alleged in the resolutions before the committee. He first adverted to the law authorizing the PRESIDENT OF THE UNITED STATES to borrow twelve millions of dollars for the purpose of paying the foreign debt. On this, he remarked that the authority of borrowing was expressly given to the PRESIDENT, no doubt, with an eye to the personal virtues of the character who fills that office; the loan is also directed to be made solely for the purpose of paying the public debt. Here he remarked, that in every appropriation law, the appropriation is always emphatically mentioned, which is an evidence that the Legislature intend to remain the sole judges of the applications of money. He read a letter from the Secretary of the Treasury, who was employed by the PRESIDENT to negotiate this loan, to Mr. Short, the Secretary's foreign agent for this purpose, dated the 9th of May, 1791, in which the Secretary informs Mr. Short, that one million and a half of the money he had obtained on loan, was destined for France; of which sum he was authorized to apply immediately one million, but to reserve eight hundred thousand florins to answer such subsequent directions as he should receive from the PRESIDENT. He cited this passage to show that the million and a half which had been obtained on loan, was destined for France.

To remove any doubt that might remain upon this head, he referred to a preceding letter from the Secretary to Mr. Short, dated the 13th of April, in which it is also expressly said, that of the two millions borrowed, one million and a half is intended for France, the remaining half million to wait for further directions. Having established this point, he adverted to the resolution before the committee, which says, that he applied a portion of the principal borrowed to the payment of the interest falling due upon that principal, without being authorized so to do by any law. To show this, he referred to a report of the 3d of January, containing sundry statements respecting foreign loans. That part of the report to which he alluded in proof of the fact, stated in general terms, a sum paid on account of foreign loans, and this sum was taken from the principal borrowed, and amounted to 1,833,189 florins. If his statement was accurate, the fact he wished to establish was proved. He wanted more light, he confessed, than he could collect from the Secretary's official communications. He should not go into the examination of what circumstances might have induced the Secretary to deviate from the positive injunctions of the law, or to make any remarks upon his conduct, until he had heard what gentlemen would say to controvert the fact he wished to establish.

Another fact of consequence he wished to prove, viz: that part of the money obtained on loan in Europe had been drawn over, though not wanted here for any public purpose. This appeared from other papers. He turned to the instructions from the PRESIDENT to the Secretary of the Treasury, authorizing him to borrow \$14,000,000, in which the Secretary is cautioned to keep in view the two several acts authorizing the loans, and the distinct conditions they contemplate. By the instructions of the PRESIDENT, the Secretary is authorized to apply the moneys. In the execution of the trust confided to him, the PRESIDENT generally directs him to employ Mr. Short to negotiate the loans, to borrow in the manner prescribed by the acts, and to discharge immediately the arrears of interest due to the French, to which purpose and to the complete payment of that debt the twelve million loan was altogether appropriated. If this money, then, was shown to have been drawn here, it was neither warranted by law nor by the PRESIDENT's instructions. The Secretary did begin to draw as early as 1790, and had continued to draw from time to time, till 1793, without giving notice of this to the Legislature. Having shown that the Secretary had drawn without authority to draw, he next proceeded to consider the purpose of those drafts.

The money thus drawn for was not, he stated, applied to the purchase of the public debt. No money obtained from foreign loans was thus applied until this year; the domestic resources appropriated to this object were never exhausted. These were the facts involved in the first resolution, which he wished to establish. Before he proceeded further into the discussion, he wished to hear what gentlemen had to say to controvert them. He wished to see justice done in the matter before the House; he wished justice, also, to be tempered with moderation and mercy; and if gentlemen could show the necessity for deviations from positive law, which he had endeavored to point out, it would exonerate the Secretary from a very great share of blame.

Mr. BARNWELL called for the reading of certain parts of the two acts authorizing the loans. One of the 4th of August, authorizes a loan of \$12,000,000, to be obtained without limitation as to the interest, for the purpose of paying the foreign debt; the other is of the 12th of August, for \$2,000,000, the interest to be not more than five per cent., and for the purpose of reducing the domestic debt.

Mr. SEDGWICK, to disprove that the drafts alluded to have been made without the knowledge of the Legislature, called for the reading of the PRESIDENT'S Speech to both Houses on the 8th of December, 1790, and a subsequent report of the Secretary of the Treasury to the same point. By this, it appeared that the power of borrowing, having been exercised under the joint authority of the two acts, the Secretary states a difficulty that had occurred to him on the subject of the drafts alluded to. The money having been obtained on an interest of five per cent., exclusive of douceurs, he wished the Legislature to determine whether it might strictly be considered as borrowed under the second act, which limited the interest at five per cent. This was sufficient, he conceived, to show that the Legislature were not ignorant of those drafts, and an act was passed solving the Secretary's doubt, and sanctioning his construction of the law.

Mr. GILES remarked that he had drawn before that sanction was obtained.

Mr. FITZSIMONS observed, on the first charge in the resolution, that, as the interest of the money borrowed in Europe is payable where borrowed, it was economical in the Secretary to pay that interest with moneys there, which were to be drawn here, and replace the sum by taking the amount from the funds here destined for that payment. A financial operation of this nature is simple, and saves the trouble of drawing with one hand and remitting with the other. He conceived there was no just foundation for the first charge.

Mr. LAURANCE said, that when the resolutions calling for information from the Treasury Department were first brought forward, the public mind was impressed with an idea that there were moneys unaccounted for. This charge is now dropped, and it is honorable to the officer concerned that, after much probing, nothing is found to support it. The inquiry now is, whether a debt was paid out of this or that fund. He did not admit the fact, that it was paid out of any other moneys than what law strictly warranted. He went into a history of the subject from its origin. He stated the nature and purposes of the loans. There was nothing to prevent the PRESIDENT from consolidating the two loans, provided such an arrangement did not interfere with the purposes intended by them. The PRESIDENT employed the Secretary to obtain the loans under the joint authority of both acts, as it was found that the object could best be carried into effect by such an arrangement. The money thus borrowed became subject to the appropriations of both acts, and not exclusively for the payment of the foreign debt. Then, as part of that money was subject to be drawn here for the redemption of the domestic debt, and the interest of the loan was to be paid with domestic funds, it was perfectly reasonable to avoid further drafts and remittances to pay the debt there with money there, and replace it here with money already here. The fact stated in the first part of the resolution is, by this plain statement of the case, substantially refuted, and appears altogether unfounded; but if the fact is proved, what is implied? No injury to the interests of the community; the intention of the Legislature has been in every point fulfilled. If the Secretary had acted differently, he would have been guilty of an absurdity, and to blame for sacrificing the public interest and neglecting the spirit of a law for a strict and unprofitable observance of its letter.

Mr. SEDGWICK, by adverting to the Speech of the PRESIDENT and Report of the Secretary, had shown that the Legislature had been made acquainted with the drafts, and sanctioned future ones on the same principles. The latter part of the first resolution criminales the Secretary for making them without instructions from the PRESIDENT. Even if this was the case, he did not know whether this was really reprehensible. He defended it on the ground, that the Secretary is the officer appointed by law to superintend the finances and apply all moneys agreeably to appropriations. He took a view of the subject, as stated by Mr. LAURANCE, and concluded by asking, whether, if the Secretary was found, on a critical examination, to have deviated in a trifle from the letter of the law, such a deviation was sufficient to warrant the alarm's being sounded from St. Croix to St. Mary's, and whether the precious time of the House, at the close of the session with a vast variety of business on their hands, should be taken up in so unprofitable and frivolous an investigation?

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Mr. GILES said, the transaction alluded to by the gentleman to controvert the fact laid down in the first part of the resolution before the committee was not immaterial, as they had endeavored to show it. It was not merely a financial operation to avoid the necessity of drawing and remitting. The truth was, that the Secretary had drawn over nearly \$3,000,000. The PRESIDENT'S authority was limited to \$2,000,000.

Mr. LAURANCE was of opinion, that if the PRESIDENT, or his agent, had drawn the whole amount of the money obtained under both loans, he could not be said to have gone beyond his authority. He was authorized to borrow \$12,000,000 to pay the arrears on the foreign debt, and to modify the whole. In the execution of this trust, he might have found it advisable to draw to the country the whole of that sum. It had been found advisable to draw for part, and to pay the French by shipping produce to St. Domingo. If the money expended for supplies to St. Domingo is deducted, the balance will be found less than \$2,000,000.

Mr. L. contended, that the interest of the moneys borrowed was not paid out of the principal of the loan, as set forth in the first charge of the resolution before the committee. If gentlemen would attend to the history of the transaction, they would find this strictly true. This interest was paid out of the moneys borrowed for the reduction of the public debt, and not out of those

intended to pay the French, and the funds appropriated for the payment of that interest were here to replace the former and be applied as those were appropriated. He referred to the PRESIDENT'S Speeches at the commencement of the two last sessions, to show that the loan was obtained under the joint authority of both acts; and adverted to the act of Congress, in consequence of a doubt suggested by the Secretary, explaining that the moneys first obtained might be considered as borrowed under the act authorizing the two million loan. Having shown the first charge in the resolution to be unfounded, he turned to the second.

The Secretary is accused of drawing moneys to this country without instructions. In this transaction the PRESIDENT must be considered as the principal, and the Secretary the agent, or the Secretary must be looked upon as the principal. If the PRESIDENT is the principal, and he be authorized to obtain the loans, as soon as the money is obtained it naturally falls under the direction of the financier; but if it be contended that the PRESIDENT was to have applied the moneys as well as to borrow them, then we have nothing to do with the agent; that agent is accountable to his principal, and as this principal is not called to an account by the Legislature for any improper exercise of discretion, he must be considered as having acted strictly within the law. If the Secretary is considered as the principal, (and by a strict attention to the law, he believed, it would be found so, for the PRESIDENT is by it authorized to borrow, and it is not expressed who shall apply the money,) then it was not one of the duties of the Secretary to procure the instructions of the PRESIDENT; being the principal, and consequently having the direction of the money borrowed, he is made the judge of the time of drawing, to fulfil the intention of the law. Was the money, he asked, to have remained in the hands of the banker in Europe? Since it was borrowed for the purchase of the public debt, the sooner it was drawn over the better, and the Secretary having the direction of those moneys, could do it without consulting the PRESIDENT. He proceeded to show, however, that the Secretary had by no means acted entirely without regard to the PRESIDENT'S instructions. His letter to Mr. Short, which had been read, expressly says, that he is waiting for instructions from the PRESIDENT, and the only instructions brought forward clearly show, that he did not act without them. On this occasion it was not necessary, he conceived, that all the private communications between these two officers should be brought forward; indeed, many of the instructions might have been verbal, and of a private nature. Another proof lies before the committee, to show that the Secretary did not act independent of instructions. A report of the Secretary mentions that some matters relative to the loans were under consideration of the PRESIDENT OF THE UNITED STATES. This document, the gentlemen were in possession of when they framed the resolutions; and it, in his opinion, left very little ground indeed to suppose that the Secretary had acted without instructions.

Mr. MERCER next rose. None of the communications from the Secretary of the Treasury had removed his suspicions relative to the transactions of that department. What had fallen in the course of the discussion, had not removed his doubts. He confessed himself more at a loss than ever to account for the conduct of that officer. To judge of the propriety of his conduct, it was necessary to consider what his duties are, and investigate whether a necessity existed to justify the drawing complained of. Gentlemen, in their arguments, had alluded to some observations that had fallen from him on other occasions expressive of his opinion, that there had been corruption in that department. This opinion he still entertained. He suggested that some irregularities had taken place as to the money appropriated to the Sinking Fund. This might be the fact, and his suspicions were sufficiently urgent to warrant him in suggesting that it might be possible. At the close of 1792, he stated there was a balance of cash in the Treasury of \$2,331,182, and the bonds due in the course of the present year would produce a sum of about \$2,269,000. Yet a proposition was made in the House, predicated on a total want of money in the Treasury, to borrow \$800,000 in addition to the \$400,000 already borrowed of the bank.

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[Here Mr. BOUDINOT interrupted the member, as being out of order. The Chairman, conceiving Mr. MERCER'S remarks to be introductory to, and connected with the observations he intended to make on the resolution, declared him in order.]

Mr. MERCER proceeded to show, by sundry statements and calculations, that there was no necessity for this loan of \$800,000. The House, he said, to discharge their duty, should be satisfied how the money appropriated was applied, before they consented to repeated additional appropriations. When calls for information had been made by the House, with a view to comply with this their indispensable duty, the Secretary had thought it sufficient to balance money actually received, by calculations of sums that would probably be wanted agreeably to appropriations. Were dollars, he asked, to be balanced by absolute appropriations? Can things certain be balanced by things uncertain? Actual expenditure would alone balance actual receipt. Appropriations founded only on uncertain calculations could not show the money actually laid out. He adverted to some calculations made to ascertain the probable expenses of the War Department.

[Here the member was again called to order, and was declared out of order by the Chairman.]

Mr. M. confined his observations more immediately to the resolution before the committee. It had been said, that the interest paid was paid out of moneys that were to be drawn to this country, and were replaced here by funds from the domestic resources originally appropriated for that object, and that the dead letter of the law, if any part of it, had alone been violated. He contended there had been an essential violation.

The sums drawn for and appropriated to reduce the public debt, were not applied to that purpose; the domestic resources appropriated to that object, never were exhausted. If this is the case, conclusions surely unfavorable to that officer must naturally follow.

He proceeded to make some remarks on the question, whether the Secretary had acted under instructions from the PRESIDENT. It was disagreeable, he premised, to criminate the character of any officer. He bore a great respect for the PRESIDENT, for his virtues, talents, and services, but however grating to his feelings it might be to find fault with any part of his conduct in this matter, he was unable to discharge his duty under his present impressions, unless he avowed that he conceived that officer had violated the law, though he allowed, without intention, by not inquiring into the subject, while transacting, as it was his duty to do. He must declare that he saw no proof that the Secretary had acted under the PRESIDENT's instructions. On the contrary, he saw the reverse, there was even no presumptive proof of the fact. The House has called for information as to the extent of the authority delegated by the PRESIDENT to the Secretary. Either the Secretary has produced the proof of this authority, or he has not complied with the order of the House; it does appear that he has gone beyond it in making the drafts complained of. The PRESIDENT directed that the proceeds of the loan be immediately applied to pay the French; yet a great portion of that money was brought over here. It was said that he might have brought the whole here if he chose and paid it to the French here. This argument goes on the presumption that the PRESIDENT might do wrong without incurring blame. But the PRESIDENT expressly directed it to be paid immediately to France; and the House had no right to presume that he did direct the money to be drawn here, when proof to the contrary appears. Upon the whole, he concluded that the law had been broken in letter and substance, and that the Secretary had acted without proper instructions from the PRESIDENT.

Mr. LIVERMORE observed, that the charge against the Treasury Department was at first well calculated to beget serious alarm. When misapplications of the public money are sounded in the public ear, all feel interested, knowing, that what affects the public purse, must in a degree affect the purses of each private individual. In the present stage of the subject, he was happy in being able to felicitate himself and his fellow-citizens, that even should the whole of the charges contained in the resolutions be proved, it would not appear that they had lost a farthing by the conduct so loudly complained of. What is the charge? That the Secretary has paid an interest that was justly due; why then, he presumed we should not have it again to pay. If the Secretary has paid what was due, what then is the complaint? It was surely not intended that it should not have been paid. This was not the intention of Congress; for they passed an act providing funds for its payment. The Secretary was then right to pay it. But, it is said, he paid with the wrong money. He saw no harm in not paying it with the very dollars appropriated, and approved of the operation, which saved drawing with the one hand and remitting with the other; in this there was no crime committed, no loss incurred. It appears, on the contrary, that something was gained by it. So far, then, he was clear, no law had been violated, nor was any rule of propriety departed from. He then touched upon the Secretary's disputed right to draw. He contended, that he had that right. The loans were obtained under the joint authority of the two acts. It was said that more than two millions, the amount appropriated for the Sinking Fund, were drawn over; but, he insisted, he might have drawn the other twelve millions, if it had been for the public interest so to do. The French wished to be paid here, and it being no loss, but rather a profit, to comply with their wish, where was the harm in so doing? If any public loss had been incurred owing to these drafts, then blame would lie. He concluded, by expressing his hearty approbation of the conduct of the officer who is criminated by the resolutions, and declared it as his firm intention to give them his negative.

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Mr. HILLHOUSE argued, that the interest paid, was not paid out of the \$2,000,000 loan, and that the drafts were made agreeably to the directions of the PRESIDENT. He showed this by the documents which had been already referred to. He put in a clear point of view the propriety of avoiding the expense and risk of drafts and correspondent remittances, and concluded by giving his approbation to the conduct of the Secretary in the transactions complained of, and by expressing it as his firm belief that a majority of the committee, from the evidence before them, would undoubtedly be of opinion that the charges brought forward are unfounded.

Mr. SEDGWICK rose to correct a mistake of Mr. MERCER'S. The gentleman had asserted, that the Secretary had drawn on Europe, before the loan, obtained by the commissioners under the old Government, was ratified. This was not the case. The loan had been ratified in pursuance of the provisions of the act authorizing it. The PRESIDENT in his Speech, December 8, 1790, says, "that agreeably to the powers vested in him at the last session, the loans in Holland had been completed."

By existing acts of the Legislature, and from express communications from the Secretary of the Treasury, it appears, that all the moneys borrowed were deemed borrowed under the joint authority of both acts, and not to be solely appropriated for the payment of the foreign debt.

Mr. MERCER explained, that he had said, that the Secretary had drawn from the loan obtained under the authority of the old Government, before said loan was legalized by law. If the Legislature had the right to legalize it, they had the right to reject it.

Mr. LEE next rose. He observed that as he found himself under the necessity of differing from his friend who had moved the resolution, with whom he generally agreed in opinion, and was accustomed to act, he begged the attention of the committee for a few minutes. To determine whether the Secretary of the Treasury had acted legally, it was necessary to examine whether the authority from the PRESIDENT and his subsequent instructions authorized him to consolidate the loans under the acts of the 4th and 12th August, 1790.

On this question Mr. L. observed, that there seemed to be no objection to such a construction, except that which arose from the difference of interest allowed by those acts; that the first loan was commenced without any regular authority by a company in Amsterdam; that it received its

authenticity from the acceptance of the Secretary of the Treasury. The interest and douceurs on this loan amounted to more than an interest of five per cent., which was the only premium contemplated by the act of the 12th of August. It could consequently be accepted only under the act of the 4th of August, which gave no limitation to the interest which was to be allowed. The money seemed therefore solely applicable to the payment of the foreign debt. From his report of the 24th of February, 1791, the Secretary himself seemed to have had this impression; Congress seemed also to have this impression as on the 3d of March following they passed an act authorizing the application of this loan to the object of the act of the 12th of August, 1790. After the 3d of March, 1791, therefore, the Secretary of the Treasury had a right to bring this money to America for the purposes of the Sinking Fund. The interest of the foreign debt becoming due, for which domestic revenues were pledged, he thought it prudent to pay that interest out of this loan, relying on the domestic revenues to replace it for the purposes of the Sinking Fund. This was a mode of bringing the money here, and he was not limited in his discretion as to the mode; and therefore had a right to follow that which appeared to him most advantageous. The paying of the foreign interest out of this loan was made after the 3d of March, 1791.

Mr. L. had no doubt as to the legality of all the proceedings relative to moneys drawn to this country subsequent to the third of March, 1791; even the moneys borrowed for the foreign debt, because a higher interest than five per cent. was stipulated for, on any of the subsequent loans, and because the PRESIDENT, in his instructions to the Secretary, leaves the mode of paying the foreign debt to his discretion. If he judged it for the advantage of the United States to bring this money, in the first place, to America, the legality of such a measure cannot be questioned, though the economy and wisdom of it may not be admitted. On this point, Mr. L. acknowledged, that he had not time to examine minutely all the statements and reports of the Secretary to judge of those exigencies which induced the drawing of all the money which had been drawn to America.

Whether it had been consistent or not with the interest of the United States, Mr. L. was of opinion, that the Secretary had legally a right to bring all the money he had drawn for to America, except what was drawn prior to the third of March, 1791. This money was drawn out of the first loan; it was drawn, as declared, for the Sinking Fund; the first loan, for the reasons before stated, could not be applied, and consequently, till the act of the 3d of March, 1791, this money could not be legally drawn for the Sinking Fund. Perhaps this act caused the irregularity of this proceeding.

But is not the Secretary of the Treasury subject to blame? Mr. L. observed, he thought he was not altogether free from it. At the meeting of Congress on the 8th day of December, 1790, the PRESIDENT in his Speech informed both Houses, that the first loan had been accepted, and that the Secretary of the Treasury had directions to lay the particulars before them. But what did he do? On the 15th of December following, he began to draw money on account of this loan to America, for the Sinking Fund; though from his report on the 24th of February, 1791, he appears to have had a doubt as to the legality of this proceeding. He delayed giving information, in conformity to the PRESIDENT'S Speech, till a few days before the dissolution of Congress. This conduct, Mr. L. said, seemed to argue a distrust of the Legislative Councils. Mr. L. dilated on the necessity of the purest and most confidential communication between the Secretary of the Treasury and the Legislature, and said, though he could not agree to the resolution then under consideration, there was one, subsequent to it, relating to this point, which he was sorry to find himself under the necessity of voting for.

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Mr. BOUDINOT considered it as the duty of the committee in the discussion of the charges brought forward to confine themselves strictly to the points in question. The present examination differed from ordinary Legislative business. Specific charges are brought forward against a highly responsible officer; the facts brought forward to support those charges should be understood and considered, to form a right judgment on them. The Secretary is charged with having violated a law, by paying the interest due on a loan out of the principal of that loan. He went into some statements and calculations to show that the money paid on account of foreign loans, as stated in official documents, could not have been paid on account of interest of the late loans, from the disproportion of the sums.

He need say nothing more, he conceived, to show that the first charge in the resolution immediately before the committee is unfounded. If what he said was not sufficient to disprove it, he asked where is the evidence to support it?

He next turned to the second charge in the resolution, viz: that the Secretary had made the drafts complained of without the PRESIDENT'S instructions. Here he noticed a mistake some gentlemen had fallen into, when speaking of the call of the House for information. This was a request to the PRESIDENT, and not an order to the Secretary. From the information communicated in consequence of this call, it did not appear that the Secretary had acted without, or contrary to instructions, and he insisted, that he ought to be presumed innocent till he was proved guilty.

He argued that the authority given to the PRESIDENT in the subject put it in his power to draw the whole fourteen millions to this country, if he thought fit; it could not, therefore, he contended, be insisted, that the amount of the drafts had passed the limits of the authority given. It is not denied, he proceeded, that there was a right to draw for the two millions appropriated for the reduction of the public debt. Well, it has appeared, on a certain occasion to the House, that our Minister in France negotiated a contract with the National Assembly, or their officers, for the payment of \$800,000 of the debt due them, here; then certainly, the exigency of the case required that this sum should be drawn here for the purchase of provisions for St. Domingo, in which this payment was to be made. Here then was a positive necessity of drawing for \$2,800,000 and as a discretionary power in the subject had been left to the Executive, they might

have found it advisable, perhaps, under an expectation of additional payments in the same manner to have drawn over as much more as they might have thought prudent.

He adverted to the application of the Secretary to the Legislature to declare whether the loan obtained, for an interest of five per cent., exclusive of *douceurs*, might be considered as borrowed under authority of the \$2,000,000 act. It was his (Mr. BOUDINOT'S) opinion at the time, that no explanatory law was necessary; and that the Executive had power to construe the act in that sense. This was also the Secretary's opinion, and in consequence of that opinion he had drawn bills. He thought it however right to apply to the House and have every doubt removed, and the Legislature sanctioned his construction of the law.

It had been said, that if the Legislature had a right to confirm, they also had a right to reject the construction put upon the law by the Executive. This, he conceived, they would not have been warranted in doing, after a contract agreeably to that construction had been made; such a proceeding must have involved a breach of contract.

It had been repeatedly asserted and strenuously insisted on, that the Legislature were totally in the dark, as to the drafts from Europe. To disprove this assertion, he read several items from sundry reports of the Secretary, where sums received on account of loans are specified. It had also been said, that there was no evidence that any part of the loan was applied to or intended for the purchase of the public debt.

This also appears unfounded, from a note dated 25th of August, 1790, laid before the Trustees for purchasing the public debt, which expressly mentions, that a loan had been negotiated, part of which was destined for the purchase of the public debt, and that some points relative thereto were before the PRESIDENT for his approbation. This also showed that the PRESIDENT had knowledge of such intentions. His Speech, and the Report of the Secretary, in consequence of part of that Speech, which had been so repeatedly referred to, also unequivocally prove this point.

He recapitulated the heads of his arguments, and concluded, that if nothing further could be brought in support of the charges now before the committee, they should have his decided negative.

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Mr. MADISON.—He wished not, he said, to waste a moment of the small portion of time left, by regretting its insufficiency for a full discussion of the subject before the committee. But he thought it due to truth, and to the honorable and independent motives of his colleague (Mr. GILES) in proposing the resolutions, to remark, that the lateness of the day to which they had been postponed did not justify the strictures which had been made on it. If the delay was not to be considered as unavoidable, some blame, at least, would fall elsewhere. The inquiries in which the whole matter originated, had been moved by his colleague, and passed the House some weeks ago. The reports in answer to these inquiries had not been finally made and printed a single day before the present resolutions were submitted to the House. He admitted that it might have been impracticable to report the information called for, as early as was desired by the House. He was sensible of the anxiety that would be naturally felt by the officer called upon, to present every consideration that might place his conduct in the most favorable point of view; yet, with all these allowances, it was impossible to deny that the reports contained things which did not belong to them, and therefore consumed time which, belonged to the period for discussion. He would mention one instance on which there could not possibly be a difference of opinion, viz: the vindication, formally undertaken by the Secretary, of the policy of borrowing money abroad. Whether his policy was right or wrong, the Legislature had themselves decided in favor of it; and it was the duty of the Secretary, in complying with the orders of the House, to inform the House how the law had been executed—not why it had been made; to explain his own conduct,—not to justify that of the Legislature.

It had been asked why the call for information had not been sooner made? The answer was obvious and simple. It was not sooner perceived by the House, that there was such a necessity for it. The want of information was first suggested by the bill for paying \$2,000,000 to the Bank, although \$200,000 only were immediately due, and for authorizing another foreign loan to the amount of \$2,000,000. From the dawn of light thrown by some circumstances incident to the occasion on the darkness in which the House had remained, proceeded those doubts and inquiries which had led to the information now possessed. His colleague had great merit in having brought about this development. He had rendered a service highly valuable to the Legislature, and no less important and acceptable to the public. One good effect of the information had been, that it prevented the passage of the bill for borrowing \$2,000,000 as an anticipated payment to the Bank. The bill had dropped from the hand of its patron with the first light that broke in upon the House. What other measures would have been prevented or varied, if a like knowledge of our funds and finances had been sooner obtained, was matter of serious consideration.

Another consequence of the reports, taken together, was, that the face of them presented to his colleague an evidence of the charges contained in the resolutions. Whether, at so late a day, it was best to leave the subject as exhibited by the various documents in print, for the examination and opinion of the public, or to press it on the consideration of the House, was a point which every member had a right to decide for himself. His colleague had viewed the positions stated in his motion as too important to be suspended, and as supported by such clear and authentic proofs, that a small portion of time would suffice for the subject. Under this impression, what was his right became his duty; and he had discharged it by offering his resolutions to the House.

As the House had refused to commit the two introductory resolutions, which established the rule of judgment to be applied to the case, and the last also, which declared the inference to be

drawn, the task of the committee was limited to a simple inquiry into the facts stated. They were to make out and report a special verdict of these, and leave it to the House to pronounce the proper judgment arising from them.

The resolution immediately before the committee imported, "that the Secretary of the Treasury had violated the law passed on the 4th of August, 1790, making appropriations of certain moneys," first, "by applying a certain portion of the principal borrowed to the payment of interest on that principal;" secondly, "by drawing part of the same moneys into the United States, without the instruction of the PRESIDENT."

The questions here are questions of fact; and whatever quality may be attached by different gentlemen to the several facts, it would seem as if the facts themselves are too clearly supported by the Reports of the Secretary, and the documents attending them, to be denied or controverted.

The law of August 4, 1790, authorized the PRESIDENT to cause to be borrowed \$12,000,000, to be applied to the Foreign Debt of the United States. A subsequent law of August 12, 1790, authorized another loan of \$2,000,000, to be applied to the Domestic Debt of the United States. A power to make these loans was delegated, on the 28th of August, 1790, to the Secretary, by a general commission, in the usual form, referring to the several acts above mentioned, but without any further discrimination of the loans to be made. As the law, however, for applying loans to the foreign object was prior in date, the presumption would rather be that it was to have a priority of execution; that the first money borrowed was to belong to the first object provided for. It was unnecessary, however, to dwell on this consideration, because the PRESIDENT had removed all uncertainty by the precise explanations and instructions which accompanied the power to the Secretary, and which ought, in truth, to be deemed a part of the commission. The instruction having been more than once read to the committee, he would content himself with referring to it.

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The part referred to is in the following words:

"I do hereby make known to you on the execution of the said trust, you are to observe and follow the orders and directions following, viz: Except where otherwise especially directed by me, you shall employ in the negotiation of any loan or loans which may be made in any foreign country, William Short, Esq.; you shall borrow, or cause to be borrowed, on the best terms which shall be found practicable, and within the limitations prescribed by law as to time of repayment and rate of interest, such sum or sums as shall be sufficient to discharge, as well all instalments or parts of the principal of the foreign debt, which are now due, or shall become payable to the end of the year 1791, as all interest and arrears of interest which now are, or shall become due, in respect to the said debt, to the same end of the year 1791. And you shall apply, or cause to be applied, the moneys which shall be so borrowed, with all convenient despatch, to the payment of the said instalments, and parts of the principal and interest, and arrears of interest of the said debt. You shall not extend the amount of the loan which you shall make, or cause to be made, beyond the sum which shall be necessary for completing such payment, unless it can be done upon terms more advantageous to the United States, than those upon which the residue of the said debt shall stand or be. But if the said residue, or any part of the same, can be paid off by new loans, upon terms of advantage to the United States, you shall cause such further loans as may be requisite to be made, and the proceeds thereof to be applied accordingly. And for carrying into effect the objects and purposes aforesaid, I do hereby further empower you to make, or cause to be made, with whomsoever it may concern, such contract or contracts, being of a nature relative thereto, as shall be found needful and conducive to the interest of the United States."

By this formal act, issued along with the commission to the Secretary, the PRESIDENT designated the object to which the loans to be made were to be applied; and by declaring the object to be that provided for by the act of August 4, 1790, he expressly placed the loan under the authority and provision of that act; so that the moment the money should be borrowed, it was to stand legally appropriated to its specified object—as much as if another law authorizing another loan for another purpose, had not existed.

This arrangement of the PRESIDENT was the more proper, not only because provision for the payment of the foreign debt had been the primary object of the Legislature, and the payment of the French debt the anxious wish of their constituents, but because payments to France were no longer matter of option, but of strict and positive obligation on the United States. In proof of this, he stated that the debt of France, calculated to the end of 1791, and computing the livre at 5 4-10 to a dollar, amounted to \$4,814,814, whilst the payments actually made, computing the florin at 2-1/2 to a dollar, amounted to more than \$3,372,717, leaving, as a balance, at the end of 1791, \$1,442,097. Adding to this balance the instalments due for 1792, amounting to \$638,888, there were to be paid within that year \$2,080,985. The entire payments, however, composed of \$656,500 in Europe, and \$726,000 put to the account of St. Domingo, (although \$444,263, 83 were actually paid,) amounted to \$1,382,500, leaving due at the end of 1792, a balance of \$698,485.

Here Mr. M. adverted to and read a paragraph in the Report of the Secretary, page 16, where in allusion to the measure of drawing bills in the latter part of 1792, he says: "I feel myself the more at liberty to do it, because it did not interfere with a complete fulfilment of the public engagements in regard to the foreign debt. It could be done consistently with a full

reimbursement of all arrears and instalments which had accrued on account of that debt."

Mr. M. observed, that, as he could not reconcile this paragraph with the calculations which he had stated, and which were drawn from official documents, he must regard it as an unquestionable error, produced by some hasty view of the subject.

Returning to the commission, Mr. M. repeated that all the money which that instrument, defined and qualified by the instruction annexed to it, authorized the Secretary to borrow, was actually and specifically appropriated to the payment of the foreign debt, and under circumstances particularly urgent, in relation to a part of it.

In what manner had this trust been carried into execution? It was to be observed, with regret, that, on the very day on which the commission and instruction issued from the President, the Secretary commenced his arrangement for diverting part of the loan, accepted and ratified by virtue of his commission, to a purpose different from that specified and required by his instruction. That a fact of so extraordinary a complexion might be grounded on the most unexceptionable proof, Mr. M. said he should take the liberty of supporting it by the authority of the Secretary himself. Here he read from the Secretary's letter, dated August 28, 1790, to the Dutch houses from whom the loan had been accepted, the following passages, viz:

"I should also wish, for particular reasons, that the business may be so regulated as to give it the form of two loans—one for two millions under the first act, and the other for one million under the second. But neither about this am I so solicitous as to be willing that it should constitute an embarrassment."

"I destine a million and a half of this sum as a payment to France, under the direction of Mr. Short, our Chargé d'Affaires at that Court, whose orders for that purpose you will please to follow."

The aspect here presented by a comparison of the several documents, was singular and remarkable. The subordinate officer appeared in direct opposition to the Chief Magistrate. The agent was seen overruling, by his own orders, the orders of his principal. The language of the President was, "By virtue of the power vested in me by law, I destine the money to be borrowed to the discharge of the instalments and interest of the foreign debt." The language of the Secretary was: "I destine a part of the money only to that purpose, and a part to be brought to the United States for other purposes." He left every member to make his own reflections on the subject. He would only observe, in general, that it demonstrated the truth asserted in the proposition, that the Secretary had violated both the law of August 4, 1790, and the instruction of the President relating to it.

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He then proceeded to a more distinct view of the two points particularly stated in the resolution. The first was, "That a certain portion of the principal borrowed under the act of August 4, 1790, had been applied to the payment of the interest falling due on that principal." As the fact would not, he presumed, be denied, he forebore to quote that part of the documents which admitted and authenticated it. He would, however, premise to any observations on it, a cursory view of the nature of appropriations.

It was unnecessary to repeat the emphatic remarks on this subject, which had fallen from the member from Pennsylvania, (Mr. FINDLAY.) It was sufficiently understood. He concluded that appropriations of money were of a high and sacred character; that they were the great bulwark which our constitution had carefully and jealously established against Executive usurpations. He meant only to take notice of the different plans into which appropriations might be moulded, and of the particular operation which ought to be given to them.

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

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

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

In the present case, it did not appear that the moneys taken at different times from the loans designated by the President, and thereby placed under the appropriation of the act of August 4, 1790, to the foreign debt, had ever been replaced. It did not appear that any such replacement was regularly planned or provided for. It was particularly worthy of observation, moreover, that the only use within the United States for which any loan in Europe could be assigned, was that of the Sinking Fund; that the Trustees of this fund had never been even informed of the drafts; that if the moneys drawn had been carried to the Sinking Fund, the limited sum of \$2,000,000 would

have been exceeded; and that the statements and accounts had, in fact, been so wound up, as mentioned by the Secretary, that not a single dollar of the money laid out in purchasing the public debt had been charged on loans drawn into the United States, although such was the only purpose to which they were legally applicable, and such the principal reason assigned for making the drafts.

He did not go into a particular proof that the sum drawn into the United States, after subtracting the whole sum placed to a foreign account, exceeded the sum of \$2,000,000, because the fact had been conceded on the other side, particularly by the statement of the member from Connecticut, (Mr. HILLHOUSE.)

Thus it appeared clearly, in confirmation of the first point, that the application of a certain portion of the principal borrowed in Europe, to payment of the interest, was not a mere transposition of moneys, to prevent the sending them backwards or forwards, nor an advance of money from an overflowing fund in favor of a deficient one; but an absolute diversion of appropriated money, and consequently a violation of the law making the appropriation.

The second point in the resolution related to the drawing of moneys into the United States without the instruction of the President. This point had been fully established by the documents and explanations applied to the first. They had done more: they had demonstrated that the instructions of the President, which dedicated the loans to be made under his commission to a foreign object, were an express prohibition of drafts for any domestic object. It was sufficient, therefore, to refer to the instructions of the President, and to the contradictory steps taken by the Secretary. Two attempts had been made to elude the force of these official proofs. The first appealed to the President's Speech at the opening of the session in 1790; to the Report of the Secretary, made in consequence of it, to the House; and to the supplementary act of Congress passed in conformity to the Report.

Had the circumstances involved in this transaction been attended to by those who seemed to rely on it, Mr. M. was persuaded that a reference to it would never have been made by gentlemen on that side. As they had thought fit, however, to draw arguments from that source, it was proper to give an answer to them; and the best answer would be a naked statement of facts.

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The instruction of the President to the Secretary was given, as has been seen, on the 28th of August, 1790. The letter of the Secretary contravening this instruction, was dated, as has also been seen, on the same 28th day of August, 1790. The actual drawing of bills by the Secretary commenced the 15th of December, 1790. The law now pleaded in justification of the conduct of the Secretary, passed on the 3d of March, 1791.

There are other facts material to a correct and full view of the subject. The Speech of the President was delivered on the 8th of December, 1790. It briefly informed the two Houses that "a loan of 3,000,000 of florins, towards which some provisional measures had previously taken place, had been completed in Holland," and "that the Secretary of the Treasury had discretion to communicate such further particulars as might be requisite for more precise information." The consequent Report of the Secretary, recommending the provision in the supplementary act, was not received till the 25th of February, 1791—six days only before the constitutional dissolution of the House. In the interval between the Speech of the President and the Secretary's Report, he had proceeded to draw bills to the amount of 793,392 florins. His report, notwithstanding what had been said of it, contained not a word from which it could be known that a single florin had been actually drawn over to the United States.

The other attempt to elude the evidence before the committee, recoiled with equal force on the gentlemen who had hazarded it. In the report lately made by the trustees of the Sinking Fund, is a statement laid before them by the Secretary, in which it is noted "that the acceptance of the loan of 3,000,000 of florins, and the application of one-third of it to the purpose of that fund, was under the consideration of the President." From this fact, it had been inferred, not only that the Secretary had withheld no proper information from the Trustees, but that the result of the President's deliberations on the subject had varied the purpose signified by his first instructions to the Secretary.

It happened, however, most unfortunately for the gentlemen who exulted in this argument, that they had entirely overlooked the dates of the two papers. The paper laid before the Trustees, and alleged to have explained the final purpose of the President, was dated on the 25th of August, 1790. The paper relied on by the other side, as the final, as well as the most formal, designation of the will of the President, was dated the 28th of August, 1790. The gentlemen, therefore, instead of the inference they had made, should have reversed their premises, and joined with their opponents in concluding that the President was led by a consideration of the subject, not to do what the Secretary, in his note to the Trustees, seemed to anticipate, but what had been evinced by the President's own act of posterior date.

The second point, then, as well as the first, rests on the most solid proofs, taken from a collective view of authentic documents.

Much has been said on the necessity of sometimes departing from the strictness of legal appropriations, as a plea for any freedoms that may have been taken with them by the Secretary. He would not deny that there might be emergencies, in the course of human affairs, of so extraordinary and pressing a nature, as to absolve the Executive from an inflexible conformity to the injunctions of the law. It was, nevertheless, as essential to remember, as it was obvious to remark, that in all such cases, the necessity should be palpable; that the Executive sanction should flow from the supreme source; and that the first opportunity should be seized for

communicating to the Legislature the measures pursued, with the reasons explaining the necessity of them. This early communication was equally enforced by prudence and by duty. It was the best evidence of the motives for assuming the extraordinary power; it was a respect manifestly due to the Legislative authority; and it was more particularly indispensable, as that alone would enable the Legislature, by a provident amendment of the law, to accommodate it to like emergencies in future.

In the proceedings falling under the present inquiry, no necessity appeared for the liberties which had been taken, the money appropriated in Europe being more wanted there than at home. It appeared that the instructions of the Supreme Executive, instead of warranting those liberties, had precluded them; nor had the proper explanations been disclosed in due time to the Legislature. To place the subject in a more distinct point of view, it was proper to advert to the precise authorities and duties of the Secretary, as his office is defined by the act establishing the Treasury Department. For this purpose, Mr. M. read the second section of that act, which is in the words following:

"That it shall be the duty of the Secretary of the Treasury to digest and prepare plans for the improvement and management of the revenue, and for the support of public credit; to prepare and report estimates of the public revenue and the public expenditures; to superintend the collection of the revenue, to decide on the forms of keeping and stating accounts and making returns, and to grant, under the limitations herein established, or to be hereafter provided, all warrants for moneys to be issued from the Treasury, in pursuance of appropriations by law; to execute such services relative to the sale of the lands belonging to the United States as may be by law required of him; to make report and give information to either branch of the Legislature, in person or in writing, (as he may be required,) respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office; and generally to perform all such services relative to the finances as he shall be directed to perform."

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This establishment of the office evidently had no reference beyond the case of superintending the regular and ordinary collection of the revenue, and granting warrants for moneys issued from the Treasury, in pursuance of appropriations by law. The case of loans, as an occasional and extraordinary resource, was left to be provided for by particular laws for the purpose. The authority, with respect to the loans in question, was accordingly committed to the PRESIDENT, in order to secure for so special a trust, the highest responsibility to be found in the Government. And when it was considered that the whole sum contemplated was no less than fourteen millions of dollars, and when the latitude as to the terms and contracts was combined with the vastness of the sum, it might well be questioned whether so great a power would have been delegated to any man in whom the Legislature and the people of America had less confidence than they so justly reposed in the existing Chief Magistrate, and whether an equal power will ever be committed to a successor. This distinction between the case of ordinary revenue and that of loans is not only consonant to the actual policy of our laws, but is founded in obvious and solid considerations. In the collection and disbursement of the ordinary revenues arising from taxation, the business flows in official channels, is subject in every stage to official checks, and the money, being in constant influx and efflux, nowhere accumulates in immense sums. The case of loans is, in all these respects, different. In settling the terms and arranging the negotiations, there is always an important discretion involved. When the loans are foreign, as well as great, regulations concerning the bills of exchange form another occasion where great latitude is implied in the trust; whilst the magnitude of the sums, falling under the same direction at the same moment, present a further and material variance between the two cases. The tendency of these observations is to show that, as the permanent law establishing the Treasury Department does not extend the authority of the Secretary to the case of loans and as the law authorizing loans exacts, for special reasons, a responsibility from the PRESIDENT himself, the authority of the Secretary, in executing the loans, and the appropriation of them, must be derived from the PRESIDENT; and, consequently, where that authority fails, there can be no resort to the law establishing the department, much less to any general discretion incident to his official character. It is evident that the PRESIDENT, although no doubt guided by the most proper considerations in employing the agency of the Secretary of the Treasury in the business of the loans, might, if he had judged fit, have substituted the agency of another; and that, whatever agency he might prefer, his own instructions would always regulate the extent and exercise of the power conferred. The want of any apparent authority from the PRESIDENT had led several gentlemen to insist on presumed authorities, superseding the instructions joined with the commission to the Secretary. But here, again, the fair inference was to be reversed. A communication of the authorities given by the PRESIDENT to the Secretary, as to the application of the foreign loans, had been expressly requested by the vote of the House. It was not to be supposed that the Secretary, if he had received further authorities or instructions, would have failed to produce them, or to refer to them, in the justification of his conduct. Far less could it be presumed that the PRESIDENT, if he had given any superseding authorities or instructions, would not have caused them to be communicated to the House, or that he would have suffered a partial communication to mislead the House into an error as to so important a fact. The PRESIDENT was the last man in the world to whom any measure whatever of a deceptive tendency could be credibly attributed.

Thus far (said Mr. M.) his observations had departed as little as possible from the question in its strictest sense. He should now avail himself of the opportunity afforded by the terms of the last clause, which spoke of drafts generally, to take a more particular notice of those recently made;

in doing which, he considered himself safe within the Rules of the House, which were so rigorously enforced against the affirmative side of the question. The whole amount of foreign loans transferred directly or indirectly to the United States appeared from the several statements to be about \$3,000,000. The amount of the direct drafts was \$2,304,769 13. Of the drafts made since the 16th of April, 1792, and sold by the bank, the proceeds now in the bank, or payable into it, before the 1st of April next, amount to \$1,220,476 01. Of this sum \$510,000 have been drawn in the course of the present session in Congress. With respect to the times and the amount of these drafts, hitherto absolutely unknown to the Legislature, because the account of them had remained in the books of the bank without ever appearing in the books of the Treasurer, Mr. M. confessed that he had found no explanations that were satisfactory to him. He had looked through all the reports and all the communications before the House, without discovering either that they had been made by the authority or with the knowledge of the PRESIDENT, or had been required for, or applied to the purchase of, the public debt, or had been ever communicated to the Trustees of the Sinking Fund, who had the direction of such purchases, or that they were the effect of any necessity that could justify them. And if there was no evident necessity for the proceeding, it was the more to be lamented that, whilst we were every where sympathizing with our allies in their arduous struggles for liberty, and echoing, from every part of the Union, our congratulations and good wishes, the pecuniary succors so critically necessary to their cause, and the most substantial proof of the sincerity of our professions, should be silently withdrawn across the Atlantic from the object for which they were intended—succors, too, which were not merely a tribute of gratitude, of generosity, or of benevolent zeal for the triumph of liberty, but a debt moreover of strict and positive obligation, for value acknowledged and received. In contemplating the subject in this point of view, he felt a pain which he could not easily express, and to which, he persuaded himself, the breast of no other member could be a stranger. Laying aside, however, all these unfavorable considerations, the important question still remained, why the Legislature had been uninformed of the moneys so unexpectedly drawn into the bank, and to so very great an amount? If the drafts had received every requisite sanction, if they had been produced by the most justifiable causes, the existence of \$1,220,476, in a situation so different from what had been contemplated, was a fact which the Representatives of the people had a right to know, which it was important to them and their constituents that they should know, and which it was the indispensable duty of the officer charged with it to have made known. This omission was the more remarkable when considered in relation to the measure above mentioned, of paying off at once the whole sum of \$2,000,000, payable to the bank by instalments in ten years. A bill for this purpose had been introduced, and was on its passage; the object of it had been patronized by a report of the Secretary not long since made. In one of his last reports he expressly states, among the inducements to such extensive drafts of money from Europe, that they were made "with an eye to placing within the reach of the Legislature" the means necessary for this object. Was it not extraordinary, was it not unaccountable, that so important a measure should be recommended, and be actually introduced, and that money otherwise appropriated in Europe should be transferred to this country and deposited in the bank, in order that it might be within the reach of being applied by the Legislature to that measure, and yet that no disclosure should be made to the Legislature of that fact that the money was so drawn and lay at the bank, within their reach, to be so applied? If any thing could heighten astonishment on this occasion, it must be the reason assigned by the Secretary for any obscurity that might have hung over our finances—"that, till the last resolutions, no call had been made on the department which rendered it proper to exhibit a general view of the public moneys and funds, or to show the amount and situation of such as were unapplied." Mr. M. would not decide that the Legislature was free from blame in not using more full and efficacious means of obtaining such information as would have removed all obscurity. But, whatever degree of blame might fall on them, it never could be admitted that their calls on the department had furnished no proper occasion for exhibiting a full view of the public finances. He referred generally to the various resolutions, which, without the least force of construction, would have extended to every proper article of information. He reminded the committee of the latitude of reports under certain other orders of the House, and asked whether less freedom of construction was to be allowed when information was to be given, than when power or discretion was to be exercised? But independently of this view of the matter, Mr. M. held it to be clear and palpable that the very situation of the money afforded an occasion which rendered it proper that the House should be informed of it. If a liberty could be taken of removing money from Europe, where it stood appropriated by law, to this country, where there was no legal object that required it, and with an eye, as was stated, to an object to which no money was applicable, without the authority of the Legislature, how could it possibly be supposed improper to take the further liberty of communicating what was done to the Legislature? He concluded with recurring to the particular form in which the subject presented itself to the committee, and repeating that, whatever quality might be attached to the facts charged, or however improper it might be thought by some to proceed in haste to any affirmative decision on them, it appeared irreconcilable with the evidence which had been produced, to decide, by a negative vote, against the truth of the facts.

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Mr. AMES prefaced his remarks on the subject before the committee by some observations on the nature of the charges brought forward. He was happy that they were determinate, and conceived that the defence could be crowded in a nutshell. As to the first charge in the resolution immediately before the committee, he had seen no proof in support of it brought forward. It is founded only on assertion, and he conceived that contra-assertion was sufficient to meet it. No authority, it was said, was given to the Secretary to obtain the loan under the blended authority of both acts. This is not one of the charges included in the resolutions before the committee, and therefore this is not the time to answer it. However, if this were fact, nothing criminal could in

consequence be imputed; and, since the purposes of both laws were carried into execution, there could be no ground for saying that either was violated. He said much on the impracticability of the line of conduct which some gentlemen appeared to think ought to have been followed by the Secretary. It was impossible to keep different funds, differently appropriated, so inviolably separate as that one might not be used for the object of the other; all was right, he conceived, provided what was taken was to be replaced. He was also of opinion that the overflowing of one fund could be applied to make up the deficiency of another; and that all that is necessary is to give priority to the appropriation. The money paid in Europe for interest on the loan was said to have been improperly applied, because the fund appropriated for the purpose was here. He insisted that that money was absolutely represented here by an equal sum: and he contended that, though the interest was not paid in the identical coin appropriated, yet, by allowing a very reasonable latitude of expression, it could be said that the interest was paid with the money appropriated, for the applicability of the sums there depended on the existence of the fund here. He next turned to the second charge in the resolution; and, after showing that the natural presumption was, that the Secretary either was instructed or had a discretionary power, he then vindicated his conduct in respect to the drafts of money to this country. He did honor to the motives of the gentlemen who had instituted the inquiry, and concluded an elegant speech, by a contrasted picture of our former and present situation as a country, dwelling upon the importance of preserving harmony, and insisting on the danger of giving rise to suspicions against a highly responsible officer, and of bringing forward charges not to be supported by proof.

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Mr. FINDLAY.—If my hopes respecting the Government have not been equally elevated with those of the gentleman from Massachusetts, (Mr. AMES,) neither are my apprehensions so much depressed with fears. But I hope I am equally anxious for the stability and prosperity of the Government; and though we differ in opinion on this question, yet I am firmly persuaded that the part I take is the best calculated to promote the necessary confidence in Government, and secure the virtue of its administration. As the gentleman, in an elegant discourse, has explained no difficulties, nor adduced any proofs in support of his opinions, I will only add, that I believe the Government to be so well established, and so much beloved by the citizens, as not to be endangered by the House of Representatives' examining how the laws have been obeyed in the application of public money, and giving their opinions upon the result of that examination.

That the Secretary has not reported fully to this House, in due time, is so much within the knowledge of every member, that it is impossible to doubt of the truth of the fact, however we may differ about the propriety of the conduct. To go no further back than last session—besides the references to the Secretary to report upon the Ways and Means, and inform the House what revenues were necessary, on the 20th of February, 1791, a standing order was resolved, directing that he should report to the House, within a few days after the meeting of the next session, "an accurate statement and account of the receipts and expenditures of all the public moneys, in which shall be distinguished the expenditures which fall under each head of appropriation, and that it shall be shown the sums, if any, which remain unexpended," &c. Were not the moneys drawn upon loan, *public moneys*, and were not those loans appropriated? Undoubtedly, they were strictly so. It is a strange evasion to say, that by these expressions only the current revenue is intended. Arguments must be scarce when this becomes necessary. It requires no refutation.

On the 19th of January last, he was called upon to "lay before the House such information with respect to the finances of the United States, as will enable the Legislature to judge whether any or what additional revenues will be necessary." In consequence of the recommendations of the PRESIDENT, and the wishes of this House, to commence the discharge of the redeemable part of the Funded Debt, a reference was made to the Secretary, requiring him to report a mode for the application of the public money for that purpose; the House being assured, by the gentleman who moved the resolution, that no new tax was intended or necessary. But the Secretary, so far from informing the House how much money he had subject to his discretion, in the bank, in notes, &c., proposed a new and partial tax, as the foundation of a new system of loans. When the memorable bill to authorize another loan of \$2,000,000, was before the House, a few weeks ago, we were told by gentlemen on this floor, that there was not time for argument; that the bill must be passed in three or four days, &c.; and when we wanted information, we were told by some of the friends of the bill that it was not convenient to give information there—that we might procure information elsewhere, as they had done. I confess I did not comprehend this method of legislating; but the Secretary has since explained it, in one of his reports, by complaining of the House, because the members did not go to his office and ask information, instead of requiring it to be publicly reported.

Even when this favorite bill for a new loan was before the House, the Secretary did not condescend to inform us that he had, without authority, provided near a million and a half of dollars for that purpose; he did not inform us how obligingly he had drawn bills upon our bankers in Holland, to have the money put in our way. Thus, in order to anticipate the payments due to the bank, he did what he could to induce Congress to break the public faith, by repealing the existing appropriation made for securing the discharge of a debt of justice and gratitude to the French nation. From this and other instances, it appears, that however high the Secretary's regard for public credit may be, there are other considerations which have obtained a higher degree of his attention than obedience to the laws. The gentleman from Virginia (Mr. MADISON) has so clearly explained the nature of that discretion with which the Secretary is vested, and so fully proved that there was no necessity to justify a departure from the appropriations made by law, that it is not necessary for me to explain further on this head. However, I cannot help

remarking, that the discretionary powers were pretty freely exercised. The drawing of bills began early indeed, and was continued to a recent period. The times of drawing fortunately corresponded with the necessities of the bank, and the power of employing agents was pretty freely used. The same agents were frequently both the sellers and the purchasers of the bills. Perhaps this was necessary: no doubt it was convenient. Probably it was safe; but who can say it will be always so.

I have not said so much to prove the truth of the facts expressed in the resolution, for of this there can be no doubt—it is as clear as the sun, shining in daylight,—but, in order to prove the propriety of this committee expressing its disapprobation of a conduct so unjustifiable. That information was withheld unduly, is evident, from the lateness of this discussion; that it was obtained with difficulty, is evident, from the numerous applications we were obliged to make in order to obtain it.

The House then adjourned until seven o'clock post meridian.

EVENING SESSION—7 P.M.

An engrossed bill making certain appropriations therein mentioned was read the third time, and passed.

The bill sent from the Senate entitled "An act providing for the compensation of Ebenezer Storer," was read twice and committed.

Official Conduct of the Secretary of the Treasury.

The House again resolved itself into a Committee of the whole House on the third, fourth, fifth, sixth, seventh, and eighth resolutions contained in the motion of Thursday last, respecting the official conduct of the Secretary of the Treasury. The third resolution being still under consideration, in the words following, viz:

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

A motion was made, and the question being put, that the House do agree with the Committee of the whole House in their disagreement to the resolution, it was resolved in the affirmative—yeas 40, nays 12, as follows:

YEAS.—Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Jonathan Dayton, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, James Gordon, Christopher Greenup, Samuel Griffin, William Barry Grove, Thomas Hartley, James Hillhouse, William Hindman, Philip Key, Aaron Kitchell, John Laurance, Amasa Learned, Richard Bland Lee, George Leonard, Samuel Livermore, Frederick Augustus Muhlenberg, William Vans Murray, Nathaniel Niles, Theodore Sedgwick, Jeremiah Smith, Israel Smith, William Smith, John Steele, Samuel Sterrett, Jonathan Sturges, George Thatcher, Thomas Tudor Tucker, Artemas Ward, Hugh Williamson, and Francis Willis.

NAYS.—John Baptist Ashe, Abraham Baldwin, William Findlay, William B. Giles, Andrew Gregg, Nathaniel Macon, James Madison, John Francis Mercer, Andrew Moore, Alexander D. Orr, John Page, and Josiah Parker.

A motion was then made, and the question put, that the House do agree with the Committee of the whole House in their disagreement to the fourth resolution, in the words following:

"Resolved, That the Secretary of the Treasury has deviated from the instructions given him by the PRESIDENT OF THE UNITED STATES, in executing the authorities for making loans, under the acts of the fourth and twelfth of August, one thousand seven hundred and ninety."

It was resolved in the affirmative—yeas 39, nays 12, as follows:

[The same as above.]

Another motion was then made, and the question being put, that the House do agree with the Committee of the whole House in their disagreement to the fifth resolution, in the words following:

"Resolved, That the Secretary of the Treasury has omitted to discharge an essential duty of his office, in failing to give Congress official information, in due time, of the moneys drawn by him from Europe into the United States; which drawing commenced December, one thousand seven hundred and ninety, and continued until January, one thousand seven hundred and ninety-three; and of the cause of making such drafts:"

It was resolved in the affirmative—yeas 33, nays 15, as follows:

YEAS.—Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Jonathan Dayton, Thomas Fitzsimons, Elbridge Gerry,

Nicholas Gilman, Benjamin Goodhue, James Gordon, Thomas Hartley, James Hillhouse, William Hindman, Philip Key, Aaron Kitchell, John Laurance, Amasa Learned, George Leonard, Samuel Livermore, Frederick Augustus Muhlenberg, William Vans Murray, Theodore Sedgwick, Jeremiah Smith, William Smith, John Steele, Samuel Sterrett, Jonathan Sturges, George Thatcher, Thomas Tudor Tucker, Artemas Ward, and Hugh Williamson.

NAYS.—John Baptist Ashe, Abraham Baldwin, William Findlay, William B. Giles, Samuel Griffin, William Barry Grove, Richard Bland Lee, Nathaniel Macon, James Madison, John Francis Mercer, Andrew Moore, Nathaniel Niles, John Page, Josiah Parker, and Israel Smith.

Another motion was then made, and the question being put, that the House do agree with the Committee of the whole House in their disagreement to the sixth resolution, in the words following:

"*Resolved*, That the Secretary of the Treasury has without the instruction of the PRESIDENT OF THE UNITED STATES, drawn more moneys, borrowed in Holland, into the United States, than the PRESIDENT OF THE UNITED STATES was authorized to draw, under the act of the twelfth of August, one thousand seven hundred and ninety, which act appropriated two millions of dollars only, when borrowed, to the purchase of the public debt; and that he has omitted to discharge an essential duty of his office, in failing to give official information to the commissioners for purchasing the public debt, of the various sums drawn from time to time, suggested by him to have been intended for the purchase of the public debt:"

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It was resolved in the affirmative—yeas 33, nays 8, as follows:

[Yeas as above.]

NAYS.—John Baptist Ashe, Abraham Baldwin, William Findlay, William B. Giles, Nathaniel Macon, James Madison, John Francis Mercer, and Josiah Parker.

Another motion was then made, and the question being put, that the House do agree with the Committee of the whole House in their disagreement to the seventh resolution, in the words following:

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

It was resolved in the affirmative—yeas 33, nays 8, as follows:

[Same as above.]

Another motion was then made, and the question being put, that the House do agree with the Committee of the whole House in their disagreement to the eighth resolution, in the words following:

"*Resolved*, That the Secretary of the Treasury has been guilty of an indecorum to this House, in undertaking to judge of its motives in calling for information, which was demandable of him, from the constitution of his office, and in failing to give all the necessary information within his knowledge relatively to the subjects of reference made to him of the nineteenth of January, one thousand seven hundred and ninety-two, and of the twenty-second of November, one thousand seven hundred and ninety-two, during the present session;"

Mr. WILLIAM SMITH said, that, after the vote which had just prevailed by so considerable a majority on the preceding resolutions, the committee could not, with any propriety, criminate the Secretary of the Treasury for failing to give the information alluded to, because by that vote it had been established that the Secretary had only acted under the authority of the PRESIDENT, and conformably to his instructions. If there had been any omission to communicate information to Congress, that omission was surely not chargeable to the Secretary. But it had been already clearly shown, by documents in the possession of the House, that the necessary information had been communicated. The Treasurer's accounts, which had been from time to time laid before the House, exhibited the amount of moneys proceeding from the sale of bills, and the Secretary's report of February, 1791, conveyed full information of the drawing. It was true, there was a sum of about \$600,000, the proceeds of bills which, as had been remarked by a gentleman, (Mr. MADISON,) did not appear in the Treasurer's account, but this was owing to the sales of the bills by the bank not having been closed at the time the last quarterly account was rendered, and consequently that sum could not appear in the Treasurer's account.

[Mr. MADISON said, he had not meant to blame the Treasurer.]

Mr. SMITH proceeded. The gentleman, however, had attributed misconduct to the Secretary, for withholding information of the amount of moneys in the Treasury accruing from foreign loans, when directed by the House, January 19th, 1792, to report whether the existing revenues were adequate to face the additional expense of the Indian war. Mr. S. could not forbear expressing great surprise at this remark of the gentleman from Virginia, (Mr. MADISON,) when he recollected what had been just before said by the same gentleman in support of the former resolution. The gentleman, on that occasion, in his attempt to disprove the right of the Secretary, *ex officio*, to

superintend the moneys derived from the foreign loans, had endeavored to establish a nice distinction between the ordinary internal revenues of the country, and the resources resulting from foreign loans. The law constituting the Treasury Department, he had said, gave the Secretary power only over the revenues, which embraced only the ordinary resources, whereas loans were distinct things, the management of which was specially intrusted by law to the Supreme Magistrate, and in relation to which the Secretary could exercise no authority whatever that was not derived from the PRESIDENT. The gentleman now argued that the Secretary was blameable in not giving information of the state of these extraordinary resources, which were not within his department, when only called upon to state the amount of the ordinary revenues, which were within his department. He left it to the gentleman to reconcile this contradiction, for certainly his doctrine was erroneous on the former occasion, or it must be so now. If the moneys obtained from foreign loans were to be deemed the revenues of the country, then they fell of course under the management of the Head of the Treasury Department, and it was wrong in the gentleman to impute misconduct to the Secretary for exercising a legal authority; if, on the contrary, those moneys were viewed as an extra resource, and not within the purview of the Secretary's functions, then it was wrong to censure him for not communicating the state of those moneys, when required only to report the ordinary revenues.

But though the Secretary would not have been censurable for omitting to give the information, the truth was, that the PRESIDENT'S Speech of 8th December, 1790, the Secretary's Report of 25th February, and the act of the 3d of March, 1791, were conclusive proofs that the Legislature knew that the proceeds of the loans were in a train of being brought to the United States and the accounts of receipts and expenditures presented in the first week of the session, informed the House that a large sum had been drawn for, and the Treasurer's quarterly account contained further information on the subject, all which was prior to any call of the House for such information. Hence, Mr. S. deduced, that it was not a fact that the Secretary had failed to give the information, as stated in the resolution, and that had he even so failed, he would not have been censurable for a breach of an essential duty of his office. It had been said, by a member from Pennsylvania, (Mr. FINDLAY,) that the lateness of the information from the Secretary made it inconvenient to go into an inquiry of his official conduct so near the close of the session. To this, Mr. S. replied, that he did not expect such a remark from that quarter of the House. If the gentleman had not been prepared for the inquiry, or thought it an improper season to enter upon it, why did he second the motion for bringing forward the charges? If suspicion had so long existed against the integrity of the Secretary, why was not information called for at the beginning of the session? Why was the call delayed till the session was within a few weeks of its termination? It was admitted that the Secretary had obeyed the order of the House with wonderful alacrity and promptitude. It was indeed strange that the gentleman who brought forward the charges, should be the first to complain that there was not time for their consideration.

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Mr. S. concluded by noticing the observation of Mr. MERCER and Mr. MADISON, that the opinion of the House on the preceding resolutions would not change the truth of facts, and that the public would ultimately decide whether the Secretary's conduct was criminal or not. This, said Mr. S., was like the conduct of a prosecutor, who, having chosen his jurisdiction, and being nonsuited, wished to appeal to another tribunal. Why were the resolutions brought before the House? Was it not to substantiate the truth of them by a vote? And had the prosecution succeeded, would the Secretary have had an appeal to the public? No, the resolutions would have been sent to the PRESIDENT, and the Secretary would have been removed, disgraced, and ruined for ever, without appeal.

The question was then taken, and it was resolved in the affirmative—yeas 34, nays 7, as follows:

YEAS.—Fisher Ames, Robert Barnwell, Egbert Benson, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Jonathan Dayton, William Findlay, Thomas Fitzsimons, Elbridge Gerry, Nicholas Gilman, Benjamin Goodhue, James Gordon, Thomas Hartley, James Hillhouse, William Hindman, Aaron Kitchell, John Laurance, Amasa Learned, George Leonard, Samuel Livermore, Frederick Augustus Muhlenberg, Nathaniel Niles, Josiah Parker, Theodore Sedgwick, Jeremiah Smith, William Smith, John Steele, Samuel Sterrett, Jonathan Sturges, George Thatcher, Thomas Tudor Tucker, Artemas Ward, and Hugh Williamson.

NAYS.—John Baptist Ashe, Abraham Baldwin, William B. Giles, William Barry Grove, Richard Bland Lee, Nathaniel Macon, and James Madison.

A message from the Senate informed the House that the Senate having completed the Legislative business before them, are now about to adjourn.

Resolved. That Mr. BOUDINOT, Mr. SEDGWICK, and Mr. HINDMAN, be appointed a committee jointly, with a committee on the part of the Senate, to wait on the PRESIDENT OF THE UNITED STATES, and inform him that Congress is ready to adjourn without day, unless he may have any farther communications to make to them.

A message from the Senate informed the House that the Senate have agreed to the resolution of this House for the appointment of a joint committee, to wait on the PRESIDENT OF THE UNITED STATES, and inform him of the intended recess of Congress, and have appointed a committee for that purpose, on their part.

On a motion made and seconded,

"That the thanks of the House of Representatives be presented to JONATHAN TRUMBULL, in testimony

of their approbation of his conduct in the chair, and in the execution of the difficult and important trust reposed in him, as SPEAKER of the said House,"

It was resolved unanimously: Whereupon,

Mr. SPEAKER made his acknowledgments to the House, in manner following:

"GENTLEMEN: You have made me very happy by this testimony of your approbation of my conduct in the chair. I feel, at the same time, an additional pleasure in the opportunity of rendering to you my sincere acknowledgments for the kind candor and indulgence, as well as the constant aid and support, which I have experienced in the performance of the duty which you were pleased to assign me. Be assured, gentlemen, I shall ever retain a grateful sense of your goodness; and you will suffer me to add, that my best wishes for your welfare and happiness, in public and private life, will attend each member of this honorable body."

Mr. BOUDINOT, from the joint committee appointed to wait on the PRESIDENT OF THE UNITED STATES, and inform him of the intended recess of Congress, reported that the committee had performed that duty, and that the PRESIDENT was pleased to say he had no farther communication to make during the present session: Whereupon,

Mr. SPEAKER adjourned the House *sine die*.

THIRD CONGRESS.—FIRST SESSION.

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BEGUN AT THE CITY OF PHILADELPHIA, DECEMBER 2, 1793.

LIST OF MEMBERS.

SENATORS.

New Hampshire.—S. Livermore, John Langdon.

Vermont.—S. R. Bradley, Moses Robinson.

Massachusetts.—George Cabot, Caleb Strong.

Rhode Island.—William Bradford, Theodore Foster.

Connecticut.—Oliver Ellsworth, S. M. Mitchell.

New York.—Aaron Burr, John S. Hobart.

New Jersey.—Philemon Dickinson, F. Frelinghuysen.

Pennsylvania.—Albert Gallatin, Robert Morris, James Ross.

Delaware.—John Vining, Kensey Johns.

Maryland.—John Henry, Richard Potts.

Virginia.—James Monroe, John Taylor, Stevens T. Mason.

North Carolina.—Benjamin Hawkins, Alexander Martin.

South Carolina.—Pierce Butler, Ralph Izard.

Georgia.—William Few, James Jackson.

Kentucky.—John Browne, John Edwards.

REPRESENTATIVES.

New Hampshire.—Nicholas Gilman, J. S. Sherburne, Jeremiah Smith, Paine Wingate.

Vermont.—Nathaniel Niles, Israel Smith.

Massachusetts.—Fisher Ames, S. Bourne, David Cobb, Peleg Coffin, Henry Dearborn, Samuel Dexter, Dwight Foster, Benjamin Goodhue, Samuel Holten, William Lyman, T. Sedgwick, George Thatcher, P. Wadsworth, Artemas Ward.

Rhode Island.—Benjamin Bourne, Francis Malbone.

Connecticut.—Joshua Coit, James Hillhouse, Amasa Learned, Zephaniah Swift, Uriah Tracy, J. Trumbull, Jeremiah Wadsworth.

New York.—Theodorus Bailey, Ezekiel Gilbert, Henry Glenn, James Gordon, Silas Talbot, T. Tredwell, John E. Van Allen, Philip Van Cortlandt, Peter Van Gaasbeck, John Watts.

New Jersey.—John Beatty, Elias Boudinot, Lambert Cadwalader, Jonathan Dayton, Aaron Kitchell.

Pennsylvania.—James Armstrong, William Findlay, Thomas Fitzsimons, Andrew Gregg, Thomas Hartley, Daniel Heister, William Irvine, William Montgomery, Frederick A. Muhlenberg, Peter Muhlenberg, Thomas Scott, John Smilie, John Wilkes Kittera.

Delaware.—Henry Latimer.

Maryland.—Gabriel Christie, George Dent, Uriah Forrest, William Hindman, John F. Mercer, Samuel Smith, Thomas Sprigg, William Vans Murray.

Virginia.—Thomas Claiborne, Isaac Coles, William B. Giles, Samuel Griffin, George Hancock, Carter B. Harrison, John Heath, Richard Bland Lee, Andrew Moore, Joseph Neville, Anthony New, John Nicholas, John Page, Francis Preston, Robert Rutherford, A. B. Venable, Francis Walker.

North Carolina.—Thomas Blount, William J. Dawson, James Gillespie, William B. Grove, Matthew Locke, Nathaniel Macon, Joseph McDowell, Alexander Mebane, Benjamin Williams, Joseph Winston.

South Carolina.—Lemuel Benton, Alexander Gillon, John Hunter, Andrew Pickens, William Smith, Richard Winn.

Georgia.—A. Baldwin, Thomas P. Carnes.

Kentucky.—Christopher Greenup, Alexander D. Orr.

Tennessee.—James White.

PROCEEDINGS IN THE SENATE.

MONDAY, December 2, 1793.

This being the day fixed by the constitution for the annual meeting of Congress, the following members of the Senate appeared, produced their credentials, and took their seats.

JOHN ADAMS, Vice President of the United States and President of the Senate.

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire.

GEORGE CABOT, from Massachusetts.

OLIVER ELLSWORTH, from Connecticut.

MOSES ROBINSON, from Vermont.

AARON BURR, from New York.

JOHN RUTHERFORD, from New Jersey.

ROBERT MORRIS and ALBERT GALLATIN, from Pennsylvania.

JAMES MONROE, from Virginia.

JOHN EDWARDS, from Kentucky.

BENJAMIN HAWKINS, from North Carolina.

RALPH IZARD, from South Carolina.

Mr. LANGDON, the President of the Senate *pro tempore*, administered the oath required by law to the VICE PRESIDENT OF THE UNITED STATES.

The Secretary read the credentials of the following Senators appointed for the terms respectively mentioned therein. [Pg 442]

PIERCE BUTLER, from South Carolina.

ALEXANDER MARTIN, from North Carolina.

JOHN VINING, from Delaware.

The VICE PRESIDENT administered the oath required by law to Mr. BUTLER, Mr. GALLATIN, and Mr. MARTIN, respectively, and they took their seats.

STEPHEN MIX MITCHELL, appointed by the State of Connecticut a Senator for two years, in the place of ROGER SHERMAN, deceased, produced his credentials, which being read, the VICE PRESIDENT administered to him the oath required by law, and he took his seat.

The VICE PRESIDENT laid before the Senate the petition of Conrad Laub and others, relative to the appointment of Mr. GALLATIN, a Senator of the United States; which was read and ordered to lie on the table.

The VICE PRESIDENT also communicated a letter from GEORGE READ, of Delaware, resigning his seat in the Senate; which was read, and ordered to lie on the table.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled, and ready to proceed to business.

Ordered, that MESSRS. IZARD and LANGDON be a joint committee on the part of the Senate, together with such committee as the House of Representatives may appoint, on their part, to wait on the PRESIDENT OF THE UNITED STATES, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

A message from the House of Representatives informed the Senate that the House had elected FREDERICK A. MUHLENBERG their Speaker, and that they have concurred with the Senate in appointing a joint committee to wait on the PRESIDENT OF THE UNITED STATES.

Mr. IZARD, from the joint committee who had waited on the PRESIDENT, reported that the PRESIDENT would meet the two Houses to-morrow, at 12 o'clock, in the Senate Chamber.

The two Houses being assembled in the Senate Chamber, the PRESIDENT OF THE UNITED STATES entered, and addressed the two Houses of Congress as follows:

Fellow-Citizens of the Senate, and of the House of Representatives:

Since the commencement of the term for which I have been again called into office, no fit occasion has arisen for expressing to my fellow-citizens at large the deep and respectful sense which I feel of the renewed testimony of public approbation. While, on the one hand, it awakened my gratitude for all those instances of affectionate partiality with which I have been honored by my country, on the other, it could not prevent an earnest wish for that retirement from which no private consideration should ever have torn me. But, influenced by the belief that my conduct would be estimated according to its real motives, and that the people, and the authorities derived from them, would support exertions having nothing personal for their object, I have obeyed the suffrage which commanded me to resume the Executive power, and I humbly implore that Being on whose will the fate of nations depends, to crown with success our mutual endeavors for the general happiness.

As soon as the war in Europe had embraced those Powers with whom the United States have the most extensive relations, there was reason to apprehend that our intercourse with them might be interrupted, and our disposition for peace drawn into question by the suspicions too often entertained by belligerent nations. It seemed, therefore, to be my duty to admonish our citizens of the consequences of a contraband trade, and of hostile acts to any of the parties, and to obtain, by a declaration of the existing legal state of things, an easier admission of our right to the immunities belonging to our situation. Under these impressions the Proclamation which will be laid before you was issued.

In this posture of affairs, both new and delicate, I resolved to adopt general rules, which should conform to the treaties and assert the privileges of the United States. These were reduced into a system, which will be communicated to you. Although I have not thought myself at liberty to forbid the sale of the prizes permitted by our treaty of commerce with France to be brought into our ports, I have not refused to cause them to be restored when they were taken within the protection of our territory, or by vessels commissioned or equipped in a warlike form within the limits of the United States.

It rests with the wisdom of Congress to correct, improve, or enforce this plan of procedure; and it will probably be found expedient to extend the legal code and the jurisdiction of the Courts of the United States to many cases which, though dependent on principles already recognized, demand some further provisions.

Where individuals shall, within the United States, array themselves in hostility against any of the Powers at war, or enter upon military expeditions or enterprises within the jurisdiction of the United States; or usurp and exercise judicial authority within the United States; or where the penalties on violations of the law of nations may have been indistinctly marked, or are inadequate—these offences cannot receive too early and close an attention, and require prompt and decisive remedies.

Whatsoever those remedies may be, they will be well administered by the Judiciary, who possess a long-established course of investigation, effectual process, and officers in the habit of executing it.

In like manner, as several of the courts have doubted, under particular circumstances, their power to liberate the vessels of a nation at peace, and even of a citizen of the United States, although seized under a false color of being hostile property, and have denied their power to liberate certain captures within the protection of our territory, it would seem proper to regulate their jurisdiction in these points; but, if the Executive is to be the resort in either of the two last-mentioned cases, it is hoped that he will be authorized by law to have facts ascertained by the courts, when, for his own information, he shall request it.

The connection of the United States with Europe has become extremely interesting. The occurrences which relate to it and have passed under the knowledge of the Executive, will be exhibited to Congress in a subsequent communication.

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When we contemplate the war on our frontiers, it may be truly affirmed that every reasonable effort has been made to adjust the causes of dissension with the Indians north of the Ohio. The instructions given to the Commissioners evince a moderation and equity proceeding from a sincere love of peace and a liberality having no restriction but the essential interests and dignity of the United States. The attempt, however, of an amicable negotiation having been frustrated, the troops have marched to act offensively. Although the proposed treaty did not arrest the progress of military preparation, it is doubtful how far the advance of the season, before good faith justified active movements, may retard them, during

the remainder of the year. From the papers and intelligence which relate to this important subject, you will determine whether the deficiency in the number of troops granted by law shall be compensated by succors of militia, or additional encouragements shall be proposed to recruits.

An anxiety has been also demonstrated by the Executive for peace with the Creeks and the Cherokees. The former have been relieved with corn and with clothing, and offensive measures against them prohibited during the recess of Congress. To satisfy the complaints of the latter, prosecutions have been instituted for the violence committed upon them. But the papers which will be delivered to you, disclose the critical footing on which we stand in regard to both those tribes, and it is with Congress to pronounce what shall be done.

Gentlemen of the House of Representatives:

The productiveness of the public revenues hitherto has continued to equal the anticipations which were formed of it, but it is not expected to prove commensurate with all the objects which have been suggested. Some auxiliary provisions will, therefore, it is presumed, be requisite; and it is hoped that these may be made consistently with a due regard to the convenience of our citizens, who cannot but be sensible of the true wisdom of encountering a small present addition to their contributions, to obviate a future accumulation of burdens.

But here I cannot forbear to recommend a repeal of the tax on the transportation of public prints. There is no resource so firm for the Government of the United States as the affections of the people, guided by an enlightened policy; and to this primary good nothing can conduce more than a faithful representation of public proceedings, diffused without restraint, throughout the United States.

An estimate of the appropriations necessary for the current service of the ensuing year, and a statement of a purchase of arms and military stores, made during the recess, will be presented to Congress.

Gentlemen of the Senate, and of the House of Representatives:

The several subjects to which I have now referred open a wide range to your deliberations, and involve some of the choicest interests of our common country. Permit me to bring to your remembrance the magnitude of your task. Without an unprejudiced coolness, the welfare of the Government may be hazarded; without harmony, as far as consists with freedom of sentiment, its dignity may be lost. But, as the Legislative proceedings of the United States will never, I trust, be reproached for the want of temper or of candor, so shall not the public happiness languish from the want of my strenuous and warmest co-operation.

G. WASHINGTON.

PHILADELPHIA, *December 3*, 1793.

The PRESIDENT having retired, the two Houses separated.

On motion, a committee of five was appointed to report the draft of an Address to the PRESIDENT, in answer to his Speech to both Houses.

MESST. ELLSWORTH, BUTLER, IZARD, LANGDON, and RUTHERFORD, were named.

THURSDAY, December 5.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and of the House of Representatives:

As the present situation of the several nations of Europe, and especially of those with which the United States have important relations, cannot but render the state of things between them and us matter of interesting inquiry to the Legislature, and may indeed give rise to deliberations to which they alone are competent, I have thought it my duty to communicate to them certain correspondences which, have taken place.

The Representative and Executive bodies of France have manifested generally a friendly attachment to this country, have given advantages to our commerce and navigation, and have made overtures for placing these advantages on permanent ground. A decree, however, of the National Assembly, subjecting vessels laden with provisions to be carried into their ports, and making enemy goods lawful prize in the vessel of a friend, contrary to our Treaty, though revoked at one time as to the United States, has been since extended to their vessels also, as has been recently stated to us. Representations on this subject will be immediately given in charge to our Minister there, and the result shall be communicated to the Legislature.

It is with extreme concern I have to inform you that the proceedings of the person whom they have unfortunately appointed their Minister Plenipotentiary here have breathed nothing of the friendly spirit of the nation which sent him; their tendency, on the contrary, has been to involve us in war abroad and discord and anarchy at home. So far as his acts, or those of his agents, have threatened our

immediate commitment in the war, or flagrant insult to the authority of the laws, their effect has been counteracted by the ordinary cognizance of the laws, and by an exertion of the powers confided to me. Where their danger was not imminent, they have been borne with, from sentiments of regard to his nation, from a sense of their friendship towards us, from a conviction that they would not suffer us to remain long exposed to the action of a person who has so little respected our mutual dispositions, and, I will add, from a reliance on the firmness of my fellow-citizens in their principles of peace and order. In the mean time, I have respected and pursued the stipulations of our treaties, according to what I judged their true sense, and have withheld no act of friendship which their affairs have called for from us, and which justice to others left us free to perform. I have gone further: rather than employ force for the restitution of certain vessels which I deemed the United States bound to restore, I thought it more advisable to satisfy the parties by avowing it to be my opinion that, if restitution were not made, it would be incumbent on the United States to make compensation. The papers now communicated will more particularly apprise you of these transactions.

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The vexations and spoliation understood to have been committed on our vessels and commerce by the cruisers and officers of some of the belligerent Powers, appeared to require attention. The proofs of these, however, not having been brought forward, the descriptions of citizens supposed to have suffered were notified that, on furnishing them to the Executive, due measures would be taken to obtain redress of the past, and more effectual provisions against the future. Should such documents be furnished, proper representations will be made thereon, with a just reliance on a redress proportioned to the exigency of the case.

The British Government having undertaken, by orders to the commanders of their armed vessels, to restrain generally our commerce in corn and other provisions to their own ports, and those of their friends, the instructions now communicated were immediately forwarded to our Minister at that Court. In the mean time, some discussions on the subject took place between him and them. These are also laid before you, and I may expect to learn the result of his special instructions in time to make it known to the Legislature during their present session.

Very early after the arrival of a British Minister here mutual explanations on the inexecution of the Treaty of Peace were entered into with that Minister. These are now laid before you for your information.

On the subjects of mutual interest between this country and Spain, negotiations and conferences are now depending. The public good requiring that the present state of these should be made known to the Legislature *in confidence only*, they shall be the subject of a separate and subsequent communication.

G. WASHINGTON.

UNITED STATES, *December 5, 1793.*

FRIDAY, December 6.

Mr. ELLSWORTH, from the committee appointed to report the draft of an Address to the PRESIDENT OF THE UNITED STATES, made a report; which was read, and ordered for consideration on Monday next.

MONDAY, December 9.

MESSRS. STEPHEN R. BRADLEY, from Vermont, THEODORE FOSTER, from Rhode Island, and RUFUS KING, from New York, appeared and took their seats.

Agreeably to the order of the day, the Senate took into consideration the draft of an Address reported by the committee in answer to the Speech of the PRESIDENT OF THE UNITED STATES to Congress at the opening of the session; which, being amended, and the several paragraphs of the report agreed to, it was adopted, as follows:

"To the President of the United States:

"Accept, sir, the thanks of the Senate for your Speech delivered to both Houses of Congress at the opening of the session. Your re-election to the Chief Magistracy of the United States gives us sincere pleasure. We consider it as an event every way propitious to the happiness of our country; and your compliance with the call, as a fresh instance of the patriotism which has so repeatedly led you to sacrifice private inclination to the public good. In the unanimity which a second time marks this important national act, we trace, with particular satisfaction, besides the distinguished tribute paid to the virtues and abilities which it recognizes, another proof of that just discernment and constancy of sentiments and views which have hitherto characterized the citizens of the United States.

"As the European Powers with whom the United States have the most extensive relations were involved in war, in which we had taken no part, it seemed necessary that the disposition of the nation for peace should be promulgated to the world, as well for the purpose of admonishing our citizens of the consequences of a contraband trade and of acts hostile to any of the belligerent parties, as to obtain,

by a declaration of the existing legal state of things, an easier admission of our right to the immunities of our situation; we, therefore, contemplate with pleasure the Proclamation, by you issued, and give it our hearty approbation. We deem it a measure well-timed and wise, manifesting a watchful solicitude for the welfare of the nation, and calculated to promote it.

"The several important matters presented to our consideration will, in the course of the session, engage all the attention to which they are respectively entitled; and, as the public happiness will be the sole guide of our deliberations, we are perfectly assured of receiving your strenuous and most zealous co-operation.

"JOHN ADAMS,

*"Vice President of the United States,
and President of the Senate."*

Ordered, That Messrs. ELLSWORTH and BUTLER wait on the PRESIDENT OF THE UNITED STATES, and desire him to acquaint the Senate at what time and place it will be most convenient for him that the foregoing Address should be presented.

TUESDAY, December 10.

JOHN BROWN, from the State of Kentucky, attended to-day.

Mr. ELLSWORTH reported, from the committee appointed yesterday to wait on the PRESIDENT OF THE UNITED STATES, that the PRESIDENT proposed to receive the Address of the Senate this day, at 12 o'clock, at his own house. Whereupon, the Senate waited on the PRESIDENT OF THE UNITED STATES, and the VICE PRESIDENT, in their name, presented the Address agreed to on the ninth instant. To this Address the PRESIDENT OF THE UNITED STATES was pleased to make the following Reply:

"GENTLEMEN: The pleasure expressed by the Senate on my re-election to the station which I fill, commands my sincere and warmest acknowledgments. If this be an event which promises the smallest addition to the happiness of our country, as it is my duty, so shall it be my study, to realize the expectation.

"The decided approbation which, the Proclamation now receives from your House, by completing the proofs that this measure is considered as manifesting a vigilant attention to the welfare of the United States, brings with it a peculiar gratification to my mind.

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"The other important subjects which have been communicated to you will, I am confident, receive a due discussion; and the result will, I trust, prove fortunate to the United States.

"G. WASHINGTON."

The Senate then returned to their Chamber, and resumed the reading of the papers communicated in the message of the PRESIDENT OF THE UNITED STATES of the 5th instant, but adjourned before they were got through.

WEDNESDAY, December 11.

CALEB STRONG, from Massachusetts, attended to-day.

The credentials of Mr. BROWN and Mr. STRONG were read, the usual oath administered to them, and they took their seats.

FRIDAY, December 13.

WILLIAM BRADFORD, from Rhode Island, and JOHN TAYLOR, from Virginia, attended, produced their credentials, and took the usual oath and their seats.

MONDAY, December 16.

JAMES JACKSON, from Georgia, attended, produced his credentials, and, the oath required by law being administered to him, he took his seat in the Senate.

TUESDAY, December 17.

JOHN VINING, from Delaware, appeared, and, the oath required by law being, by the VICE PRESIDENT, administered to him, he took his seat in the Senate.

TUESDAY, December 24.

Exclusion of Bank Officers and Stockholders from Congress.

The following motion was made and seconded, to wit: That the constitution be amended by adding, at the end of the ninth section of the first article, the following clause:

"Nor shall any person holding any office or stock in any institution in the nature of

a bank for issuing or discounting bills or notes payable to bearer or order, under the authority of the United States, be a member of either House whilst he holds such office or stock, but no power to grant any charter of incorporation, or any commercial or other monopoly, shall be herein implied."

And it was agreed that this motion should lie for consideration.

TUESDAY, December 31.

Mr. RUTHERFORD reported, from the committee to whom was referred the petition of Conrad Laub and others, stating that the Hon. ALBERT GALLATIN, at the time he was elected a Senator of the United States, had not been nine years a citizen of the said United States as is required by the constitution; which report was read, and ordered to lie for consideration.

WEDNESDAY, January 1, 1794.

The Senate proceeded to the consideration of the report of the committee to whom was referred the petition of Conrad Laub and others.

On motion to postpone the consideration of the report until to-morrow, it was agreed to amend this motion, by striking out the words "to-morrow," and to insert, in lieu thereof, "Thursday, the 9th instant."

THURSDAY, January 2.

A motion was made that it be—

"Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following article be proposed to the Legislatures of the several States, as an amendment to the Constitution of the United States; which, when ratified by three-fourths of the said Legislatures, shall be valid as part of the said constitution, to wit:

"The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State."

MONDAY, January 13.

The Senate resumed the consideration of the petition of Conrad Laub and others, respecting the appointment of Mr. GALLATIN to be a Senator of the United States.

On motion,

Ordered, That a Committee of Elections, to consist of seven, be appointed, and that the petition of Conrad Laub and others be referred, without prejudice as to any questions which may, upon the hearing, be raised by the sitting member, as to the sufficiency of the parties and the matter charged in the petition, to the same committee, to state the facts, and that they be authorized to send for persons, and papers; also, that MESSRS. BRADLEY, ELLSWORTH, MITCHELL, RUTHERFORD, BROWN, LIVERMORE, and TAYLOR, be this committee.

TUESDAY, January 14.

Agreeably to the order of the day, the Senate took into consideration the motion made yesterday for an amendment to the Constitution of the United States, respecting the Judicial power thereof.

And, on the question to agree to the resolution as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following article be proposed to the Legislatures of the several States, as an amendment to the Constitution of the United States; which, when ratified by three-fourths of the said Legislatures, shall be valid as part of the said constitution, to wit;

"The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign State:"

It passed in the affirmative—yeas 23, nays 2, as follows:

YEAS.—MESSRS. Bradford, Bradley, Brown, Burr, Butler, Cabot, Edwards, Ellsworth, Foster, Frelinghuysen, Hawkins, Jackson, Izard, King, Langdon, Livermore, Martin, Mitchell, Monroe, Robinson, Strong, Taylor, and Vining.

NAYS.—Messrs. Gallatin and Rutherford.

Ordered, That the Secretary desire the concurrence of the House of Representatives in this resolution.

WEDNESDAY, January 15.

Exclusion of Bank Officers from a seat in Congress.

The Senate resumed the consideration of the motion made yesterday for an amendment to the Constitution of the United States, inhibiting the holders of any office or stock in the Bank of the United States from a seat in either House of Congress.

On motion to amend the motion, to be read as follows:

"Nor shall any person holding any office in any institution in the nature of a bank, under the authority of the United States be a member of either House whilst he holds such office; but no power to grant any charter of incorporation, or any commercial or other monopoly, shall be hereby implied."

And, after debate, the further consideration thereof was postponed until to-morrow.

THURSDAY, January 16.

The Senate resumed the consideration of the motion made yesterday, to amend the motion under consideration the 14th instant, for an amendment to the Constitution of the United States, inhibiting the holders of any office or stock in the Bank of the United States from a seat in either House of Congress.

On motion to amend the amendment, so that it be read as follows:

"Nor shall any person holding any office in the Bank of the United States be a member of either House whilst he holds such office; but no power to grant any charter of incorporation, or any commercial or other monopoly shall be hereby implied:"

It passed in the affirmative—yeas 13, nays 12, as follows

YEAS.—Messrs. Bradley, Brown, Burr, Butler, Edwards, Gallatin, Hawkins, Jackson, Izard, Martin, Monroe, Robinson, and Taylor.

NAYS.—Messrs. Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, King, Langdon, Livermore, Mitchell, Morris, Strong, and Vining.

On motion it was agreed to expunge the following clause of the motion last adopted:

"But no power to grant any charter of incorporation, or any commercial or other monopoly, shall be hereby implied:" and,

On the question, to agree to the motion, amended as follows:

"Nor shall any person holding any office in the Bank of the United States be a member of either House, whilst he holds such office:"

It passed in the negative—yeas 12, nays 13, as follows:

YEAS.—Messrs. Bradley, Brown, Burr, Butler, Edwards, Gallatin, Hawkins, Jackson, Martin, Monroe, Robinson, and Taylor.

NAYS.—Messrs. Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, Izard, King, Langdon, Livermore, Mitchell, Morris, Strong, and Vining.

Agreeably to notice given, Mr. BUTLER obtained leave to bring in a bill to amend the act, entitled "An act to incorporate the subscribers to the Bank of the United States;" which was read the first time.

On motion that this bill have a second reading, in the words following, to wit:

"Whereas it is inexpedient that the Government of the United States should continue to hold any stock in the Bank of the United States, or have any political connection with the said bank, or any other connection with it, otherwise than in common with other banks within the United States:"

[The bill directs the sale of the United States stock in the bank, and repeals all the clauses in the charter establishing any connection with it:]

It passed in the negative—yeas 12, nays 13, as follows:

YEAS.—Messrs. Bradley, Brown, Burr, Butler, Edwards, Gallatin, Hawkins, Jackson, Martin, Monroe, Robinson, and Taylor.

NAYS.—Messrs. Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, Izard, King, Langdon, Livermore, Mitchell, Morris, Strong, and Vining.

TUESDAY, January 21.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and of the House of Representatives:

Having already laid before you a letter of the 16th of August, 1793, from the Secretary of State to our Minister at Paris, stating the conduct and urging the

recall, of the Minister Plenipotentiary of the Republic of France, I now communicate to you, that his conduct has been unequivocally disapproved; and that the strongest assurances have been given, that his recall should be expedited without delay.

G. WASHINGTON.

UNITED STATES, *January 20, 1794.*

The Message was read, and ordered to lie on file.

The memorial of the people called Quakers, from the yearly meeting held at Rhode Island for New England, in the year 1793, was presented and read, praying Congress to exercise the authority vested in them by the constitution for the suppression of the slave trade.

Ordered, That MESSRS. BRADLEY, LIVERMORE, and BROWN, be a committee to take into consideration the laws passed in the territory of the United States north-west of the river Ohio, from July to December, 1792, inclusive, and report thereon to the Senate. [Pg 447]

THURSDAY, January 30.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and of the House of Representatives:

Communications have been made to Congress during the present session, with the intention of affording a full view of the posture of affairs on the south-western frontiers. By the information which has lately been laid before Congress, it appeared that the difficulties with the Creeks had been amicably and happily terminated. But it will be perceived with regret, by the papers herewith transmitted, that the tranquillity has unfortunately been of short duration, owing to the murder of several friendly Indians, by some lawless white men.

The condition of things in that quarter requires the serious and immediate consideration of Congress, and the adoption of such wise and vigorous laws as will be competent to the preservation of the national character and of the peace made under the authority of the United States with the several Indian tribes. Experience demonstrates that the existing legal provisions are entirely inadequate to those great objects.

G. WASHINGTON.

UNITED STATES, *January 30, 1794.*

TUESDAY, February 4.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act providing for the relief of such of the inhabitants of Saint Domingo resident within the United States as may be found in want of support," in which they desire the concurrence of the Senate.

This bill was read the first time, and ordered to a second reading.

WEDNESDAY, February 5.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing for the relief of such of the inhabitants of Saint Domingo, resident within the United States, as may be found in want of support," was read the second time; and, after debate, the further consideration thereof was postponed until to-morrow.

THURSDAY, February 6.

Mr. POTTS, from Maryland, attended.

The Senate resumed the second reading of the bill sent from the House of Representatives for concurrence, entitled "An act providing for the relief of such of the inhabitants of Saint Domingo, resident within the United States, as may be found in want of support."

On motion, that it be recommitted, for the purpose of further inquiry, it passed in the negative.

And after agreeing to an amendment, the bill was ordered to a third reading.

FRIDAY, February 7.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and of the House of Representatives:

I transmit to you an Act and three Ordinances, passed by the Government of the territory of the United States south of the river Ohio, on the 13th and 21st of March, and the 7th of May, 1793; and also certain letters from the Minister Plenipotentiary of the French Republic, to the Secretary of State, enclosing despatches from the General and Extraordinary Commission of Guadaloupe.

UNITED STATES, *February 7, 1794.*

The Message and papers therein referred to were read.

Ordered, That the act and three ordinances, mentioned in the Message, be referred to the committee appointed 21st of January last, to whom were referred the laws passed in the territory north-west of the Ohio, to consider and report thereon to the Senate.

Ordered, That the other papers referred to in the Message lie for consideration.

The Senate proceeded to the third reading of the bill, sent from the House of Representatives for concurrence, entitled "An act providing for the relief of such of the inhabitants of Saint Domingo, resident within the United States, as may be found in want of support." Whereupon,

Resolved, That this bill pass as amended.

MONDAY, February 10.

The VICE PRESIDENT laid before the Senate a letter from the Secretary of the Department of the Treasury, in reference to the orders of Senate of the 20th January last, for a return of sundry statements from that department; which letter was read.

Mr. BRADLEY reported from the committee to whom was referred the petition of Conrad Laub and others, respecting the appointment of Mr. GALLATIN to be a Senator of the United States; and the report was read.

Ordered, That Wednesday next be assigned to take this report into consideration, and that, in the mean time, it be printed for the use of the Senate.

On motion, that the Senate adopt the following resolution:

"*Resolved*, That the doors of the Senate be opened, and continue open, during the discussion upon the contested election of ALBERT GALLATIN:"

Ordered, That this motion lie on the table until to-morrow.

TUESDAY, February 11.

Agreeably to the order of the day, the Senate took into consideration the motion made yesterday that the doors of the Senate be opened during the discussion of the contested election of Mr. GALLATIN. Whereupon,

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Resolved, That the doors of the Senate be opened, and continue open, during the discussion upon the contested election of ALBERT GALLATIN.

Mr. BRADLEY reported from the committee to whom was referred the act and three ordinances mentioned in the Message from the PRESIDENT OF THE UNITED STATES of the 7th instant, enacted and ordained by the Governor and judges of the territory south of the river Ohio, "that Congress do not disapprove the same," and the report was agreed to.

THURSDAY, February 13.

Mr. BURR, from the committee to whom was referred the Message from the PRESIDENT OF THE UNITED STATES, of the 30th of December last, reported a bill authorizing and directing the settlement of the accounts of Major General LAFAYETTE; which was read the first time, and ordered to a second reading.

FRIDAY, February 14.

The bill authorizing and directing the settlement of the accounts of Major General LAFAYETTE was read the second time, and, after debate, it was ordered to lie for consideration and inquiry.

MONDAY, February 17.

The petition of Michael Schmyser, agent for Conrad Laub and others, petitioners against the election of ALBERT GALLATIN to be a Senator of the United States, was presented and read, praying to be heard by counsel.

Ordered, That the prayer of the petition be granted.

The consideration of the report of the committee on the petition of Conrad Laub and others, respecting the election of Mr. GALLATIN to be a Senator of the United States, was resumed, and after progress, it was ordered that the consideration thereof be postponed until Wednesday next.

WEDNESDAY, February 19.

JAMES GUNN, from Georgia, took his seat in the Senate.

THURSDAY, February 20.

The Senate resumed the consideration of the motion made yesterday, to amend the motion then reconsidered, respecting the opening the doors of the Senate Chamber whilst sitting in a Legislative capacity.

On motion to commit the motion for amendment, it passed in the negative.

On motion, that the amendment be agreed to, it passed in the affirmative—yeas 18, nays 9, as follows:

YEAS.—Messrs. Bradley, Brown, Burr, Butler, Edwards, Ellsworth, Foster, Gunn, Hawkins, Jackson, King, Langdon, Livermore, Martin, Monroe, Potts, Taylor, and Vining.

NAYS.—Messrs. Bradford, Cabot, Frelinghuysen, Gallatin, Izard, Mitchell, Morris, Rutherford, and Strong.

On motion to adopt the resolution, amended as follows:

"*Resolved*, That, after the end of the present session of Congress, and so soon as suitable galleries shall be provided for the Senate Chamber, the said galleries shall be permitted to be opened every morning, so long as the Senate shall be engaged in their Legislative capacity, unless in such cases as may, in the opinion of the Senate, require secrecy, after which the said galleries shall be closed."

It passed in the affirmative—yeas 19, nays 8, as follows:

YEAS.—Messrs. Bradley, Brown, Burr, Butler, Edwards, Ellsworth, Foster, Gallatin, Gunn, Hawkins, Jackson, King, Langdon, Livermore, Martin, Monroe, Potts, Taylor, and Vining.

NAYS.—Messrs. Bradford, Cabot, Frelinghuysen, Izard, Mitchell, Morris, Rutherford, and Strong.

Contested Election.

Agreeably to the order of the day, the Senate resumed the consideration of the report of the committee on the petition of Conrad Laub, and others, respecting the election of Mr. GALLATIN to be a Senator of the United States.

The report of the committee states the evidence, and concludes with an opinion, that to controvert the allegations set forth in the petition against Mr. G., it lays with him to prove his citizenship.

Accordingly, Mr. G. presented a written statement of facts which the PRESIDENT of the Senate read. It contained a narrative of several transactions from the time of Mr. G.'s arrival in the province of Maine, or Massachusetts, about thirteen years ago. Of his having contributed by money and his own services as a volunteer, in the cause of the revolution. Of his having taken oaths of allegiance and purchased lands in that State, and also in the State of Virginia. In the back parts of the last-mentioned State, he had formed an interesting settlement, and had been extremely useful in bringing settlers from Europe. The dates of those transactions and times of his arrival in Pennsylvania, and of being sent to the State Convention, are also recited, up to the time of his being chosen one of their Representatives in the Senate of the United States.

After the PRESIDENT had done reading the statement of facts, Mr. G. addressed the Senate, by observing, that he felt himself rather in an awkward predicament, not knowing whether the counsel for the prosecutors or himself were the proper person to speak the first, as this preliminary was not yet laid down by the Senate, neither had he provided any counsel. He should have supposed himself in the situation of defendant, were it not that the weight of proving the affirmative in regard to citizenship had been laid on him, under which predicament it might perhaps be necessary for him to begin, and after the counsel for the petitioners had spoken, that he should then be allowed to close the arguments.

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Mr. LIVERMORE was of opinion, that the sitting member should begin to debate, as the *onus probandi* lay with him.

The counsel for the petitioners, Mr. LEWIS, rose. He was attended by Mr. Schmyser, one of the members of the Senate of Pennsylvania, who, we understand, manages the prosecution on the part of the petitioners. Mr. L. hoped he would be permitted to say a few words in the early stage of the business, in regard to the manner of conducting it. He recapitulated sundry offices and posts of honor that had been conferred on him, from which he humbly presumed he had gathered much experience, and particularly in cases of contested elections. He would, therefore, beg leave of the honorable Senate, to offer an observation before they should determine on the mode of conducting the trial. When the question for postponement, which was debated the other day, was before them, the sitting member did then consider himself as defendant, and for an hour had fought phantoms of his own imagination, but now he has changed his ground, and desires to have the privileges which belong to the petitioners only, namely, the right of opening the prosecution, and afterwards concluding the arguments.

Mr. GALLATIN submitted to the decision of the Senate, and said he did not wish to contend for mere matters of form.

Mr. MARTIN (from N. Carolina) thought it immaterial who began or concluded, if in the end the Senate should be enabled to arrive at a just degree of information.

Mr. JACKSON (from Georgia) made some observations on the manner of conducting the business. He thought it would be incumbent on the counsel for the petitioners to prove that Mr. GALLATIN was not a citizen, &c.

Mr. KING (from New York) and some other gentleman of the Senate, said a few more words on the motion; it was agreed that the sitting member should begin.

Mr. GALLATIN accordingly rose and recapitulated the facts stated in the written paper which he had presented to the PRESIDENT, commenting on each of them as he proceeded. He proved that he had been an inhabitant of the United States for thirteen years, and was one before the peace of 1783, and before the Confederation. He quoted the laws previous thereto respecting aliens, and also the British statutes, and he maintained that they were all done away by the Revolution. He conceived himself a citizen in common with the other citizens of the United States, from the time of his first qualifying after his arrival and attachment to the country. He concluded by saying, he would reserve the remainder of his defence until after he should hear the counsel on behalf of the petitioners.

Mr. Lewis commenced his speech by observing, that he appeared there on behalf of Conrad Laub, and other respectable men, who complained of the unconstitutionality of admitting Mr. GALLATIN to a seat in the Senate. He was glad to find, by the gentleman's expressions, that the ground of debate had been narrowed into so small a compass, and he would therefore take him up from the argument where he had left off speaking, that of his being a citizen in common of the United States, from the time of his qualifying in Massachusetts or Virginia. But in Virginia two oaths are required, and they must be taken in a court, not before a magistrate, to entitle a man to citizenship. He must also be possessed of a certain quantity of property and be a resident for two years. It appears Mr. G. did not remain in Virginia more than two months. (Here Mr. Lewis read the law of Virginia of the 20th October, 1783.) On this law Mr. L. argued that Mr. G. had not gone through the necessary qualifications to entitle him to citizenship there; and he observed, that he admired the gentleman's candor in not insisting on it here. In this State he had certainly not qualified himself agreeably to the law. Under these circumstances, Mr. L. for his part could never admit of the gentleman's right to citizenship so far back as to entitle him to the suffrage of a vote for a seat in the Senate, &c.

The mischievous consequences of permitting such innovations, he represented in strong terms; and he called to the recollection of the Senate, the conduct of ancient and modern governments on this question. One of the ancient republics made it death for an alien to intermeddle in their politics. The sentiments of antiquity, and those of men in modern days, proved the justice of these conclusions.

With regard to the arguments of the gentleman respecting his being entitled to be a citizen of the Union, or any individual State of it, because he had qualified himself to be citizen of one of them, Mr. L. said, was a mere bubble, for surely the gentleman was not one of the mass of citizens at the accomplishment of independence.

The doctrine of the old law, which the gentleman says was done away by the Revolution, in respect to aliens, may have been so with regard to the British King; it was still, however, virtually in force against the gentleman. But supposing it to be done away, how do the constitutions of the different States stand on this head? Is it not implied by all of them, that certain oaths, residence, and property, make the requisites to form citizenship? In Massachusetts a foreigner is not a citizen, without he complies with those terms. [Here he quoted p. 70 of the small volume of the Laws of Massachusetts. He also cited the act in favor of John Jarvis and others; also, p. 104 of the same book, and p. 191 and 192.] From these he maintained, that no such wild idea was ever contemplated by either the law of Massachusetts or Virginia, as to admit foreigners or persons from other States to citizenship, immediately on their entrance within their limits.

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The situation of the sitting member, with respect to the constitution and laws of Pennsylvania, he had little doubt was similar to what he had mentioned in regard to the other States, although he would not assert it as a fact. [He read the 42d section, and also in p. 43 of the Law of Pennsylvania, 13th March, 1789, a proviso which contains some precautions requiring records to be kept by the master of the rolls of the persons admitted to citizenship.] The same principle pervades all the States as well as it does the Constitution of the United States. The absurdity of applying it in any other sense, was severely pictured by Mr. L., and to admit the idea advanced by the sitting member, was as inadmissible as it was novel. In support of what he wished to impress on the minds of the Senate, Mr. L. quoted the 1st vol. of the Journals of Congress in 1774 and 1775, pp. 28 and 29. He then recurred to *Blackstone*, vol. I, pp. 63, 64, and 69; also 73 and 79.

It was not his intention to quote the Parliamentary Laws of England in support of any thing, but such parts of their Common Law as could be got over—that Common Law of England which was imported by our ancestors, and handed down to them by the people, not the Parliament. The people had made the Common Law, from time to time. The Saxons, Normans, &c., were all concerned in making and improving it, until it had finally reached that degree of perfection in which it was given to us by our ancestors, and it was founded in wisdom and justice.

Mr. L. next quoted, first *Blackstone*, 402, which was one of the British laws that had never been admitted in this country, and which, he hoped, never would, viz: that wherein the distinction is drawn between the Commoner and the Peer, an oath being required of the Commoner, upon all occasions, and no more than "*upon my honor*" from a Peer, except in giving evidence in civil or criminal trials.

Mr. L. concluded, by saying that the difficulties which stood between Mr. GALLATIN and his seat,

were insurmountable and could not be removed without showing a law of Massachusetts, Virginia, &c., repealing those laws in regard to the qualification of citizens, which he had mentioned, but which repeal he was certain did not exist. He therefore stated, that to insist upon the gentleman's right to a seat, was both novel and absurd. These were his opinions, which he had given in a perfectly extempore way, not having been allowed time nor expecting to meet the subject on the new ground which it had this day taken in the Senate.

Mr. GALLATIN said, he would pledge himself to the Senate, to prove that the grounds of his arguments and his construction of the Confederation and laws of the States, were neither novel nor absurd, except in Mr. L.'s construction of them, but had been admitted in many instances. However, as the Common Law of England was now introduced by Mr. L., which was new ground to him, and as the hour of adjournment was nearly approaching, he would beg leave to make his reply to-morrow.

On motion, the further consideration of this subject was postponed until to-morrow.

FRIDAY, February 21.

Contested Election.

Agreeably to the order of the day the Senate resumed the consideration of the report of the committee on the petition of Conrad Laub, and others, respecting the election of Mr. GALLATIN to be a Senator of the United States.

Mr. GALLATIN commenced his defence by laying down the principles on which he intended to argue. His was a very serious situation for a person to be placed in, who had been so long in America, and who had mingled with the inhabitants in the common cause, that he should afterwards be called before so solemn a tribunal, with an intention to wrest from him his right of citizenship. He confessed, that on this occasion his feelings were deeply interested, particularly as the manner of the counsel for the prosecutors was so personal, and went not only to deny him a seat in the Senate of the United States, but even to contest his citizenship, and denounce him as being yet an alien.

This was a matter of consequence to many thousands as well as himself, who have long considered themselves in possession of all the privileges of denizens, and yet may be deprived of their rights, if the doctrines of the counsel for the prosecutors should obtain any sanction from the body who were now to judge of its merits.

Mr. G. entered into a series of observations on the various points of law, &c., which had been adduced by Mr. LEWIS, and he particularly remarked, that the Common Law of England was entirely inapplicable to the subject under consideration. He read the laws of Virginia respecting naturalization, &c., from which he insisted that he had long since become a citizen of the United States. He also quoted 1st *Blackstone*, p. 374, and *Viner's Abridgment*, vol. ii. p. 266, respecting the different acceptations of denizen and citizen, and he went back so far as the British statutes in 1740, to show the intention of the old Government was to naturalize all persons who would go and reside in the Colonies. He next mentioned the act of Pennsylvania, of the 31st of August, 1778, and commented on the principles generally entertained by most writers on the subjects of allegiance and citizenship. *Blackstone*, 266, &c.

An alien is a man born out of the allegiance of the King. But allegiance in England is not an allegiance to the country or to society, as it is understood in this country.

In order to explain the principle of reciprocity, he observed, that when the two crowns of England and Scotland were united under James, the inhabitants of Scotland became naturalized in England, as if they had been natural-born subjects of that country. The allegiance in Britain was personal to the King, and it has there this remarkable quality, that by the British laws allegiance can never be shaken off.

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This country, before the Revolution, owed allegiance to the King, but that was destroyed by the Declaration of Independence, and then the inhabitants of the States became mutually citizens of every State reciprocally; and they continued so until such time as the States made laws of their own afterwards respecting naturalization.

As soon as separate governments existed, allegiance was due to each, and here the allegiance was a reality, it was to the Government and to society, whereas in Britain it is merely fictitious, being only to one man.

Every man who took an active part in the American Revolution, was a citizen according to the great laws of reason and of nature, and when afterwards positive laws were made, they were retrospective in regard to persons under this predicament, nor did those posterior laws invalidate the rights which they enjoy under the Confederation.

Mr. G. here mentioned his having been an inhabitant of Massachusetts before October, 1780, and he also observed, that the law passed in that State was decisive against the Common Law of England.

In quoting the laws of Massachusetts, which were passed in 1785, and afterwards, for naturalizing John Gardner, and James Martin, he remarked that they clearly implied that even a natural born subject, who had not acted in the Revolution, and an absentee, was not entitled to citizenship. He likewise took notice of the case of Mr. WILLIAM SMITH, of South Carolina, against whose election as a Representative in Congress, a petition was presented by Doctor Ramsay,

although the decision of South Carolina on that subject was exactly the reverse of Massachusetts.

In speaking of the difficulties that occurred in explaining the terms citizen and alien, he ran over a number of cases, and asked whether if a person had arrived in the United States during the war, from Nova-Scotia, or elsewhere, and had taken an active part against the enemy, would he not be better entitled to the right of a citizen, than even those who afterwards subscribed to the acts? The counsel for the prosecutors had admitted that a person who had been one of the mass of the people, at the Declaration of Independence, was a citizen. On the same principle, until a law passes to disprove that a man who was active in the Revolution previous to the treaty of peace, was a citizen, he must be one *ipse facto*.

Mr. G. next read a quotation from the 1st vol. of *Woodison*, p. 382, an English writer, who acknowledged that all persons were aliens at the recognition of independence, and that is a more liberal construction than the council for the petitioners would admit of, for by this construction, our sailors, &c., ought to be naturalized, lest they be alarmed by the British.

The new Constitution of the United States requires certain qualifications for members of Congress, &c., but it does not deprive persons of their rights who were actually citizens before the constitution was ratified that made the States the United States. They were united by consent before, and consequently he was one of the people before the United States existed.

He went on to read from the Constitution of Massachusetts, and several other States, sundry clauses in support of his reasoning, and recapitulated the several heads of Mr. L.'s arguments, to each of which he replied.

Mr. G. said, that Mr. Lewis was unfortunate in producing the law of Pennsylvania, for, by proving too much, he had proved nothing, for the 42d sec. of the constitution is retrospective, and by acknowledging the Articles of Confederation to be the supreme law of the land, persons who were reciprocally citizens before, are still left in full possession of the right.

So far from any dangerous consequences arising on my construction of citizenship, said he, I think it must be evident, that there is more danger and absurdity in the counsel's own constructions. For, in remarking on the policy of nations, we find even slaves have been enfranchised by the great republics in times of common danger. The policy of America should be to make citizenship as easy as possible, for the purpose of encouraging population; even during the British dominion that was a principle laid down, and afterwards it was attempted to be varied; it is made one of the principal subjects of complaint in the Declaration of Independence, where it is expressly said, that the king endeavored to prevent the population of these States, by having laws made to obstruct the naturalization of foreigners.

If there were any dangerous consequences to be apprehended from the former regulations on this subject, they are all remedied by the new constitution.

Therefore, no ill consequence or absurdity can follow. The author of the *Federalist* supports this principle in vol. ii. p. 54, for he says, that it is a construction scarcely avoidable, that citizens of each of the States are mutually so in all of them.

The first words in the constitution, "We the People," furnished another argument in support of Mr. G's principles, which he turned to great advantage, still drawing an inference to show that Mr. L.'s construction of the subject was most liable to difficulties and to mischievous consequences.

He concluded by observing, that if there was any disfranchising clauses in the Constitution of the United States, tending to deprive citizens of antecedent rights, all such clauses must be construed favorably, and were evidently on his side. With regard to a sentence that had been added, by the advice of counsel, to the affidavit of Pelatiah Webster, he made some remarks which tended to establish his own personal character, which he trusted would be found, when traced back to his nativity, to stand the test; and that his right to a seat in the Senate would also stand upon an equally just foundation.

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Mr. Lewis denied having ever seen the affidavit of Mr. Webster, until it was shown him at the time the examination before the committee was going forward.

Mr. GALLATIN recriminated, that the clause of which he took notice, was not in the affidavit when Mr. Webster brought it to the committee, and that he had permitted it to be added with great reluctance. It was only the recital of a few words which passed between Mr. G. and Mr. W. in jest, some years since, wherein Mr. G. had ironically said his name was Sidney, probably alluding to some essays that had appeared in the newspapers under that signature, which had been generally attributed to the pen of another gentleman in the State.

Mr. JACKSON, in order to bring the merits of the subject directly before the Senate, said he would move a resolution, that would have that effect; but upon Mr. Lewis's observing, that he had not yet closed his arguments, and at the instance of Mr. BUTLER, from South Carolina, who said he would second Mr. JACKSON's motion hereafter, it was withdrawn for the present.

Ordered, That the further consideration thereof be postponed until to-morrow.

SATURDAY, February 22.

Contested Election.

The Senate resumed the consideration of the report of the committee on the petition of Conrad

Laub, and others, respecting the election of Mr. GALLATIN to be a Senator of the United States.

The greater part of the day was taken up by Mr. Lewis's pleadings, wherein he entered into a very extensive field of reasoning, and quoted a great number of authorities, in support of the principles on which he had set out last Thursday, and to prove that in the true sense of the Constitution of the United States, as well as of that of the State of Pennsylvania, Mr. GALLATIN was not duly qualified for the office of a Senator, and therefore, he trusted that the honorable Senate, upon mature reflection, would vacate his seat.

Mr. GALLATIN closed his defence in a short speech, wherein he quoted *Vattel*, p. 167, and explained the 42d section of the Constitution of Pennsylvania, the liberal construction of which, he said, was in his favor, and the construction contended for by the counsel, absurd. He finished by reading a passage from *Lord Bacon's* works, to show that where there is any doubt in the laws, it should operate in favor of the defendant, and he accordingly made no doubt but that the Senate would validate his election.

Ordered, That the further consideration of the subject be postponed until Monday next.

A motion was made as follows:

"*Resolved*, That ALBERT GALLATIN, returned to this House as a member for the State of Pennsylvania, is duly qualified for, and elected to, a seat in the Senate of the United States."

Ordered, That the consideration of this motion be postponed until Monday next, and that a number of copies of the fourth article of the First Confederation of the United States be printed for the use of the Senate.

MONDAY, February 24.

The Senate resumed the consideration of the motion made the twenty-second instant, on the report of the committee on the petition of Conrad Laub, and others, respecting the election of Mr. GALLATIN to be a Senator of the United States; and, after progress,

Ordered, That the further consideration thereof be postponed until to-morrow.

FRIDAY, February 28.

The Senate resumed the consideration of the 22d instant, on the report of the committee on the petition of Conrad Laub, and others, respecting the election of Mr. GALLATIN to be a Senator of the United States.

And, on the question to agree to the motion, as follows:

"*Resolved*, That ALBERT GALLATIN, returned to this House as a member for the State of Pennsylvania, is duly qualified for, and elected to, a seat in the Senate of the United States:"

It passed in the negative—yeas 12, nays 14, as follows:

YEAS.—Messrs. Bradley, Brown, Burr, Butler, Edwards, Gunn, Jackson, Langdon, Martin, Monroe, Robinson, and Taylor.

NAYS.—Messrs. Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, Hawkins, Izard, King, Livermore, Mitchell, Morris, Potts, Strong, and Vining.

On motion that it be

"*Resolved*, That the election of ALBERT GALLATIN to be a Senator of the United States was void, he not having been a citizen of the United States the term of years required as a qualification to be a Senator of the United States:"

A motion was made to divide the question at the word "void;" and,

On motion to agree to the first paragraph of the motion so divided, it passed in the affirmative—yeas 14, nays 12, as follows:

YEAS.—Messrs. Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, Hawkins, Izard, King, Livermore, Mitchell, Morris, Potts, Strong, and Vining.

NAYS.—Messrs. Bradley, Brown, Burr, Butler, Edwards, Gunn, Jackson, Langdon, Martin, Monroe, Robinson, and Taylor.

On motion to adopt the resolution as follows:

"*Resolved*, That the election of ALBERT GALLATIN to be a Senator of the United States was void, he not having been a citizen of the United States the term of years required as a qualification to be a Senator of the United States:"

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It passed in the affirmative—yeas 14, nays 12.

Resolved, That an attested copy of the resolution of the Senate, declaring the election of ALBERT GALLATIN to be void, be transmitted by the PRESIDENT of the Senate to the Executive of the Commonwealth of Pennsylvania.

FRIDAY, March 7.

A message from the House of Representatives informed the Senate, that the House of Representatives have passed a bill, entitled "An act to prohibit the carrying on the slave trade from the United States to any foreign place or country;" also, a bill, entitled "An act limiting the time for presenting claims for destroyed certificates of certain descriptions;" in which bills, severally, they desire the concurrence of the Senate.

THURSDAY, March 13.

The bill authorizing and directing the settlement of the accounts of Major General LAFAYETTE was read the third time.

Resolved, That this bill pass, that it be engrossed, and that the title thereof be "An act allowing to Major General LAFAYETTE his pay and emoluments while in the service of the United States."

WEDNESDAY, March 19.

The bill sent from the House of Representatives for concurrence, entitled "An act to prohibit the carrying on the slave trade from the United States to any foreign place or country," was read the third time and passed.

THURSDAY, March 20.

The bill to authorize the PRESIDENT OF THE UNITED STATES, in certain cases, to alter the place for holding a session of Congress, was read the second time.

MONDAY, March 24.

KENSEY JOHNS appeared and produced his credentials of an appointment by the Governor of the State of Delaware as a Senator for the United States, which were read.

Whereupon, it was moved that they be referred to the consideration of the Committee of Elections before the said KENSEY JOHNS should be permitted to qualify, who are directed to report thereon; and it passed in the affirmative—yeas 13, nays 12, as follows:

YEAS.—Messrs. Bradley, Brown, Burr, Edwards, Gunn, Hawkins, Jackson, Langdon, Livermore, Martin, Monroe, Robinson, and Taylor.

NAYS.—Messrs Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, Iazard, Mitchell, Morris, Potts, Rutherford, Strong, and Vining.

The Senate resumed the second reading of the bill to authorize the PRESIDENT OF THE UNITED STATES, in certain cases, to alter the place for holding a session of Congress.

TUESDAY, March 25.

The bill to authorize the PRESIDENT OF THE UNITED STATES, in certain cases, to alter the place for holding a session of Congress, was read the third time; and, being amended,

Resolved, That this bill pass, that it be engrossed, and that the title thereof be, "An act to authorize the PRESIDENT OF THE UNITED STATES, in certain cases, to alter the place of holding a session of Congress."

WEDNESDAY, March 26.

The bill, sent from the House of Representatives for concurrence, entitled "An act limiting the time for presenting claims for destroyed certificates of certain descriptions," was read the third time.

Resolved, That this bill pass with amendments.

A message from the House of Representatives informed the Senate, that the House have passed "A resolution laying an embargo on the vessels in the ports of the United States;" in which they desire the concurrence of the Senate.

FRIDAY, March 28.

The Senate resumed the consideration of the report of the Committee of Elections, to whom was referred the credentials of Kensey Johns, appointed by the Executive of the State of Delaware to be a Senator of the United States; which report is as follows:

"The Committee of Elections, to whom were referred the credentials of an appointment by the Governor of the State of Delaware, of Kensey Johns, as a Senator of the United States, having had the same under consideration, report—

"That George Read, a Senator for the State of Delaware, resigned his seat upon the 18th day of December, 1793, and during the recess of the Legislature of said State.

"That the Legislature of the said State met in January, and adjourned in February, 1794.

"That, upon the 19th day of March, and subsequent to the adjournment of the said Legislature, Kensey Johns was appointed, by the Governor of said State, to fill the vacancy occasioned by the resignation aforesaid.

"Whereupon, the committee submit the following resolution:

"*Resolved*, That Kensey Johns, appointed by the Governor of the State of Delaware, as a Senator of the United States, for said State, is not entitled to a seat in the Senate of the United States; a session of the Legislature of the said State having intervened between the resignation of the said George Read and the appointment of the said Kensey Johns."

On the question to agree to this report, it passed in the affirmative—yeas 20, nays 7, as follows:

YEAS.—Messrs. Bradford, Bradley, Brown, Burr, Butler, Cabot, Edwards, Ellsworth, Frelinghuysen, Gunn, Hawkins, Jackson, King, Langdon, Livermore, Martin, Mitchell, Monroe, Robinson, and Taylor.

NAYS.—Messrs. Foster, Izard, Morris, Potts, Rutherford, Strong, and Vining.

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Resolved, That an attested copy of the resolution of the Senate, on the appointment of Kensey Johns to be a Senator of the United States, be transmitted, by the PRESIDENT of the Senate, to the Executive of the State of Delaware.

TUESDAY, May 20.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and of the House of Representatives:

In the communications which I have made to Congress during the present session relative to foreign nations, I have omitted no opportunity of testifying my anxiety to preserve the United States in peace. It is peculiarly, therefore, my duty, at this time to lay before you the present state of certain hostile threats against the territories of Spain in our neighborhood.

The documents which accompany this message develop the measures which I have taken to suppress them, and the intelligence which has been lately received.

It will be seen from thence that the subject has not been neglected; that every power vested in the Executive on such occasions has been exerted; and that there was reason to believe that the enterprise projected against the Spanish dominions was relinquished.

But it appears to have been revived upon principles which set public order at defiance, and place the peace of the United States in the discretion of unauthorized individuals. The means already deposited in the different departments of Government are shown, by experience, not to be adequate to these high exigencies, although such of them as are lodged in the hands of the Executive shall continue to be used with promptness, energy, and decision, proportioned to the case. But I am impelled, by the position of our public affairs, to recommend that provision be made for a stronger and more vigorous opposition than can be given to such hostile movements under the laws as they now stand.

G. WASHINGTON.

UNITED STATES, *May 20, 1794.*

The Message and papers therein referred to were read, and ordered to lie for consideration.

WEDNESDAY, May 21.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and of the House of Representatives:

I lay before you, in confidence, sundry papers by which you will perceive the state of affairs between us and the Six Nations, and the probable cause to which it is owing; and also certain information, whereby it would appear that some encroachment was about to be made on our territory by an officer and party of British troops. Proceeding upon a supposition of the authenticity of this information, although of a private nature, I have caused the representation to be made to the British Minister, a copy of which accompanies this Message.

It cannot be necessary to comment upon the very serious nature of such an encroachment, nor to urge that this new state of things suggests the propriety of placing the United States in a posture of effectual preparation for an event which, notwithstanding the endeavors making to avert it, may, by circumstances beyond our control, be forced upon us.

G. WASHINGTON.

UNITED STATES, *May 21, 1794.*

The Message and papers therein referred to were read, and ordered to lie for consideration.

MONDAY, June 9.

A message from the House of Representatives informed the Senate, that the House, having finished the business of the session, are about to adjourn.

Ordered, That the Secretary notify the House of Representatives, that the Senate likewise, having finished the business of the session, are about to adjourn; and, he having reported that he had delivered the message, the PRESIDENT of the Senate, conformably to the resolution of the 5th instant, adjourned the Senate to the day appointed by law for the next meeting of Congress.

THIRD CONGRESS.—FIRST SESSION.

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PROCEEDINGS AND DEBATES

IN

THE HOUSE OF REPRESENTATIVES.

MONDAY, December 2, 1793.

This being the day appointed by the constitution for the meeting of the present Congress, the following members appeared and took their seats:

From New Hampshire.—NICHOLAS GILMAN, JOHN S. SHERBURNE, JEREMIAH SMITH, and PAINE WINGATE.

From Massachusetts.—SHEARJASHUB BOURNE, DAVID COBB, HENRY DEARBORN, BENJAMIN GOODHUE, SAMUEL HOLTEN, WILLIAM LYMAN, THEODORE SEDGWICK, GEORGE THATCHER, and ARTEMAS WARD.

From Connecticut.—AMASA LEARNED, URIAH TRACEY, JONATHAN TRUMBULL, and JEREMIAH WADSWORTH.

From Vermont.—ISRAEL SMITH.

From New York.—THEODORUS BAILEY, EZEKIEL GILBERT, HENRY GLENN, JAMES GORDON, SILAS TALBOT, JOHN E. VAN ALLEN, PHILIP VAN CORTLANDT, PETER VAN GAASBECK, and JOHN WATTS.

From New Jersey.—JOHN BEATTY, ELIAS BOUDINOT, LAMBERT CADWALADER, ABRAHAM CLARK, and JONATHAN DAYTON.

From Pennsylvania.—JAMES ARMSTRONG, WILLIAM FINDLAY, THOMAS FITZSIMONS, ANDREW GREGG, THOMAS HARTLEY, WILLIAM IRVINE, JOHN WILKES KITTERA, FREDERICK AUGUSTUS MUHLENBERG, PETER MUHLENBERG, THOMAS SCOTT, and JOHN SMILIE.

From Maryland.—GEORGE DENT and SAMUEL SMITH.

From Virginia.—WILLIAM B. GILES, CARTER B. HARRISON, JOHN HEATH, RICHARD BLAND LEE, JAMES MADISON, ANDREW MOORE, ANTHONY NEW, JOHN NICHOLAS, FRANCIS PRESTON, ROBERT RUTHERFORD, ABRAHAM VENABLE, and FRANCIS WALKER.

From Kentucky.—CHRISTOPHER GREENUP.

From North Carolina.—THOMAS BLOUNT, WILLIAM JOHNSON DAWSON, MATTHEW LOOKE, NATHANIEL MACON, and ALEXANDER MEBANE.

From South Carolina.—WILLIAM SMITH.

From Georgia.—ABRAHAM BALDWIN and THOMAS P. CARNES.

A quorum of the members being present, the House proceeded to ballot for a Speaker, when it appeared that FREDERICK A. MUHLENBERG, one of the members from Pennsylvania, was elected; whereupon he was conducted to the chair; and made his acknowledgments to the House.^[47]

The House then proceeded, in the same manner, to the appointment of a Clerk, when JOHN BECKLEY was appointed.

The usual oath was then administered to the members.

Messages were interchanged between the two Houses, announcing their formation and readiness to proceed to business.

Joseph Wheaton was appointed Sergeant-at-Arms, Gifford Dally as Doorkeeper, and Thomas Claxton as Assistant Doorkeeper.

A joint committee was appointed by the two Houses to wait on the PRESIDENT OF THE UNITED STATES, to inform him that a quorum of the two Houses is assembled, and ready to receive any communication that he may think proper to make to them.

Resolved, That two Chaplains, of different denominations, be appointed, one by each House, to interchange weekly.

Resolved, That a standing Committee of Elections be appointed; also a committee to report rules and orders of proceeding.

TUESDAY, December 3.

JOSEPH MCDOWELL and BENJAMIN WILLIAMS, from North Carolina, appeared, and took their seats.

A message from the Senate announced their readiness to receive the communication from the PRESIDENT OF THE UNITED STATES. The SPEAKER and members withdrew to the Senate Chamber, where the PRESIDENT attended, and delivered his Speech to the two Houses, which will be found in the proceedings of the Senate.

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On the return of the members, the Speech was committed to a Committee of the Whole.

WEDNESDAY, December 4.

PELEG COFFIN, Jr., from Massachusetts, WILLIAM MONTGOMERY, from Pennsylvania, and WILLIAM VANS MURRAY, from Maryland, appeared, produced their credentials, and took their seats in the House; the oath to support the Constitution of the United States being first administered to them by the SPEAKER, according to law.

The House resolved itself into a Committee of the whole House on the Speech of the PRESIDENT OF THE UNITED STATES to both Houses of Congress; and, after some time spent therein, the Chairman reported that the committee had had the said Speech under consideration, and come to a resolution thereupon; which was twice read, and agreed to by the House, as follows:

Resolved, That it is the opinion of this committee that a respectful Address ought to be presented by the House of Representatives to the PRESIDENT OF THE UNITED STATES, in answer to his Speech to both Houses of Congress, at the commencement of this session, containing assurances that this House will take into consideration the various and important matters recommended to their attention.

Ordered, That MESSRS. MADISON, SEDGWICK, WATTS, HARTLEY, and SAMUEL SMITH, be appointed a committee to prepare an Address pursuant to the said resolution.

THURSDAY, December 5.

Mr. MADISON, from the committee appointed, presented an Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech to both Houses of Congress; which was read, and ordered to be committed to a Committee of the whole House to-morrow.

FRIDAY, December 6.

JAMES HILLHOUSE, from Connecticut, and JOSIAH PARKER, from Virginia, appeared, and took their seats.

Mr. WILLIAM SMITH, from the Standing Committee of Elections, reported that the committee had, in part, examined the certificates and other credentials of the members returned to serve in this House, and had agreed upon a report; which was read, and is as follows:

"It appears to your committee, that the credentials of the following members are sufficient to entitle them to take their seats in the House, to wit:"

[After enumerating the names of the members whose credentials were examined, the report concludes:]

"Your committee further report that, in the case of JOHN PATTON, returned as a member for the State of Delaware, the Executive of the said State have, together with the return, transmitted a protest, made to them by Henry Latimer, of the said State, against the return of the said JOHN PATTON."

Ordered, That the said report do lie on the table.

The House resolved itself into a Committee of the whole House on the Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech to both Houses of Congress; and, after some time spent therein, the Chairman reported that the committee had had the said Address under consideration, and made no amendment thereto.

Resolved, unanimously, That this House doth agree to the said Address, in the words following:

SIR: The Representatives of the people of the United States, in meeting you for the first time since you have been again called, by a unanimous suffrage, to your present station, find an occasion, which they embrace with no less sincerity than promptitude, for expressing to you their congratulations on so distinguished a testimony of public approbation, and their entire confidence in the purity and patriotism of the motives which have produced this obedience to the voice of your country. It is to virtues which have commanded long and universal reverence, and services from which have flowed great and lasting benefits, that the tribute of praise may be paid without the reproach of flattery; and it is from the same sources that the fairest anticipations may be derived in favor of the public happiness.

The United States having taken no part in the war which had embraced in Europe the Powers with whom they have the most extensive relations, the maintenance of peace was justly to be regarded as one of the most important duties of the Magistrate charged with the faithful execution of the laws. We accordingly witness, with approbation and pleasure, the vigilance with which you have

guarded against an interruption of that blessing, by your Proclamation, admonishing our citizens of the consequences of illicit or hostile acts towards the belligerent parties; and promoting, by a declaration of the existing legal state of things, an easier admission of our right to the immunities belonging to our situation.

The connection of the United States with Europe has evidently become extremely interesting. The communications which remain to be exhibited to us will, no doubt, assist in giving us a fuller view of the subject, and in guiding our deliberations to such results as may comport with the rights and true interests of our country.

We learn, with deep regret, that the measures, dictated by a love of peace, for obtaining an amicable termination of the afflicting war on our frontiers, have been frustrated, and that a resort to offensive measures should have again become necessary. As the latter, however, must be rendered more satisfactory, in proportion to the solicitude for peace, manifested by the former, it is to be hoped they will be pursued under the better auspices, on that account, and be finally crowned with more happy success.

In relation to the particular tribe of Indians against whom offensive measures have been prohibited, as well as on all the other important subjects which you have presented to our view, we shall bestow the attention which they claim. We cannot, however, refrain, at this time, from particularly expressing our concurrence in your anxiety for the regular discharge of the public debts, as fast as circumstances and events will permit, and, in the policy of removing any impediments that may be found in the way of a faithful representation of public proceedings throughout the United States, being persuaded, with you, that on no subject more than the former can delay be more injurious, or an economy of time more valuable; and that, with respect to the latter, no resource is so firm for the Government of the United States as the affections of the people, guided by an enlightened policy.

Throughout our deliberations we shall endeavor to cherish every sentiment which may contribute to render them conducive to the dignity as well as to the welfare of the United States. And we join with you in imploring that Being, on whose will the fate of nations depends, to crown with success our mutual endeavors.

Resolved, That Mr. SPEAKER, attended by the House, do present the said Address, and that Mr. MADISON, Mr. SEDGWICK, and Mr. HARTLEY, be a committee to wait on the PRESIDENT, to know when and where it will be convenient for him to receive the same.

Mr. MADISON, from the committee appointed to wait on the PRESIDENT OF THE UNITED STATES, to know when and where it will be convenient for him to receive the Address of this House, in answer to his Speech to both Houses of Congress, reported that the committee had waited on the PRESIDENT, who signified to them that it would be convenient to him to receive the said Address at 12 o'clock, to-morrow, at his own house.

SATURDAY, December 7.

PELEG WADSWORTH, from Massachusetts, and JOSEPH NEVILLE, from Virginia, appeared, produced their credentials, and took their seats.

The SPEAKER, attended by the House, then withdrew to the house of the PRESIDENT OF THE UNITED STATES, and there presented to him the Address of this House, in answer to his Speech to both Houses of Congress; to which the PRESIDENT made the following reply:

GENTLEMEN: I shall not affect to conceal the cordial satisfaction which I derive from the Address of the House of Representatives. Whatsoever those services may be which you have sanctioned by your favor, it is a sufficient reward that they have been accepted as they were meant. For the fulfilment of your anticipations of the future, I can give no other assurance than that the motives which you approve shall continue unchanged.

It is truly gratifying to me to learn that the Proclamation has been considered as a seasonable guard against the interruption of the public peace. Nor can I doubt that the subjects which I have recommended to your attention as depending on Legislative provisions, will receive a discussion suited to their importance. With every reason, then, it may be expected that your deliberations, under the Divine blessing, will be matured to the honor and happiness of the United States.

G. WASHINGTON.

MONDAY, December 9.

GABRIEL CHRISTIE, from Maryland, THOMAS CLAIBORNE and GEORGE HANCOCK, from Virginia, JOSEPH WINSTON, from North Carolina, JOHN HUNTER and ANDREW PICKENS, from South Carolina, appeared, produced their credentials, and took their seats in the House.

TUESDAY, December 10.

The House resumed the reading of the communications received from the PRESIDENT OF THE UNITED

STATES, on Thursday last, and made a further progress therein.

WEDNESDAY, December 11.

BENJAMIN BOURNE and FRANCIS MALBONE, from Rhode Island, appeared, produced their credentials, and took their seats in the House.

FRIDAY, December 13.

THOMAS TREDWELL, from New York, and JOHN PATTON, from Delaware, appeared, produced their credentials, and took their seats.

Ordered, That a committee be appointed to prepare and bring in a bill to establish a uniform system of bankruptcy throughout the United States; and that Mr. GILES, Mr. WILLIAM SMITH, Mr. AMES, Mr. HARTLEY, Mr. HILLHOUSE, Mr. FITZSIMONS, and Mr. BOUDINOT, be the said committee.

MONDAY, December 16.

SAMUEL DEXTER, Junior, from Massachusetts, JOSHUA COIT and ZEPHANIAH SWIFT, from Connecticut, and RICHARD WINN, from South Carolina, appeared, produced their credentials, and took their seats.

THURSDAY, December 19.

The SPEAKER laid before the House a letter from the Secretary of State, accompanying a report on the privileges and restrictions on the commerce of the United States in foreign countries, made pursuant to a resolution of the House of the twenty-third of February, one thousand seven hundred and ninety-one; which was read, and ordered to be committed to the Committee of the whole House, to whom are committed the confidential communications from the PRESIDENT respecting the measures which have been pursued for obtaining a recognition of the treaty between the United States and Morocco, and for the ransom of prisoners and establishment of peace with the Algerines.

FRIDAY, December 20.

WILLIAM HINDMAN, from Maryland, and SAMUEL GRIFFIN, from Virginia, appeared, produced their credentials, and took their seats.

MONDAY, December 23.

ALEXANDER D. ORR, from Kentucky, appeared, produced his credentials, and took his seat in the House.

THURSDAY, December 26.

A petition of Abram Trigg, of the State of Virginia, was presented to the House and read, complaining of an undue election and return of Francis Preston, to serve as a member of this House for the said State.

Ordered, That the said petition be referred to the Committee of Elections; that they do examine the matter thereof, and report the same, with their opinion thereon, to the House.

FRIDAY, December 27.

DANIEL HEISTER, from Pennsylvania, appeared, produced his credentials, and took his seat in the House.

WEDNESDAY, January 1, 1794.

URIAH FORREST and THOMAS SPRIGG, from Maryland, appeared, produced their credentials, and took their seats in the House.

THURSDAY, January 2.

ISAAC COLES, from Virginia, and WILLIAM BARRY GROVE, from North Carolina, appeared, produced their credentials, and took their seats in the House.

FRIDAY, January 3.

Commerce of the United States. ^[48]

The House resolved itself into a Committee of the whole House on the Report of the Secretary of State on the privileges and restrictions on the commerce of the United States in foreign countries.

Mr. MADISON, after some general observations on the report, entered into a more particular consideration of the subject. He remarked, that the commerce of the United States is not, at this day, on that respectable footing to which, from its nature and importance, it is entitled. He recurred to its situation previous to the adoption of the constitution, when conflicting systems prevailed in the different States. The then existing state of things gave rise to that Convention of Delegates from the different parts of the Union, who met to deliberate on some general principles for the regulation of commerce, which might be conducive, in their operation, to the general welfare, and that such measures should be adopted as would conciliate the friendship and good faith of those countries who were disposed to enter into the nearest commercial connections with us. But what has been the result of the system which has been pursued ever since? What is the present situation of our commerce? From the situation in which we find ourselves after four years' experiment, he observed, that it appeared incumbent on the United States to see whether they could not now take measures promotive of those objects for which the Government was in a great degree instituted. Measures of moderation, firmness, and decision, he was persuaded, were now necessary to be adopted, in order to narrow the sphere of our commerce with those nations who see proper not to meet us on terms of reciprocity.

Mr. M. then read the following resolutions:

[The principle of these resolutions will be best seen in the debates upon them.]

Mr. M. took a general view of the probable effects which the adoption of something like the resolutions he had proposed, would produce. They would produce, respecting many articles imported, a competition which would enable countries who do not now supply us with those articles, to do it, and would increase the encouragement on such as we can produce within ourselves. We should also obtain an equitable share in carrying our own produce; we should enter into the field of competition on equal terms, and enjoy the actual benefit of advantages which nature and the spirit of our people entitle us to.

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He adverted to the advantageous situation this country is entitled to stand in, considering the nature of our exports and returns. Our exports are bulky, and therefore must employ much shipping, which might be nearly all our own: our exports are chiefly necessaries of life, or raw materials, the food for the manufacturers of other nations. On the contrary, the chief of what we receive from other countries, we can either do without, or produce substitutes.

It is in the power of the United States, he conceived, by exerting her natural rights, without violating the rights, or even the equitable pretensions of other nations—by doing no more than most nations do for the protection of their interests, and much less than some, to make her interests respected; for, what we receive from other nations are but luxuries to us, which, if we choose to throw aside, we could deprive part of the manufacturers of those luxuries, of even bread, if we are forced to the contest of self-denial. This being the case, our country may make her enemies feel the extent of her power. We stand, with respect to the nation exporting those luxuries, in the relation of an opulent individual to the laborer, in producing the superfluities for his accommodation; the former can do without those luxuries, the consumption of which gives bread to the latter.

He did not propose, or wish that the United States should at present go so far in the line which his resolutions point to, as they might go. The extent to which the principles involved in those resolutions should be carried, will depend upon filling up the blanks. To go to the very extent of the principle immediately, might be inconvenient. He wished, only, that the Legislature should mark out the ground on which we think we can stand; perhaps it may produce the effect wished for, without unnecessary irritation; we need not at first go every length.

Another consideration would induce him, he said, to be moderate in filling up the blanks—not to wound public credit. He did not wish to risk any sensible diminution of the public revenue. He believed that if the blanks were filled with judgment, the diminution of the revenue, from a diminution in the quantity of imports, would be counterbalanced by the increase in the duties.

The last resolution he had proposed, he said, is, in a manner, distinct from the rest. The nation is bound by the most sacred obligation, he conceived, to protect the rights of its citizens against a violation of them from any quarter; or, if they cannot protect, they are bound to repay the damage.

It is a fact authenticated to this House by communications from the Executive, that there are regulations established by some European nations; contrary to the Law of Nations, by which our property is seized and disposed of in such a way that damages have accrued. We are bound either to obtain reparation for the injustice, or compensate the damage. It is only in the first instance, no doubt, that the burden is to be thrown upon the United States. The proper department of Government will, no doubt, take proper steps to obtain redress. The justice of foreign nations will certainly not permit them to deny reparation when the breach of the Law of Nations appears evidently; at any rate, it is just that the individual should not suffer. He believed the amount of the damages that would come within the meaning of this resolution, would not be very considerable.

Mr. M.'s resolutions being seconded, were presented and read by the Clerk.

Mr. W. SMITH rose to make some remarks on the observations of Mr. MADISON, when a motion was made by Mr. FITZSIMONS, that the committee should rise, and report progress, and that the House should give order for printing the resolutions.

After some further remarks by two or three members, Mr. MADISON said he had no wish to

precipitate the discussion; he was content that the committee should now rise, and that a future early day should be assigned.

MONDAY, January 6.

JAMES GILLESPIE, from North Carolina, appeared, produced his credentials, and took his seat in the House.

Pay of Soldiers.

The House resolved itself into a Committee of the whole House on the bill for completing and better supporting the Military Establishment of the United States. The bill being read,

On the clause of the bill for augmenting the pay of the soldiers from three to four dollars per month, Mr. IRVINE proposed an addition of a fifth dollar, which seemed to meet the unanimous sense of the members; but Mr. CLARK thought this last augmentation too great. They might, in this way of proceeding, raise the pay in time to ten dollars a month.

Mr. SCOTT was of opinion that there was no just proportion between the wages of ordinary labor and that of military service. He could not hire a workman, who was to sleep at peace in his bed, and to dine at a good table, for the pay that was given to a soldier for enduring the hardships of his dangerous profession. An augmentation of their pay would flatter the troops. It would put them in good humor; and therefore he hoped that the five dollars would be carried through the House.

Mr. SMILIE said, that the expense of living had been considerably raised in every part of the United States. The pay of the soldiers ought, in common justice, to be advanced in an equal degree with that of the other persons employed in the service of the State. Congress had lately received a petition from some gentlemen employed in the public offices of Philadelphia. The officers of the army had been talking of a similar necessity of an advance in their pay. The United States ought to pay well, that they might obtain good men. Many recruits had, upon late occasions, enlisted, and several of them in Philadelphia, who never should have been admitted into the Military Establishment of any nation whatever.

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Mr. WADSWORTH did not see any reason for the proposed additional dollar per month. If he had thought it necessary, he should have been very ready to mention it. In the States north of Pennsylvania, the wages of a common laborer were not, upon the whole, superior to those of a common soldier. It had been alleged that, by augmenting the pay of the troops, we should get better men. This was a doctrine which he, for one, did not understand. The present Western Army were as good troops as ever went into the field, and much better than the late Continental Army. Men of a sober character did not and would not enlist. Recruits might have very good morals, and it was certain that many honest men did not love labor. Curiosity, levity, the heat of youth, and other very excusable motives, sent people to the army; but it never was, nor never will be, the place where a thoughtful and industrious private man would be ambitious to exert his talents. For this reason, he was convinced that to enlarge the pay would answer no good purpose. As to the militia, who were, many of them, substantial people, it was in vain to imagine that they would fulfil the end of an army in the Indian war. They had been tried, and the experiment had failed. He again adverted to the impossibility of supplying the ranks with recruits above the most ordinary classes of life. He never had seen an army, such as it was believed that the additional dollar would assemble, and he despaired ever to see such an army. There was, however, an act of bounty, which might be of infinite service to the troops, and which he should take a future opportunity of moving. He referred to a provision for the widows and children of such soldiers as should happen to lose their lives in the service.

Mr. BOUDINOT said, that he should be very sorry to recommend the augmentation, if he thought that it would induce farmers, and sober, industrious people to quit their families and professions in exchange for a military life. This, he thought, would indeed be a very alarming consequence, and, did he apprehend it, he should undoubtedly oppose the intended increase. He had no apprehensions of that kind. America would be in a very bad situation, indeed, if an additional pay of twelve dollars a year could bribe a farmer or manufacturer to enlist. He should look very strange at any of his neighbors who should tell him that they had embraced such an offer. Instead of augmenting the pay, perhaps it was better to add something to the rations; those, for example, of salt and flour. He thought it safest to agree to the four dollars, because if they voted for five, the bill would probably be thrown out of the other House; and thus, by grasping at too much, the movers of the amendment would lose the bill altogether. Originally, troops had been raised for less than two dollars per month. The pay had since been augmented to three, and was now on the way of being raised to four. He wished to make its advances gradual. If we looked at the situations of other countries, and contemplated the state of their finances, we should be convinced that America paid her troops as well in proportion to her ability as any other people in the world, and that her soldiers had no right to complain.

Mr. MONTGOMERY spoke a few words in favor of an advance to five dollars.

Mr. SCOTT said, that Pennsylvania had some time ago raised a few companies of soldiers for her frontier service, and given them two pounds ten shillings currency per month, which was equal to six dollars and two-thirds. In consequence of this, the companies had been filled with some of the most respectable kind of people in the country. They were quite of a different class from the recruits raised for the Western Army. He wished to try the five dollars. This superior pay was

reported to have hurt the Continental recruiting service. He thought it very possible that such had been the case. If Government give the proposed five dollars, the Continental Army might, perhaps, get all the levies which it wanted from these very companies.

Mr. HUNTER would have voted for six dollars.

Mr. BEATTY said, that he was for giving five dollars, from a conviction that it was requisite for the service.

Mr. SMILIE was decidedly for the additional augmentation. The recruits, he said, who had been raised in this city were sad fellows, and not fit to be trusted. Better pay would bring forward better men.

Mr. SMITH said that, as to the rate of labor, good men were hired to work in Vermont for eighteen pounds a year, which is equal to four dollars per month, and out of that they find their own clothes. He thought it a very dangerous plan to raise the wages of soldiers at this time, when every article was above its natural price; because, when things return to their old level, it would be impossible to reduce their wages. The people of Europe had, by their wars, increased the demand for the produce of our farms, and this had raised the wages of labor. The members of Congress had six dollars per day, and it would be no easy matter to alter that, which he seemed to hint might not be quite improper. He thought that high pay would only serve to make the soldiers get drunk. It would be much better to give them some substantial gratification at the end of the service.

Mr. WADSWORTH said that the army, in getting four dollars, got plenty, and he despaired of seeing five dollars pass through that House; but, were they to vote twenty dollars, they never would be able to enlist that class of men whom it was expected five dollars would collect. A member had mentioned, as a proof of the possibility of enlisting the sons of farmers, the instance of a party in one of the New England States, who had formed themselves into a military body, and had gone westward in quest of a settlement, but were cut to pieces by the Indians. He knew this; and he had likewise heard of others who had since gone from the same quarter, and upon the same errand. He had inquired about their characters, and had found, just as he had expected, that they were very honest, good sort of people, but somewhat of a rambling disposition, and not remarkably industrious. As to the notion of enlisting men, and attaching them to their country, by five dollars a month, it would not do. The old Continental Army were very good soldiers, but certainly some of them did not fight for the sake of their country, since they deserted by scores. They were, however, brought back, and fought very well. Their reasons for deserting, he did not pretend to know; but this he knew, that they were very idle and very worthless fellows, which did not hinder them from doing their duty. Mr. W. added, that it was a mistake to propose giving five dollars a month for fear that we should not be able to get recruits. In a short time our communication by sea would be cut off. We would likewise be prevented from emigrations into the back country. Recruits would then be had in the greatest abundance for four dollars a month, as great numbers of people would then be thrown out of employment, and enlist for want of it.

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The amendment to the bill, of adding two dollars instead of one, was rejected.

Mr. CLARK then moved, as an amendment of the bill, that there should be an addition of four ounces of bread or flour, and four ounces of meat to each ration.

Mr. HARTLEY was for augmenting the rations. He knew that they were too small. In cultivated countries they might do, but not in the backwoods, where vegetables were not to be had.

Mr. WADSWORTH was convinced that the rations were sufficient unless on a march. He spoke, he said, from experience.

Mr. GILES had been frequently informed by officers in the army, that the rations were all defective. In the backwoods, the soldiers had been often reduced to such distress for want of vegetables, as to go in search of acorns to supply their place.

Mr. FITZSIMONS said, that he had been informed that the principal objection to the rations was the inferior quality of the meat, and that this arose from the leanness of the cattle, as being exhausted by hard driving. Instead, therefore, of a regular increase, it might perhaps be better to provide for accidental contingencies.

Mr. MURRAY moved, and his motion was seconded, to amend the amendment by striking out the words, and "four ounces of meat."

Mr. SMITH said, that an aide-de-camp, who was his relation, and now serving in the army, had wrote him that they were just now well fed, well clothed, in good health, and as good spirits as an army had ever enjoyed. The reason of the common rations of provisions failing in a march, was owing to the waste in cooking. The amendment of Mr. CLARK, and the additional amendment of Mr. MURRAY, were both withdrawn.

The committee now rose and reported the amendment, and the bill and amendment were ordered to lie on the table.

Resolved, That a committee be appointed to report whether any, and what, alteration ought to be made in the ration now allowed to the troops of the United States; and that Mr. IRVINE, Mr. DEARBORN, and Mr. HEISTER, be the said committee.

TUESDAY, January 7.

Flag of the United States.

The House resolved itself into a Committee of the whole House on the bill sent from the Senate, entitled "An act making an alteration in the Flag of the United States."

Mr. GOODHUE thought it a trifling business, which ought not to engross the attention of the House, when it was their duty to discuss matters of infinitely greater consequence. If we are to alter the flag from thirteen to fifteen stripes, with two additional stars, because Vermont and Kentucky have been added, we may go on adding and altering at this rate for one hundred years to come. It is very likely, before fifteen years elapse, we shall consist of twenty States. The flag ought to be permanent.

Mr. LYMAN was of a different opinion. He thought it of the greatest consequence not to offend the new States.

Mr. THATCHER ridiculed the idea of being at so much trouble, as a consummate specimen of frivolity. At this rate, every State should alter its public seal when an additional county or township was formed. He was sorry to see the House take up their time with such trifles.

Mr. GREENUP considered it of very great consequence to inform the rest of the world that we had now two additional States.

Mr. NILES was very sorry that such a matter should even for a moment have hindered the House from going into more important affairs. He did not think the alteration either worth the trouble of adopting or rejecting; but he supposed that the shortest way to get rid of it was to agree to it, and for that reason, and no other, he advised to pass it as soon as possible.

The committee agreed to it, and the Chairman reported the bill. The House then took it up.

Mr. BOUDINOT thought it of consequence to keep the citizens of Vermont and Kentucky in good humor. They might be affronted at our rejecting the bill.

Mr. GOODHUE said, he felt for the honor of the House, when spending their time on such sort of business. But, since it must be passed, he had only to beg this favor, that it might not appear upon the journals, and go into the world as the first of the bills passed this session.

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Mr. MADISON was for the bill passing.

Mr. GILES thought it very proper that the idea should be preserved of the number of our States, and the number of stripes corresponding. The expense was but trifling, compared with that of forming the Government of a new State.

Mr. SMITH said, that this alteration would cost him five hundred dollars, and every vessel in the Union sixty. He could not conceive what the Senate meant by sending them such bills. He supposed that it must be for want of something better to do. He should indulge them, but let us have no more alterations of this sort. Let the flag be permanent.

It was ordered that the bill be read a third time to-morrow.

FRIDAY, January 10.

French Emigrants from St. Domingo.

Mr. SAMUEL SMITH, from the committee to whom was referred the petition of William Patterson, Samuel Sterrett, and Gustavus Scott, the committee appointed by the Legislature of Maryland to draw and distribute the moneys granted by that State for the relief of the French emigrants from the Island of St. Domingo, made a report:

Mr. S. SMITH said, that there never was a more noble and prompt display of the most exalted feelings, than had been exhibited on this occasion. He believed that such a scene of distress had never before been seen in America. Three thousand fugitives had been at once landed, without the least previous expectation of their arrival. The whole inhabitants instantly assembled, and deputed a committee, of which he was one, to go on board the vessels, and examine their situation. Thirteen thousand dollars were instantly subscribed. Fifteen hundred of these people were quite helpless; three hundred and fifty of them were old men, or women without their husbands, or children without their parents. Some had credit, and some had not. Five hundred of them had been sent to France by the Minister, at the expense of the Republic; the rest remain in this country.

Mr. MADISON wished to relieve the sufferers, but was afraid of establishing a dangerous precedent, which might hereafter be perverted to the countenance of purposes very different from those of charity. He acknowledged, for his own part, that he could not undertake to lay his finger on that article in the Federal Constitution which granted a right to Congress of expending, on objects of benevolence, the money of their constituents. And if once they broke the line laid down before them, for the direction of their conduct, it was impossible to say to what lengths they might go, or to what extremities this practice might be carried. He did not agree with the member who spoke last, that nothing like the generosity of America had ever been heard of before. As one example in contradiction to this assertion, he mentioned, that when the city of Lisbon had, in 1755, been overwhelmed by an earthquake, the Parliament of England instantly voted one hundred thousand pounds for the support of the sufferers. In doing this, they had, he believed, acted in unison with the feelings of the British nation, and such feelings did that nation the utmost honor. He likewise imagined, that the Parliament had acted agreeably to the British Constitution, which allowed them an indefinite and absolute right in disposing of the money of their constituents. But as to the American Congress, the case was widely different. He was

satisfied that the citizens of the United States possessed an equal degree of magnanimity, generosity, and benevolence, with the people of Britain, but this House certainly did not possess an undefined authority correspondent with that of a British Parliament. He wished that some other mode could be devised for assisting the French sufferers than by an act of Congress. He was in hopes that some other mode, equally effectual, and less exceptionable, might be devised. As to what our Executive Government had already done, as quoted from the official despatches by the gentleman who spoke last, the inference did not apply; for in that emergency, a delay would have been equivalent to a total denial. It had been said, that we owed the French every sentiment of gratitude. It was true; but it was likewise true that we owed them something else than sentiments, for we were indebted to them a very large sum of money. One of the instalments of that debt would be due in a short time, and perhaps it might be safest for Congress to advance the sums now wanted for the French refugees, in part of that debt, and leave it to the decision of the French Ministry whether they would accept of such a payment or not. He did not wish to press this expedient upon the House, but he begged leave to submit it to their consideration; and as he had not yet been able to resolve in his own mind what line of conduct the House ought to pursue, he requested that the discussion of the question might for a short time be deferred.

Mr. CLARK wished that the gentleman who spoke last would be careful of preserving consistency. It was only a few days ago that he had laid before the House a resolution, by which Congress were to indemnify all such citizens of the United States as had suffered losses by the British pirates. He supposed that for this, there would be found as little authority in the articles of the constitution, as for relieving the fugitives from Cape François.

Mr. MADISON, in explanation, replied, that the two cases were widely different. The vessels of America sailed under our flag, and were under our protection, by the law of nations, which the French sufferers unquestionably were not. As to the resolution he had proposed, it was not then before the House, and hence he could not speak to it with propriety. It was very possible that the House might find it wrong, and reject it. He wished not to be misunderstood, for he was sure that every member in that House felt the warmest sympathy with the situation of the sufferers. He would be very glad to find a proper way for their relief.

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Mr. NICHOLAS said, that he had not been able to discover upon what authority the House were to grant the proposed donation. If the question should that day come to a vote, which he trusted it would not, he had resolved to give his voice in favor of the sufferers: but, when he returned to his constituents, he would honestly tell them that he considered himself as having exceeded his powers, and so cast himself on their mercy. He felt many obstacles to voting away this money without further deliberation.

Mr. BOUDINOT declared, that he had never been able to discover any difficulty in the matter. By the law of nature, by the law of nations—in a word, by every moral obligation that could influence mankind, we were bound to relieve the citizens of a Republic who were at present our allies, and who had formerly been our benefactors. He could not for a moment endure the idea of a hesitation on such a question. When a number of our fellow-creatures had been cast upon our sympathy, in a situation of such unexampled wretchedness, was it possible that gentlemen could make a doubt whether it was our duty to relieve them? It had been said that the House was not, by the constitution, authorized to give away money for such purposes. He was satisfied, that to refuse the assistance requested, would be to act in direct opposition both to the theory and practice of the constitution. In the first place, as to the practice, it had been said that nothing of this kind had ever occurred before under the Federal Constitution. He was astonished at such an affirmation. Did not the Indians frequently come down to this city, on embassies respecting the regulating of trade, and other business—and did not the Executive, without consulting Congress at all, pay their lodgings for weeks, nay, for whole months together? and was not this merely because the Indians were unable to pay for themselves? Nobody ever questioned the propriety of that act of charity. Again; when prisoners of war were taken, there was no clause in the constitution authorizing Congress to provide for their subsistence: yet it was well known that they would not be suffered to starve. Provision was instantly made for them, before we could tell whether the nation to whom they belonged would pay such expenses, or would not pay them. It was very true that an instalment would soon be due to France, nor did he object to reimbursement in that way, if it could be so obtained. But, in the mean time, relief must be given, for he was convinced that he had still stronger obligations to support the citizens of our allies than either Indians or prisoners of war. In the second place, as to the theory of the constitution, he referred gentlemen to the first clause of the eighth section of it. By that clause Congress were warranted to provide for exigencies regarding *the general welfare*, and he was sure this case came under that description.

Mr. FITZSIMONS thought that it would be expedient to lose as little time as possible in going into the committee. It was hard on the State of Maryland to support of itself such an immense number of people. Besides, the period for which that State had engaged to furnish them with subsistence was expiring; so that it was absolutely necessary to come to an early decision whether the House would assist them or not. Mr. Genet had made a discrimination among the sufferers; some of them he had promised to assist, and others, as *aristocrats*, he had disowned altogether.

Mr. DEXTER read the clause referred to by Mr. BOUDINOT, but could not draw from it any such inference. He was very unwilling to vote against the proposition, and therefore solicited a delay, that he might have leisure to find proper reasons for voting in its favor.

Mr. GILES was averse to precipitation in an affair of such magnitude. The report had been read for a first time to-day; it had then been read for a second time to-day. As if all this had not been sufficient, the House must likewise go into a committee this day. Like the gentleman who had just

sat down, he felt many doubts as to the legality of such an act of bounty; and he wished, before he gave a vote on either side of the question, to free himself from these doubts. He considered duty to his constituents as a very solemn trust. Some personal insinuations had been cast out, as if gentlemen who professed constitutional scruples had wished to embarrass the subject. Reflections of this kind could answer no good purpose. Gentlemen (said Mr. G.) appeal to our humanity. The appeal is out of place. That is not the question; but whether, organized as we are, under the constitution, we have a right to make such a grant? He did not understand why an application was made to Congress in particular. It would have been made with greater propriety to the Provincial Assemblies, as their power over the purses of their constituents was more extensive than that of this House over the revenues of the United States.

[The motion for the House resolving itself into a committee immediately was then withdrawn, and the report was committed to a Committee of the Whole on the state of the Union.]

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MONDAY, January 13.

Commerce of the United States.

The House again resolved itself into a Committee of the whole House on the Report of the Secretary of State on the privileges and restrictions on the commerce of the United States, in foreign countries, when

Mr. SMITH (of South Carolina) rose and addressed the Chair as follows:

Mr. Chairman: Among the various duties which are assigned by the constitution to the Legislature of the United States, there is, perhaps, none of a more important nature than the regulation of commerce, none more generally interesting to our fellow-citizens, none which more seriously claims our diligent and accurate investigation.

It so essentially involves our navigating, agricultural, commercial, and manufacturing interest, that an apology for the prolixity of the observations which I am about to submit to the committee, will scarcely be requisite.

In the view which I shall take of the question, disengaging the inquiry from all topics of a political nature, I shall strictly confine myself to those which are commercial, and which alone are, in my judgment, properly connected with the subject.

Called upon to decide on propositions, merely commercial, and springing from a report, in its nature limited to commercial regulations, it would be as ill-timed, as it would be irregular, to mingle with the discussion considerations of a political nature. I shall, accordingly, reject from the inquiry every idea which has reference to the Indians, the Algerines, or the Western posts. Whenever those subjects require our deliberations, I shall not yield to any member in readiness to vindicate the honor of our country, and to concur in such measures as our best interests may demand.

This line of procedure will, I trust, be deemed by those gentlemen who follow me, the only proper one, and that the debate will be altogether confined to commercial views; these will of themselves open a field of discussion sufficiently spacious, without the intervention of arguments derived from other sources. It would indeed argue a weakness of ground in the friends of the propositions, and imply a distrust of the merits of their cause, were they compelled to bolster it up with such auxiliaries, and to resort for support to arguments, not resulting from the nature of the subject, but from irrelative and extraneous considerations.

The propositions, as well as the report, being predicated upon facts and principles having relation to our commerce and navigation with foreign countries, by those facts and principles, and those alone, ought the propositions to stand or fall.

It will not be denied that this country is at present in a very delicate crisis, and one requiring dispassionate reflection, cool and mature deliberation. It will be much to be regretted then, if passion should usurp the place of reason, if superficial, narrow, and prejudiced views should mislead the public councils from the true path of national interest.

The report of the Secretary of State, on the privileges and restrictions on the commerce of the United States in foreign countries is now before the committee. The tendency of that report (whatever may have been the design of the reporter) appears to be to induce a false estimate of the comparative condition of our commerce with certain foreign nations, and to urge the Legislature to adopt a scheme of retaliating, regulations, restrictions, and exclusions.

The most striking contrast which the performance evidently aims at, is between Great Britain and France. For this reason, and as these are the two Powers with whom we have the most extensive relations in trade, I shall, by a particular investigation of the subject, endeavor to lay before the committee an accurate and an impartial comparison of the commercial systems of the two countries in reference to the United States, as a test of the solidity of the inferences which are attempted to be established by the report. A fair comparison can only be made with an eye to what may be deemed the permanent system of the countries in question. The proper epoch for it, therefore, will precede the commencement of the pending French Revolution.

The commercial regulations of France during the period of the Revolution have been too fluctuating, too much influenced by momentary impulses, and, as far as they have looked towards this country with a favorable eye, too much manifesting an object of the moment, which cannot be mistaken to consider them as a part of a system. But though the comparison will be made with

principal reference to the condition of our trade with France and Great Britain, antecedent to the existing revolution, the regulations of the subsequent period will perhaps not be passed over altogether unnoticed.

The table which I have before me comprises the principal features of the subject within a short compass. It is the work of a gentleman of considerable commercial knowledge, and I believe may be relied on for its correctness. An attentive reference to it will, with some supplementary remarks, convey a just conception of the object; a view to conciseness and simplicity has excluded from it all articles (the production and manufactures of the United States) which are not of considerable importance.

Accustomed as our ears have been to a constant panegyric on the generous policy of France towards this country in commercial relations, and to as constant a philippic on the unfriendly, illiberal, and persecuting policy of Great Britain towards us in the same relations, we naturally expect to find in a table which exhibits their respective systems, numerous discriminations in that of France in our favor, and many valuable privileges granted to us, which are refused to other foreign countries; in that of Great Britain frequent discriminations to our prejudice, and a variety of privileges refused to us which are granted to other foreign nations. But an inspection of the table will satisfy every candid mind, that the reverse of what has been supposed is truly the case—that neither in France nor the French West Indies, is there more than one solitary and important distinction in our favor, (I mean the article of fish oil,) either with regard to our exports thither, our imports from thence, or our shipping; that both in Great Britain and the British West Indies, there are several material distinctions in our favor, with regard both to our exports thither and to our imports from thence, and, as it respects Great Britain, with regard also to our shipping; that in the market of Great Britain, a preference is secured to six of our most valuable staples, by considerably higher duties on the rival articles of other foreign countries; that our navigation thither is favored by our ships, when carrying our own productions, being put upon as good a footing as their own ships, and by the exemption of several of our productions, when carried in our ships, from duties which are paid on the like articles of other foreign countries carried in the ships of those countries; and that several of our productions may be carried from the United States to the British West Indies, while the like productions cannot be carried thither from any other foreign country; and that several of the productions of those countries may be brought from thence to the United States, which cannot be carried from thence to any other foreign country.

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TUESDAY, January 14.

Commerce of the United States.

The House again resolved itself into a Committee of the whole House on the Report of the Secretary of State on the privileges and restrictions on the commerce of the United States in foreign countries; when Mr. MADISON rose in reply to Mr. SMITH, of South Carolina.

Mr. M. began by observing that he had expected, from what was intimated yesterday, the sequel of what was then said against the resolutions before the committee; but, as there was a silence in that quarter, and no other member has risen on either side of the question, he himself would request the attention of the committee.

It had been much pressed that, in the discussion of this subject, it should be viewed in its commercial relations only. He was perfectly willing to meet every objection that could be urged on that ground; but, as he conceived it impossible to do full justice to the interests of the United States without taking some collateral considerations into view, he should be obliged, in the course of his remarks, to point at the political disposition and conduct of some of the nations of Europe towards this country.

The propositions immediately before the committee turned on the question, whether any thing ought to be done at this time, in the way of commercial regulations, towards vindicating and advancing our national interests. Perhaps it might be made a question with some, whether, in any case, legislative regulations of commerce were consistent with its nature and prosperity.

He professed himself to be a friend to the theory which gives to industry a free course, under the impulse of individual interest and the guidance of individual sagacity. He was persuaded that it would be happy for all nations, if the barriers erected by prejudice, by avarice, and by despotism, were broken down, and a free intercourse established among them. Yet to this, as to all other general rules, there might be exceptions; and the rule itself required what did not exist—that it should be general.

To illustrate this observation, he referred to the Navigation Act of Great Britain, which, not being counterbalanced by any similar acts on the part of rival nations, had secured to Great Britain no less than eleven-twelfths of the shipping and seamen employed in her trade. It is stated that, in 1660, when the British act passed, the foreign tonnage was to the British, as one to four; in 1700, less than one to six; in 1725, as one to nineteen; in 1750, as one to twelve; in 1774, nearly the same. At the commencement of the period, the tonnage was but 95,266 tons; at the end of it, 1,136,162.

As another illustration, he mentioned the case where two countries happened to be in such a relation to each other, that the one, by discouraging the manufactures of the other, might not only invigorate its own, but transplant the manufacturers themselves. Here the gain would be a clear one, and the effect evidently consistent with the principle of the theory.

To allow trade to regulate itself is not, therefore, to be admitted as a maxim universally sound. Our own experience has taught us that, in certain cases, it is the same thing with allowing one nation to regulate it for another. Were the United States, in fact, in commercial intercourse with one nation only, and to oppose no restrictions whatever to a system of foreign restrictions, they would, of necessity, be deprived of all share in the carriage, although their vessels might be able to do it cheapest, as well as of the only resources for defence on that side where they must always be most exposed to attack. A small burden only in foreign ports on American vessels, and a perfect equality of foreign vessels with our own in our own ports, would gradually banish the latter altogether.

The subject, as had been remarked on a former occasion, was not a novel one; it was coeval with our political birth, and has at all times exercised the thoughts of reflecting citizens. As early as the year succeeding the peace, the effect of the foreign policy, which began to be felt in our trade and navigation, excited universal attention and inquietude. The first effort thought of was an application of Congress to the States for a grant of power, for a limited time, to regulate our foreign commerce, with a view to control the influence of unfavorable regulations in some cases, and to conciliate an extension of favorable ones in others. From some circumstances then incident to our situation, and particularly from a radical vice in the then political system of the United States, the experiment did not take effect.

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The States next endeavored to effect their purpose by separate but concurrent regulations. Massachusetts opened a correspondence with Virginia and other States, in order to bring about the plan. Here, again, the effort was abortive.

Out of this experience grew the measures which terminated in the establishment of a Government competent to the regulation of our commercial interests and the vindication of our commercial rights.

As these were the first objects of the people in the steps taken for establishing the present Government, they were universally expected to be among the first fruits of its operation. In this expectation, the public were disappointed. An attempt was made in different forms, and received the repeated sanction of this branch of the Legislature, but they expired in the Senate—not, indeed, as was alleged, from a dislike to the attempt altogether, but the modifications given to it. It has not appeared, however, that it was ever renewed in a different form in that House, and for some time it has been allowed to sleep in both.

If the reasons which originally prevailed against measures such as those now proposed had weight in them, they can no longer furnish a pretext for opposition.

When the subject was discussed in the first Congress, at New York, it was said that we ought to try the effect of a generous policy towards Great Britain; that we ought to give time for negotiating a treaty of commerce; that we ought to await the close of negotiations for explaining and executing the treaty of peace. We have now waited a term of more than four years. The treaty of peace remains unexecuted on her part, though all pretext for delay has been removed by the steps taken on ours; no treaty of commerce is either in train or in prospect; instead of relaxations in former articles complained of, we suffer new and aggravated violations of our rights.

In the view which he took of the subject, he called the attention of the committee particularly to the subject of navigation, of manufactures, and of the discrimination proposed in the motion between some nations and others.

On the subject of navigation, he observed that we were prohibited by the British laws from carrying to Great Britain the produce of other countries from their ports, or our own produce from the ports of other countries, or the produce of other countries from our own ports, or to send our own produce from our own or other ports in the vessels of other countries. This last restriction was, he observed, felt by the United States at the present moment. It was, indeed, the practice of Great Britain, sometimes to relax her Navigation Act so far, in time of war, as to permit to neutral vessels a circuitous carriage; but, as yet, the act was in full force against the use of them for transporting the produce of the United States.

On the other hand, the laws of the United States allowed Great Britain to bring into their ports any thing she might please, from her own or from other ports, and in her own or in other vessels.

In the trade between the United States and the British West Indies, the vessels of the former were under an absolute prohibition, whilst British vessels in that trade enjoyed all the privileges granted to others, even the most favored nations, in their trade with us. The inequality in this case was the more striking, as it was evident that the West Indies were dependent on the United States for the supplies essential to them, and that the circumstances which secured to the United States this advantage, enabled their vessels to transport the supplies on far better terms than could be done by British vessels.

It might be regarded (he observed) as a general rule, that, where one nation consumed the necessaries of life produced by another, the consuming nation was dependent on the producing one. On the other hand, where the consumption consisted of superfluities, the producing nation was dependent on the consuming one. The United States were in the fortunate situation of enjoying both these advantages over Great Britain. They supply a part of her dominions with the necessaries of life; they consume superfluities which give bread to her people in another part. Great Britain, therefore, is under a double dependence on the commerce of the United States. She depends on them for what she herself consumes; she depends on them for what they consume. In proportion as a nation manufactures luxuries must be its disadvantages in contests

of every sort with its customers. The reason is obvious. What is a luxury to the consumer is a necessary to the manufacturer. By changing a fashion or disappointing a fancy only, bread may be taken from the mouths of thousands whose industry is devoted to the gratification of artificial wants. He mentioned the case of a petition from a great body of buckle makers, presented a few years ago to the Prince of Wales, complaining of the use of strings instead of buckles in the shoes, and supplicating his Royal Highness, as giving the law to fashions, to save them from want and misery by discontinuing the new one. It was not (he observed) the Prince who petitioned the manufacturers to continue to make the buckles, but the manufacturers who petitioned their customer to buy them. The relation was similar between the American customers and the British manufacturers; and if a law were to pass for putting a stop to the use of their superfluities, or a stop were otherwise to be put to it, it would quickly be seen from which the distress and supplications would flow. Suppose that Great Britain received from us alone the whole of the necessaries she consumes, and that our market alone took off the luxuries with which she paid for them: here the dependence would be complete, and we might impose whatever terms we please on the exchange. This, to be sure, is not absolutely the case; but, in proportion as it is the case, her dependence is on us. The West Indies, however, are an example of complete dependence. They cannot subsist without our food. They cannot flourish without our lumber and our use of their rum. On the other hand, we depend on them for not a single necessary, and can supply ourselves with their luxuries from other sources. Sugar is the only article about which there was ever a question; and he was authorized to say that there was not, at the most, one-sixth of our consumption supplied from the British islands. In time of war or famine the dependence of the West Indies is felt in all its energy. It is sometimes such as to appeal to our humanity as well as our interest for relief. At this moment the Governor of Jamaica is making proclamation of their distresses. If ever, therefore, there was a case where one country could dictate to another the regulations of trade between them, it is the case of the United States and the British West Indies. And yet the gentleman from South Carolina (Mr. SMITH) had considered it as a favor that we were allowed to send our provisions in British bottoms, and in these only, to the West Indies.

WEDNESDAY, January 15.

Commerce of the United States.

A proposition being made to go into a Committee of the Whole on Mr. MADISON's resolutions, The House then went into committee.

Mr. FORREST, after a long pause, observed, that, as no other person appeared disposed to rise on the occasion, although he felt himself unequal to doing that justice to the subject which many others were, yet he considered it his duty to offer a few remarks which had occurred to him in the course of the debate.

In all our discussions of commercial affairs, the principal point to be kept in view was the promotion of the essential and permanent interests of our country, keeping in mind this maxim, (as true in respect to nations as individuals,) that there is no friendship in trade. He then entered into a consideration of our commercial connection with Great Britain, and observed that we should avoid letting our former prejudices, or those arising from recent transactions, influence our judgments. We should not regard the favoring of the French or British nation, but study to do that which would tend to the promotion of our own commerce and the interest of our own navigation. In this pursuit, we must keep in view our relative situation with European nations, particularly those of France and Great Britain, and more particularly the latter, with whom the proposed resolutions contemplate a change. Of all possible times, (said he,) I believe this the most improper to try the experiment.

If the British Government have been instrumental in letting the Algerines loose upon us; if their privateers commit acts of piracy upon our neutral flag, let it at least, in the first instance, be made matter of negotiation. Neutral nations must suffer some inconvenience; and it will be much better policy to come forward at once and say we are at war. We will not submit to vexatious insults, when they are too much to suffer, rather than make this commercial warfare, by which it is impossible, in the course of human events, but that we must be much the greatest sufferers; and how humiliating would it be, after trial, even to propose to make it a drawn battle!

Let us examine the subject. Of the whole fair trade of Great Britain, taking their imports and exports into view, their trade with the United States will be found to be one-sixth, or thereabouts. Take the imports and exports of the United States, and you will find that full one-half the value of our whole trade is with Great Britain and her dependencies. Who will suffer most? She, by the interruption of one-sixth, with the means of getting most of the articles we supply, on as good terms, from other nations, with great internal sources of revenue, and a people used to bear any taxes asked of them; or we, with an interruption of one-half our trade and commerce, not so well off with respect to internal resources, and the complaints of our citizens, not accustomed to heavy taxation? Let those who rely upon the effect it will have on the English manufacturers and artisans, look back to 1773 and 1774, and recollect the effect it then had.

But there is one circumstance that should have weight with every mind. It will be found that three-fourths of all the impost revenue of this country are derived from our commerce with the British. Shall we hazard an entire loss of this revenue? And if lost or greatly interrupted, from whence shall we supply its deficiency, without, at least, in their minds, oppressing the people of this country? I am not a stockholder or a bankholder. I am too poor to be either, and therefore can have no separate interest in view, and, where I am known, I shall not be charged with

partiality to Great Britain; but I hope I am free from such unwarrantable prejudices as to lead me into measures to the injury of my country.

I lay it down as a principle not to be controverted, that our intercourse with Great Britain, in a commercial point, (I mean, putting the mode of carriage out of account, and confining it to the importation and exportation, and restrictions and bounties thereon,) is as favorable as we can expect, and, taken in the aggregate, full as favorable as with France, their Navigation Act excepted.

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With respect to navigation, I have long thought it ought not to be submitted to; but are we to expect, at a moment like this, acting (as they will certainly believe we shall) under the impulse of resentment, they will waive an atom of their Navigation Act to the result of our resolutions? It is vain. Let us not hazard that which is certain, which the safeguard of experience has proved, for that we know not of.

It has been mentioned as a grievance that our produce is sent to France, Holland, Spain, Portugal, &c., and that our imports are, in a great degree, confined to Great Britain. Our merchants must pay their debts, and surely it is for their interest to sell their articles for the highest price they will bring, and purchase where they can obtain cheapest. Our produce is sent to those countries to pay our debts in Great Britain.

There has been nothing to lead me to a judgment how the blanks are to be filled. If, with such high duties as to prohibit the articles, our chief source of revenue will be wiped off, and the consequence may, nay, must be, direct taxation. If low, it will only exhibit, without gratifying, a resentment, and the consumers of these articles, the yeomanry of this country, will have to pay the tax. If it is said that it is intended to encourage our own factories, let us select those which we can manufacture, and lay prohibitory duties on the foreign articles.

Mr. F. reprobated the idea of suffering partial or merely political motives to influence in the discussion of the subject. Commercial subjects ought to be considered in an independent point of view. He hoped, therefore, that the committee would endeavor to divest themselves of every incidental impression, originating in impulses from particular events, and contemplate the question simply on its own merits.

Mr. FITZSIMONS declared that, in the course of this discussion, he had not heard one single argument advanced which, admitting the premises to be true, could persuade him to give his consent to the first of the resolutions. It was possible that he might agree to some of those that followed. He was perfectly convinced that a judicious system of regulations would be of infinite advantage to the maritime interest of America. He was of opinion that the first resolution was by far too indefinite. The substance of the whole arguments advanced on both sides tended only to establish a fact, which was already perfectly well known, that the Governments of Europe act, in regard to the commerce of the United States, just as they think proper. The lesson was a very good one, and he trusted that, with a proper attention to temporary circumstances, this country would improve by it.

Mr. MADISON regarded the objection of the gentleman as entirely of a new kind. He had refused his consent to the first of the resolutions, because it was indefinite. But the propositions laid before the House a few days ago with respect to the Algerines were fully as indefinite, and yet the gentleman who spoke last had recommended them. The order of proceedings in the present question is perfectly candid and regular, consonant to the practice of the House, and the practice of the gentleman himself.

Mr. AMES wished, that gentlemen, instead of indefinite declamation, would lay their finger on each particular wrong that Britain had done to us. He did not know of any particular advantage that we had derived in our commerce with France. He wished to discountenance a spirit of revenge, and to ascertain on what side the benefits of our commerce lay, and wherein they consisted. He did not like unfair comparisons,

Mr. NICHOLAS said, that he would not, at this time of day, attempt to detain the House any further than by just observing that the practice of *comparisons* had originated among the gentlemen who opposed the resolutions.

At this stage, the committee rose, and had leave to sit again.

THURSDAY, January 16.

Commerce of the United States.

The House again resolved itself into a Committee of the whole House on the Report of the Secretary of State on the privileges and restrictions on the commerce of the United States in foreign countries, when

Mr. NICHOLAS rose and spoke as follows:

Mr. Chairman: I feel a great embarrassment in speaking on this subject, from a distrust of my ability to treat properly its acknowledged importance, and from the apparent expectation of the audience. I feel too, as the member from Maryland who spoke yesterday did, from the imputation of motives, well knowing that the Representatives of my country are industriously reported to be enemies of the Government, and promoters of anarchy, and that the present measure is imputed to these principles. It is somewhat remarkable, that farther north we are charged with selfishness, and want of attachment to the general welfare, for a supposed opposition to

measures of the import of the present. I mention this contradictory inference, to show that the shameful designs charged upon us, are not proved by the fact, and to place the guilt where it only exists, in the malignity of the accuser.

It is a commonly received opinion, that trade should be intrusted to the direction of those immediately interested in it, and that the actual course of it is the best which it could take; this principle is by no means a safe one, and, as applied to the trade of America, is extremely fallacious. It can never be just, where the beginning and growth of a commerce have not been free from all possible constraint, as to its direction; as that can never be called a business of election which has been created under foreign influence. The manner in which America was first peopled, and the nurture she received from Great Britain, afford the most striking contrast to the requisite before mentioned. The first inhabitants of America were educated in Great Britain, and brought with them all the wants of their own country, to be gratified chiefly by the productions of that country. Aided by British capital, in the settlement of the wilderness, and depending on the same means for the conveyance of its produce to a place of consumption, it was inevitable, that the demand for British commodities should keep pace with the improvement of the country. In the commencement of American population and its early stages, there does not appear to have been a chance of comparing the advantages of commercial connection with different countries, and it will be found that in its progress, it was still more restrained. In the last years of the dependence of America on Great Britain, the principal part of America was occupied by large trading companies, composed of people in Great Britain, and conducted by factors, who sunk large sums in the hands of the farmers, to attach them to their respective stores, by which means competition was precluded, and a dependence on the supplies of those stores completely established. Since the Revolution, the business has been conducted by persons in the habit of dependence on Great Britain, and who had no other capital than the manufactures of that country furnished on credit. The business is still almost wholly conducted by the same means. In no stage of its growth then, does there appear to have been a power in the consumer to have compared the productions of Great Britain with those of any other country, as to their quality or price, and therefore there is no propriety in calling the course of trade, the course of its choice.

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The subject before the committee naturally divides itself into navigation and manufactures, in speaking of which, I shall offer some other considerations, to show that the same effects are by no means to be expected from the greatest commercial wisdom in individuals, which are in the power of the general concert of the community; the one having in view profit on each separate transaction, the other, promoting an advantageous result to the whole commerce of the country.

In considering the importance of navigation to all countries, but especially to such as have so extensive a production of bulky articles as America, I think I shall show that the last observation is accurately right, and that the interest of the whole community, not those only who are the carriers, but those also who furnish the object of carriage, positively demands a domestic marine, equal to its whole business; and that, even if it is to exist under rates higher than those of foreign navigation, it is to be preferred. In circumstances of tolerable equality, that can never however entirely be the case; for, in the carriage of the produce of one country, by the shipping of another, to any other place than the country to which the shipping belongs, there is considerably more labor employed than would have been by domestic shipping, as the return to their own country is to be included. On this ground, it may be confidently asserted, that where the materials of navigation are equally attainable, they will always be more advantageously employed by the country for whose use they are intended; and that if, under such circumstances, another country is employed as the carrier, it must be under the influence of some other cause than interest, as it respects that particular business. A dependence on the shipping of another country tends to establish a place of deposit in that country of those exports which are for the use of others, if it is at a convenient distance from them. The superintendance of property makes short voyages desirable for the owner, and the connection that soon takes place between the money capital of a country and its shipping interests, greatly strengthens the vortex. The attainment of wealth beyond the demands of navigation, leads to an interest in the cargo itself, and then the agency in selling to the consumer becomes important. It is apparent that, as the final sale depends on the wants of the purchaser, all intermediate expenses of care and agency must be taken from the price to which the maker would be entitled. Our own commerce has involved this loss, in a remarkable degree, and it has gone to an enormous extent, from a necessity of submitting to the perfidy of agents, arising from a dependence established by means of the so much boasted credit.

That there is this tendency in the employment of foreign shipping, is not only proved by the commercial importance of Holland, which became thus, from her naval resources, the storehouse of Europe, without furnishing any thing from her own productions, but also from the varied experience of America. Before the Revolution, every thing for European consumption was carried to Great Britain, but, since America has possessed shipping of her own, and in the Northern States, there has been an accession of capital, the export to England is reduced one-half. It is true, indeed, that there is still nearly one-half of what she receives, that is re-exported, but it will be found that she still retains a proportioned share of those influences which formerly carried the whole. Great Britain, under all the discouragements of our laws, which, we are told by the mercantile members of the committee, amount to a prohibition where they have any rivals, did, until the European war, possess one-third of the foreign tonnage employed in America. This has been supported by the dependence into which the Southern States were placed by credit, and here, as in every other step of the connection, this engine extorts advantages from us, beyond the compensation which is always secured in the first advance. If there wanted other proof of the British interest in the American navigation being supported in direct opposition to our interests,

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it may be found in the comparative state of the tonnage employed, where it appears that, after the protecting duties once had their effect, the additional tonnage, to a considerable amount, has been entirely American, and that the British tonnage has remained very nearly stationary, and in proportion to their undue influence.

In time of war, in addition to the inconveniences before stated, which are enhanced by throwing the trade from its accustomed channel, there are great and important losses brought on a country by this kind of dependence. If your carriers are parties to the war, you are subjected to the war freight and war insurance on your cargo, and you are cut off from all the markets to which they are hostile; and, indeed, from our experience in the present war, I may say you are cut off from the market of your carriers themselves, as it would have been impossible for British vessels to have escaped in our seas last summer. To what extent this loss goes may be seen from a calculation in the Secretary of State's report on the fisheries, making the proportion of war to that of peace in the one hundred years, as forty-two to one hundred; and on that calculation there can be no hesitation in determining that the interest of the farmers requires that this foreign dependence should end here.

But the European war, by making a temporary exclusion of British shipping, has already brought on us the greatest mischief of such a regulation: and, by the encouragement it has afforded to our shipping, almost completed the remedy; so that we have reason to consider this as a fortunate period. But, it is not merely the advancement of our marine that is contemplated by the present resolutions; the security of that which we have is also dependent on them. The danger from the Algerines has been estimated in this House at five per cent. on the vessel and cargo, but the whole encouragement to our own shipping in our existing laws consists in the one-tenth additional duty on goods imported in foreign vessels. Whenever there shall be a European peace, which cannot be far distant, the whole difference between the two sums will be a direct encouragement on British ships, and will probably be equal to two freights. Do gentlemen rely on the precarious prospect of building frigates, and the more precarious service to be rendered by them when built, so much as to neglect any other regulations for the safety of our shipping when they are so much in their power?

Having shown that the actual state of our commerce is by no means the most beneficial, as far as navigation is concerned, I will proceed to consider the benefits derived from the consumption of those European manufactures which form the principal part of the stores of America. And here it may safely be said, that national policy by no means justifies the almost exclusive preference given to those of Great Britain. It is not always true that the commodity which is bought for least money is the best bargain, for the means of payment form an important consideration in all traffic, and accommodations in it may more than counterbalance an inequality of price. If one man will receive an article in exchange which you can sell to no other, it will certainly be a saving to deal with him at a high advance on his property. If there are countries which would become great consumers of American produce, on the terms of reciprocal consumption, and we find a difficulty, as is often the case, in vending that produce, is it not of great national importance to excite those acts which are to become the foundation of the connection, even if, in the first instance, it is to be attended with inconvenience and loss? France may be made a connection of this sort. She is at this time almost, if not quite, on a footing with Great Britain in the consumption of American products, and every hand which shall receive employment from us will add to her wants. We are told that it is of no less importance to us to find a country which can supply us advantageously than one which will consume our productions; and that, as commerce is no longer carried on by barter, it is no less beneficial to sell in one country and buy in another, than if we could complete the exchange in the same country. This might be true, if your production was limited, and the demand for it certain; but, with a greatly improving agriculture, and some risk in our markets, the object is important. Great Britain being the factory of those things which would make her most dependent on the agricultural interest, and the national wealth being probably at the greatest height, there is no expectation that her consumption will increase. On the other hand, as labor is now to receive its direction in France to the manufacturing arts, so far as concerns America, you will take from the agricultural strength a large class of people, and by that means create a dependence on you, at least to the amount of their own consumption, and the wealth you will diffuse will give ability to thousands who are now too poor to bid for your commodities. Nor is it probable that you will purchase this important benefit on very disadvantageous terms; for it is agreed on all hands that many important arts are well understood there, and that labor, which forms the principal part of the cost of most articles, is considerably cheaper in France than in England.

Another very important operation of a discrimination in favor of France will be that, by encouraging liberal industry, you may put an end to some practices which, in the existing state of consumption, greatly depreciate our commodities. I mean the public provision made in granaries, and the supply from them in times of scarcity, which destroys the competition that raises every thing to its just value. Different consequences have been foretold as likely to result from those measures, to which I shall give a short examination. We are told that the preference long since given by our laws has been equal to a prohibition of British vessels, and that, to the extent to which it has gone, the best effects have been produced. To secure this operation from a recent attack, and at the same time to extend it to some branches of trade, to which its principles would equally extend, is the object of the marine resolutions. We have no reason to apprehend bad consequences from an action which has hitherto had good consequences. As to the increased duties on manufactures, I think the prospect in no way threatening; for, if there should be found no country to supply our wants on better terms, the diminution of consumption will be only in proportion to the duty. This can be by no means alarming, considered as the worst consequence

of the measure to men with whom the impost is the favorite mode of collecting the revenue, at a time when the public wants are equal to any possible produce. If there shall be found a competitor with Great Britain for our consumption, the great object will be attained, as it must be accompanied by a corresponding consumption of American productions. But we are told that there will be a conflict of commercial regulations between this country and Great Britain, and that the consequence will be, the loss of the market she affords us. The probable consequences of such a conflict will best determine whether it is to be expected, as it will commence, on her part as well as ours, with a view to consequences. The danger which she can alone apprehend is the loss of the market for her manufactures; and to obviate this, it would be absurd to widen the breach between us, as that would tend, in a direct proportion, to the establishment of unfriendly habits and manufactures, either here or in other countries, which would rival her own. If, however, the ultimate advantage would justify such measures, the immediate distress of her people would forbid it. The American trade must be the means of distributing bread to several hundred thousand persons, whose occupations would be wholly ended with the trade, and the Government is by no means in a situation to bear their discontent. Their navigation and manufactures draw many important ingredients from America which would be lost to them. The creditors of the people of America, to an immense amount, would be deprived of the remittances which depend on a friendly intercourse. On the whole, it would add to the disorders of the Government among those who, perhaps, have heretofore contributed to its support, without gratifying any thing but an arrogant resentment. But we are told that our own citizens would be equal sufferers, and are more to be injured by being stopped in a career of rapid improvement. It will be hard to anticipate any real misfortune to America in such a contest, unless the temporary loss of indulgencies, which are by no means necessary, can be so called. The consumption of Great Britain is, according to the most friendly calculation, not more than one-third of our purchases from her, and, therefore, the national wealth, independent of the gratification of our appetites, will receive an immense addition, and a vast fund will be procured to make lasting and valuable improvements, which would be degraded by comparison with the gewgaws of a day. It is to be remarked that the diminution of our exports would be divided among large classes of people, and in all cases forms a deduction from the annual income, rather than a total loss. This will result from the various objects of American industry and the division of the markets of its produce. This forms an important difference between America and Great Britain, in an estimate of the effects of a rupture between the two countries. In my opinion, the habits of the Southern States are such as to require the control which is said to be the consequence of these measures. Under the facility offered by the modes of trade before spoken of, and the credit which is said to be so beneficial, they have not only involved themselves in debt, but have contracted habits which, with the power of gratification, must always keep them so. We did hope that the administration of justice would have corrected the evil, but we now find that it cannot be corrected but by entire changes. It is founded in the policy of the merchant himself, and this circumstance is enough to present to the minds of the committee a long train of dependent mischiefs. It is a fact, supported by the best evidence, that our merchants who get their goods from the manufacturer pay as much for them as the shopkeeper who buys at Baltimore or Philadelphia. This is one of the consequences of the want of credit which always will follow a reliance on collection from farmers; and there can be no doubt that the merchant is indemnified for his disgrace as well as his advance. The result of the whole train of indulgence is, that our goods are bought at an advance from a half to one-fourth of what they could be afforded for in cash sales. Nor does the mischief stop here. It brings a subjection which materially affects the sale of our produce. I do believe, myself, that the war with Great Britain did not bring half the mischief on us that their credit has; and I very much suspect a credit for consumption will always be found equally mischievous. It by no means resembles money loans, as is insinuated by the gentleman from South Carolina, by freeing a man's own resources for any other use. It is certain that there is no other safe regulation of a farmer's expenses than his income; and experience every day proves that, when so regulated, they always fall short of the income, and that, when they depend on credit, they always exceed it, and thereby subject future revenue. Lessening the importation of foreign manufactures will increase our household fabrics, which experience has proved to be highly profitable, as the labor is done by a part of the community of little power in any other application. Regular efforts in this way have been, in my country, certainly productive of independence.

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Mr. GOODHUE.—Mr. Chairman: The propositions now before us having been considered by several gentlemen, who have already spoken, and who have given such a particular detail of calculations, I shall confine myself to some general observations on the subject.

The gentleman from Maryland has made an observation which struck me very forcibly as applied to the subject before us, because it is a maxim to which all mankind have assented, and upon which all mankind continually practise—it was this: "there is no friendship in trade;" and it maybe added, as a necessary consequence, there ought to be no hatred in trade. By following a path founded upon so obvious a maxim as the foregoing, we may be sure of a right guide, but if we deviate from it, we are in danger of being led into unforeseen error and mischief. It is unquestionably our duty to attend to the navigation and commerce of our country, and give it every proper encouragement which time and circumstances admit; this has ever been my wish and my conduct.

This object, so important and desirable, must be effected by fixed principles and regulations, such as giving our vessels a decided preference in our own ports above the ships of every other nation whatever, by paying less tonnage and other duties; by suffering no foreign ships to bring into the United States the productions of any other country than the one to which they belong;

and by prohibiting foreign ships from coming to the United States from those places where our own ships are prohibited.

These are the fixed principles and regulations by one or all of which our navigation and commerce can only be promoted, and must never be deviated from, when adopted in favor of any one nation whatever—unless it be in return for some special advantage granted to us by any particular nation as an equivalent. Hitherto, our Government has proceeded to distinguish foreign ships, only by making them pay greater tonnage and duties than our own. If circumstances required it, and the time is judged a seasonable one, I shall be willing to proceed further.

Let us examine what advantages we enjoy in consequence of any commercial treaties we have already formed, for the propositions before us are proposed to affect only those nations with whom we have no treaties. We have commercial treaties with Prussia, Sweden, France, and Holland, and in the dominions of neither of those powers have our ships or the produce of this country (except in the single article of our oil in France) been admitted on any more favorable terms than the ships or produce of any other nation; and for this obvious reason, because our treaties only ensure the advantages they may grant to the most favored nation; and, being circumstanced in such a manner as not judging it for their interest to distinguish any one by its favors, we are left only in the enjoyment of a trade with them on the terms common to all other nations. This being the case, I would not give one farthing to have like treaties formed with every other nation, for they have not been, and never can be, of any service to us; if we expect to derive any advantage from commercial treaties, we must stipulate for some certain good, for some other good which we may grant them in return.

Mr. CLARK differed from many members who had spoken before him, in the view they took of the subject; he conceived it ought to be considered in a political light. We had many wrongs to complain of, and we should endeavor to obtain redress. The English have violated our treaty, just after it was ratified, by taking away our negroes, and since by holding our posts; they have also set the savages on our backs, and have not they let loose the Algerines upon us? Shall we sit still and bear it? How can we help it? it is asked. They will retaliate, we are told. How retaliate? Will they refuse to sell us their manufactures? He remembered that, even in old times, a non-importation agreement made them repeal their stamp act. We have surely as well now as we had then a right not to buy their goods; we don't want to cram our provisions down their throats, or to force them to buy our lumber. During the non-importation agreement, we did not perish with cold; we found, even then, that among ourselves we could make wherewith to clothe ourselves; we are surely as able to do it now. We then gained our point; we should now be much more powerful with the same weapon: many of her manufacturers are already starving for want of employment. We should add greatly to their distress, and soon bring the Government to their senses, and they will be glad to enter into a commercial treaty with us.

The balance of trade with Great Britain is much against us; and by carrying to Portugal and Spain what we send to them, we should receive cash in return. France will not always be in a storm, and a supply of the manufactured articles we want may soon be received from that quarter.

He did not see to what purpose calculations three hours long had been brought forward. It was very well for merchants to calculate in their counting houses; but he conceived the Legislature should determine the question upon political considerations. He concluded by remarking, that he believed by this time the committee must pretty clearly see that he was in favor of the resolutions.

Mr. PARKER considered the resolutions on the table as indefinite and unintelligible. If revenue is the object, we should remember the remark of *Dr. Swift*, that in the arithmetic of taxation, two and two do not always make four, but sometimes only *one*. He thought there was a jarring in the third resolution, which contradicted the first. The leading clause of the first resolution, which has occasioned so long a debate, is in these words: "That the interest of the United States would be promoted by further restrictions and higher duties, in certain cases, on the manufactures and navigation of foreign nations employed in the commerce of the United States, than those now imposed." The third resolution which Mr. P. referred to, is in these words: "That the duty on vessels belonging to the nations having commercial treaties with the United States, ought to be reduced to — per ton." The resolutions meant either too much, or nothing. He would move to amend the first resolution, but that he hoped it would be altogether cast aside.

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Mr. S. SMITH (of Maryland) rose and apologized to the committee for presuming to intrude upon them a second time by the delivery of his sentiments. He said that a personal attack had been made yesterday upon him in that House. It had met him out of doors, and had gone into the world. After he had done speaking yesterday, a member had risen, and held forth as a fundamental observation, that "gentlemen possessing capitals of their own were in favor of the propositions; but that dealers upon credit were against them." When this remark was made, as he had but just sat down from delivering his negative to the resolutions, he could not help thinking himself aimed at as one of those dealers upon credit. [Here the member referred to rose, and solemnly declared that a personal allusion to Mr. SMITH had never entered his mind.] Mr. S. went on to observe, that the whole assertion was erroneous. The merchants of America are men of liberal sentiments—more so, he believed, than merchants of any other part of the world. They are not to be biased by the petty motives of interest, in prejudice to the public interest of their country. The gentleman whom he referred to had spoke of an alarming British influence in some of the commercial cities of America. He had alleged that merchants, by their connection with Britain, would be under its influence; but there was no such thing. In this country, merchants studied the constitution, and were attached to it. In other countries, they minded only profit. As a

reflection had been thrown on merchants who dealt upon credit, he should take leave to observe that credit was a very good thing. As to himself, he had before the war began, acquired, by his industry, as much property as placed him beyond the necessity of credit. By the war he was reduced to nothing. After the peace, he again began as he set out at first. By the same industry and the same talents, he had once more acquired independence. By the British buccaneers, he had lost as much, since the present war began, as the gentleman to whom he rose in reply, would think a tolerable fortune for dividing among his sons; yet he could still spare time from his business for the service of his country.

The question was then taken to postpone the subject to the first Monday in March next; and it was resolved in the affirmative—yeas 51, nays 47, as follows:

YEAS.—Theodorus Bailey, Abraham Baldwin, Thomas Blount, Thomas P. Carnes, Gabriel Christie, Abraham Clark, Isaac Coles, Henry Dearborn, George Dent, William Findlay, William B. Giles, James Gillespie, Nicholas Gilman, Christopher Greenup, Andrew Gregg, William B. Grove, George Hancock, Carter B. Harrison, John Heath, Daniel Heister, John Hunter, William Irvine, Matthew Locke, William Lyman, Nathaniel Macon, James Madison, Alexander Mebane, William Montgomery, Andrew Moore, Peter Muhlenberg, Joseph Neville, Anthony New, John Nicholas, Nathaniel Niles, Alexander D. Orr, Josiah Parker, John Patton, Andrew Pickens, Francis Preston, Robert Rutherford, Thomas Scott, John S. Sherburne, John Smilie, Israel Smith, Thomas Spring, Thomas Tredwell, Philip Van Cortlandt, Abraham Venable, Francis Walker, Benjamin Williams, and Joseph Winston.

NAYS.—Fisher Ames, James Armstrong, John Beatty, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Lambert Cadwalader, Thomas Claiborne, David Cobb, Peleg Coffin, Joshua Coit, Jonathan Dayton, Samuel Dexter, Thomas Fitzsimons, Uriah Forrest, Dwight Foster, Ezekiel Gilbert, Henry Glenn, Benjamin Goodhue, James Gordon, Samuel Griffin, Thomas Hartley, James Hillhouse, William Hindman, Samuel Holten, John Wilkes Kittera, Amasa Learned, Richard Bland Lee, Francis Malbone, Joseph McDowell, William Vans Murray, Jeremiah Smith, Samuel Smith, William Smith, Zephaniah Swift, Silas Talbot, George Thatcher, Uriah Tracy, Jonathan Trumbull, John E. Van Allen, Peter Van Gaasbeck, Peleg Wadsworth, Jeremiah Wadsworth, Artemas Ward, John Watts, Paine Wingate, and Richard Winn.

Monday, January 20.

Algerine Affairs.

The Committee of Ways and Means, appointed, pursuant to the resolutions of the House, on the communications from the PRESIDENT OF THE UNITED STATES relative to Algiers, brought in a report, which was twice read, and referred to the Committee of the whole House on the state of the Union.

Ordered, That it be printed for the use of the members.

The report states that the naval force for the protection of the trade of the United States, shall consist of four ships of forty-four guns each, 18 and 9 pounders, and two of twenty guns each. The aggregate sum wanted for this purpose is estimated at six hundred thousand dollars; to raise which, one per cent. additional duty is proposed to be laid on imported goods now paying seven and one-half per cent.; five per cent. additional on stone, marble, &c.; and on all stone and earthenware, three cents additional; on salt, per bushel, six cents additional, per ton, on all vessels of the United States employed in foreign trade; and twenty-five cents additional, per ton, on all other vessels.

On motion of Mr. FITZSIMONS, an addition was made to the Committee of Ways and Means; so that it now consists of a member from every State, who are to make another report respecting the fortifying the ports and harbors of the United States.

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Ordered, That Mr. GILMAN, Mr. WATTS, Mr. ORR, Mr. PATTON, Mr. BALDWIN, and Mr. ISRAEL SMITH, be added to the committee appointed to report to this House the naval force adequate to the protection of the commerce of the United States against the Algerine corsairs, together with an estimate of the expense, and the ways and means of defraying the same.

TUESDAY, January 28.

French Refugees.

A petition of Peter Gauvain and Louis Dubourg, in behalf of the French refugees of Cape François, now at Baltimore, was presented to the House and read, praying that Congress will speedily decide on the memorial of the committee appointed by the Legislature of Maryland, to draw for, and distribute, the moneys granted by that State for the relief of the French emigrants from the Island of St. Domingo.

Mr. MURRAY moved that it should be referred to the Committee of the Whole on the state of the Union, along with the report of the select committee upon it. He thought it would be an act of humanity to relieve the persons mentioned in the petition. And if that was improper, he thought that the next greatest act of humanity which could be done, was to relieve them from suspense.

Mr. CLARK was of opinion that the matter should be instantly taken up, as the fund for their relief expired on the 2d of February next.

Mr. HUNTER, from South Carolina, mentioned a remarkable exertion of benevolence respecting persons of this kind which had taken place in that State. The motion was agreed to, and the House directly resolved itself into a committee on the question.

It was then moved and seconded, that the PRESIDENT be authorized to pay \$10,000 of the public money for the use of the refugees, and to negotiate the payment of it, with the Ministry of France.

Mr. BOUDINOT was convinced, that, by the constitution, the House had a right to give it in the first instance. He considered the committee as too confined, and thought that it should have comprehended all the people of this sort in North America. Many of these people since winter set in, must have perished of cold and want in the streets of Philadelphia, but for the benevolence of some well-disposed people. He urged the committee, in the most pathetic language, to extend immediate and effectual relief.

Mr. S. SMITH was confident that Congress would be repaid with thanks by the Republic of France. He said that a supply of powder and ball had been sent from one of the Southern States to St. Domingo, and that the price had been punctually and thankfully repaid. Santhonax and Polverel had been recalled, who were the authors of all the mischief that had happened. The refugees expected to return to their settlements before the first of May, and they would then be very able and very willing to repay the money themselves.

Mr. SMILIE recommended the entering into a negotiation with the French Ambassador, for securing payment of what sum should be voted.

Mr. CLARK hoped that the motion would instantly pass. In a case of this kind, we were not to be tied up by the constitution. Were Algerines cast upon the mercy of America, in such a situation, he would pay them the same tribute of humanity. The French Ambassador had restricted his services to a particular class of people. It was not the business of the House, whether the refugees at Baltimore were democrats or aristocrats. They were men; and, as such were entitled to compassion and to relief.

Mr. S. SMITH, in reply to Mr. SMILIE, said, that Mr. Genet, when solicited on behalf of these people, made answer that he was not authorized on the part of the Republic to give them any thing, but sent them \$2,000 from himself.

Mr. SMILIE replied that Mr. SMITH had mistaken him; he did not wish to seek money from Mr. Genet. But he thought it would be singular to give away so large a sum, without endeavoring to secure the approbation of the French Minister, as a step towards repayment.

Mr. DEXTER had formerly entertained scruples, but he now approved the motion.

Mr. NICHOLAS did not approve the motion in its original shape, nor did he like it better for its being now altered into a motion for authorizing the PRESIDENT to pay the money. Mr. N. expressed, in the strongest and most unequivocal language, his compassion for the sufferers; but, as he had not seen a way pointed out of relieving them, agreeably to the constitution, he recommended a shorter one. Out of the liberal compensation which the members of that House received from the country, he thought that the sum wanted might easily be subscribed. He did not know whether the Republic would thank us for helping them; perhaps they might be accounted rebels.

Mr. FITZSIMONS proposed a second amendment of the original motion.

Mr. NICHOLAS replied: If this thing goes down at all, it should be as an act of charity, and marked in giving, that it is going beyond our power, but that, from a knowledge of the universal wish of our constituents, and a sense of our general obligations to France, we have granted the money.

Mr. SCOTT pressed for the relief in reference to the citizens of Baltimore. If they were invaded by an army, we certainly would assist them; and where is the difference, (added Mr. S.,) whether they be an army of fighters, or an army of eaters. We must relieve them, to be sure.

Mr. S. SMITH said that these distressed people were all women and children, except three old men. The boys who were old enough, had been bound apprentices. The men had been enlisted by the advice of Mr. Genet, who said the Republic wanted recruits. He had likewise obtained two ships for five hundred of the refugees who wanted to go to France. Genet was able to do nothing more for them, as the \$2,000 that he gave, were out of his own pocket. It had been alleged that there was no precedent for relieving these people. He mentioned two: The Americans in captivity at Algiers had been assisted by the British Consul. Some years ago, the crew of an American vessel had been shipwrecked on the coast of Portugal. They were assisted with the utmost generosity by a private gentleman. In both cases, Congress thankfully repaid the money advanced. The gentleman from Virginia (Mr. NICHOLAS) had offered his salary, but the idea had not been supported, so that it went for nothing. And are we (said Mr. S.) to stand up here, and tell the world that we dare not perform an act of benevolence? Is this to be the style of an American Congress? The gentleman from Virginia had said that perhaps these people would be considered as traitors by the Republic. Were women and fatherless children to be regarded as traitors? Mr. S. was extremely affected, and apologized more than once to the House for the warmth with which he spoke. He said that himself and several others who had witnessed the scene of distress, were surprised; the gentleman did not feel as they did.

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Mr. MADISON possessed constitutional scruples. He thought that the gentleman from Maryland (Mr. S. SMITH) would not have injured his cause by a greater moderation of language, nor his credit for benevolence by not saying that his sympathy arose chiefly from being an eye-witness.

At last, the SPEAKER proposed to the committee an amendment, which met the ideas of the

members, and the resolution passed, as follows:

Resolved, That a sum not exceeding — dollars be appropriated for the support of such of the inhabitants of St. Domingo, resident within the United States, as shall be found in want of such support.

That a regular account of the moneys so expended be kept; and that the PRESIDENT OF THE UNITED STATES be requested to obtain a credit therefor, in the accounts between the French Republic and the United States.

Ordered, That a committee be appointed to bring in a bill in conformity with the foregoing resolution, and providing for the due application of the moneys aforesaid; and that Mr. AMES, Mr. TRACY, and Mr. DENT, be the said committee.

THURSDAY, February 6.

War with Algiers.

The resolution being read for building four ships of 44 guns and two ships of 20 guns—

Mr. MADISON rose to inquire whether there was in the public stores of the United States, a sufficient quantity of cedar and live oak for building the proposed six vessels? He was answered that there was not. Mr. M. then observed, that it was evident this fleet could not be ready for effective service in the course of the present year. He imagined that there was another resolution, precedent as to the time of voting it, which ought to be before the committee. The resolution to which he alluded, was that assigning a sum of money to buy a cessation of hostilities from the Regency of Algiers. He was of opinion that the project of fitting out an armed squadron was liable to many solid objections. There were two points of light in which this subject might be surveyed. The first of these was, whether the Algerines acted from their own impulse in this matter? In that case, they were known to be in the habit of selling a peace; and, if they are willing to do so, he fancied that it might be purchased for less money than the armament would cost. On the other hand, if they do not act from their own impulse, but upon the instigation of Britain, we may depend upon it that they cannot be bought. Britain will keep them hostile. There is infinitely more danger of a British war from the fitting out of ships than from the resolution on the report of the Secretary of State. The distance which the ships would have to sail is not less than three thousand miles, and their number is too small for a decisive advantage. The combined powers would embrace the equipment of these ships as an excellent opportunity to pick a quarrel with the United States. Mr. M. expressed his doubts with regard to the propriety of this measure, because the expense would be immense, and there was no certainty of reaping any benefit from it.

Mr. CLARK was anxious to state his doubts on this subject, that gentlemen, who, by their habits of life, had met with opportunities of better information than he possessed, might correct him where he was wrong. In the first place, the ships would be too small in point of number to be of any kind of importance, amidst the numerous navies of Europe. The distance from any friendly port, where, in case of accidents, they might repair, was likewise very great. It was to be expected that, when they fell in with British ships of war, that the latter would endeavor to search them for prohibited cargoes, and for seamen, because they were in the practice of impressing their own countrymen wherever they could find them. This would produce a quarrel. There was a scheme which occurred to him, and which he judged would be less expensive and more effectual. This was, to hire the Portuguese to cruise against the Algerines. He understood that the Court of Lisbon desired to keep her ships of war in actual service. The British have been in the habit of building frigates for the service of the Algerines, and, as he was informed, mariners, at a distance upon sea could distinguish in what country vessels were built by their construction. Hence it would be difficult for the captain of an American frigate to ascertain at sea a British ship of war from an Algerine. He had an objection to the establishment of a fleet, because, when once it had been commenced, there would be no end of it. We must then have a Secretary of the Navy, and a swarm of other people in office, at a monstrous expense. If we build six ships this year, we should next year find it necessary to build six more, and so on. The combined powers would find a much better pretence for a war by this armament than from the resolutions on the Report of the Secretary. Mr. C. closed his speech, which was heard with great attention, by observing that he rose principally to submit his opinions on this question as hints for those who were better qualified to form a judgment on the subject than himself.

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Mr. BALDWIN expressed his doubts as to every part of this subject. He had not been able to gain any information that was satisfactory. To block up the Mediterranean was, he believed, impracticable. Bribery alone could purchase security from the Algerines. Spain and Britain had always found this method the cheapest. He had much confidence in the gentleman who had been employed to go as an Envoy to Algiers from this country. He was a thorough man. Mr. B. had yet formed no decided opinion, and could wish to suspend his judgment till he learned the issue of the present application to the Dey. If bribery would not do, he should certainly vote for equipping a fleet.

Mr. NICHOLAS feared that we were not a match for the Algerines. A small number of sailors were sufficient to navigate one of their ships, and they had a militia to man them who were innumerable. He had not been able to form an exact opinion, but he was afraid that we were not a match for them by sea.

Mr. S. SMITH rose chiefly to answer the interrogatories proposed by Mr. CLARK, as to what harbors

in Europe American ships could retire to for shelter? In an early part of his life, Mr. S. said that he had been in that part of the world, and could assure the House that there was no want of proper harbors to refit or obtain provisions in. The first he mentioned was Toulon; Marseilles, likewise, had a most excellent harbor, and there was no doubt that our vessels would be received there in the most friendly way, as the Algerines had lately declared war against the Republic of France. Spain had, likewise, several excellent ports—Malaga, Cadiz, Barcelona, and Ferrol. In all these the American squadron would be heartily welcome, and meet with all kinds of naval stores in the greatest abundance. Lisbon, also, was a fine harbor, and Oporto would be proper for the same purpose. So that, in case of accident, the armament had nothing to fear from wanting a place of retreat. He had no doubt that our vessels and our sailors would both be much superior to those of the Algerines. Their ships were old and crazy, and were presents made them by the powers with whom they are not at war. The American bottoms must be better; and our fleet will most likely have its station between Oran and Malaga, and, stretching across between those two ports, block up the mouth of the Straits. He adverted to the mistake of Mr. BALDWIN, who had said that Spain never attempted to block up the Straits; the proper answer to which was, that Spain had an extensive coast, not less than four or five hundred miles, within the Mediterranean; so that she was quite differently situated, with regard to them, from America. Mr. S. mentioned, as a consolatory circumstance, that our profit was twice as great at present, in commerce, as it was before the war, in spite of all the spoliations committed by Britain, and by Spain; and, if the war continues, the profits will continue to multiply twice as fast as they would otherwise do. As an evidence of this fact, he mentioned the high price of wheat at present in this market, and asked whether any gentleman had heard of a price so high at this season of the year before? A gentleman (Mr. NICHOLAS) had spoken of an Algerine militia. Why, sir, (said Mr. S.,) I shall set down against them the American militia, and so that account is settled. He estimated that the whole American exports and imports, in round numbers, was twenty millions of dollars each; and that the extra insurance on account of the Algerines, from one end of the year to the other, would not be less than five per cent. to the whole, which was altogether two millions of dollars. From this Mr. S. inferred that it must be the very worst kind of economy to hazard an expense of two millions of dollars of insurance, for the sake of saving the charges of this armament. He did not see it improbable that the Algerines might very soon be on our coast, under the command of British or American renegadoes. It was nothing uncommon, among seamen, for two captains to be in the greatest friendship to-day, and plundering each other's vessels to-morrow. As an example of what Americans, in particular, are capable of doing, he repeated the history of a Mr. Cooper, of Virginia, who, some years ago, fitted out a ship for the express purpose of cruising against American vessels bound from or to the East Indies. He sent a person into the harbor of Algiers to solicit a commission from the Dey, and this envoy had very near been taken prisoner, as the Dey wanted to have made a slave of him. Mr. S. said that Mr. Cooper was known to be a man of courage, of perseverance, and as possessing that species of intellectual resources which qualify an adventurer for bold undertakings. He inferred, from this anecdote, that, if Mr. Cooper, a man of respectable birth and connections, could form such a scheme, what was not to be feared from the common set of seamen? He could not tell where the danger might end; nor did he know whether Philadelphia itself would be in safety. They might speak of their forts as much as they pleased; he knew their force, and did not much value it. The British had gone past them, and what was to hinder the Algerines, or such a man as Mr. Cooper, from getting past them? Were he on the coast of an enemy, he should not have the least scruple of engaging to run a ship by such forts, when there was in view so great a prospect as the plunder of Philadelphia. He strongly pressed the necessity of sending out the proposed fleet as quickly as possible.

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Mr. AMES attacked the mover of the resolutions on the Report of the Secretary (Mr. MADISON) for not displaying in the affair of the Algerines some part of the spirit which he had exerted on the other occasion. He thought it shameful to buy a peace, and that there could be no security, if we did. He recommended an armament. Portugal had shown herself friendly; and, referring to what Mr. CLARK had stated, he was of opinion she would give our ships shelter in her ports. He thought that six stout frigates at the mouth of the Straits would do the business. He went at considerable length into Mr. MADISON'S resolutions, and condemned, upon various grounds, the arguments and conduct of the gentlemen who supported them. Yesterday, we were told that Britain durst not quarrel with America, and to-day she is represented as ready to do it. Our commerce is on the point of being annihilated, and, unless an armament is fitted out, we may very soon expect the Algerines on the coast of America.

Mr. GILES, in reply, said that Mr. AMES drew inconsistent pictures. One day he represented the American commerce at the summit of prosperity; the next, it was reduced to nothing. In defence of the commercial regulations, he reminded the House that Britain, and not Algiers, was the real object of alarm, and the real source of hostility. It was, therefore, proper to provide remedies against both of these illustrious confederates. Algiers was but the instrument, Britain was the cause. The reliance of Britain upon this instrument plainly showed that she was not equal to a war and a commercial contest. She had, therefore, turned loose the Algerines upon us—a fact which is pretty generally acknowledged on both sides of the House. It is, therefore, in the power of Britain to prevent the progress of these pirates. The commercial restrictions will reduce Britain to difficulty, and she will then, for the sake of friendship with America, be glad to put a stop to the Algerine ravages. Until some measure of this kind has been adopted, Britain, as she has raised up Algiers, will keep her up. The cheapest mode of getting peace will certainly be by embracing the commercial regulations. Mr. G. was averse to the proposal of a fleet. He agreed very much with the gentleman from New Jersey, (Mr. CLARK,) that it would be a better expedient to hire the fleet of Portugal. He considered the establishment of a maritime force as having a direct tendency to war; whereas, the commercial restrictions had the same tendency to peace.

The sending of American armed ships into the midst of the fleets of Europe would certainly produce a quarrel. It had been well remarked, (by Mr. CLARK,) that, if an attempt was made to search our ships of war, like our merchantmen, it would infallibly produce a public affront, and consequent hostilities.

Mr. MADISON, in reply to some remarks which had fallen from Mr. SMITH, respecting the present high price of wheat in the American market, said, that he had been informed of a place where wheat sold for four shillings and sixpence per bushel only, where the dollar passes for six shillings. Mr. M. supposed that Britain could render very essential service to the Algerines, without embarking in a war. She has not embarked in a war to the north-west of the Ohio, but she has done the same thing, in substance, by supplying the Indians with arms, ammunition, and, perhaps, with subsistence. He did not assert that Britain directed the plan of the Indian expeditions, for he had no explicit evidence that they actually did so. In the same way that they gave underhand assistance to the Indians, they would give it to the Algerines, rather than hazard an open war.

The committee now rose, without coming to the question.

FRIDAY, February 7.

JOHN PAGE, from Virginia, appeared, produced his credentials, and took his seat in the House.

Algerine War.

THE NAVAL FORCE.

The House resolved itself into a Committee of the whole House on the state of the Union. The Chairman read the resolution before the House for equipping a Naval force.

Mr. MADISON thought this expedient unlikely to answer the purpose, and liable to many objections. Before the American squadron can be equipped, the truce between Algiers and Portugal must expire. When that expiration shall take place, she either will not renew the truce at all, or she will stipulate that the United States shall be comprehended in it. He would save the money intended for the fleet, and hire the Portuguese ships of war with it, as soon as the truce ends. He wished that the committee might reject the present motion, and when they did so, he would move a resolution, a copy of which he read to the committee. It was in substance:

"That the sum of --- dollars be provided to be employed in such a manner as should be found most effectual for obtaining a peace with the Regency of Algiers; and failing of this, that the sum should be applied to the end of obtaining protection from some of the European Powers."

Mr. M. considered the armament at present proposed, as quite too small to answer any efficient purpose.

A member here observed, that it would be hazardous to rely on Portugal; because, though the truce might expire in about six months, it would possibly be renewed at the end of that time, or converted into a peace.

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Mr. FITZSIMONS wished that gentlemen would pay some attention to attested facts, before they so abruptly declare that the six ships proposed by the committee to be built and put into commission, were incompetent to the end for which they were designed. The committee had bestowed considerable time in deliberating upon the best information which could be obtained, before they specified the force requisite to be employed, and they had been satisfied, that what was now proposed would be equal to the end. Here Mr. F. read a different statement of the ships of war in the service of the Regency of Algiers, at different times. One of these shows that in the year 1789, there were nine xebecs, from thirty-six to ten guns, and one ship of forty guns upon the stocks; but that several of the xebecs were laid up or unfit for service. A second estimate of the Algerine maritime force, had been transmitted by Mr. Humphries. He specified four frigates, two xebecs, and one brig. By advices still more recent, the fleet consisted of one vessel of forty-four guns, one of thirty-six, one of twenty-eight, three xebecs, and a brig. Mr. F. observed, that gentlemen had objected to the sending out an American fleet; that they could not always keep together. He reminded them, that from November to March or April, the corsairs of Barbary never go out to sea. There were two months during that time, when they were restrained by their religion from piratical excursions. The committee had been told, that the Portuguese are ready to assist us. There is ground to expect this assistance, but not to depend upon it. Two American frigates, along with the Portuguese vessels, would be fully equal to the task of curbing the Algerines. As to militia, he could not see of what consequence they could be in a naval contest. With regard to expense, he stated a very important fact. The United States import, annually, two millions of bushels of salt from these countries, which the Algerines will cut off from our commerce. The rise on that article must then be at least one dollar per bushel; which is a tax of two millions of dollars at once, or three times the expense of the armament. Probably, however, the loss may extend to four millions of dollars on this single article of salt, in one year only; a sum which would keep up the fleet a long time. We have been trying to buy a peace, but without success; and if we are not able to enforce it, the price of buying it must be so much the higher. As soon as Portugal is left to herself, she will certainly protect us, because it is much for her interest to do so. At present, she cannot, perhaps, from the influence of the combined powers. Mr. F., therefore, recommended an armament in the mean time.

Mr. SMILIE objected to this measure, because it was unequal to the task. Britain would assist the Algerines underhandedly, as she did an enemy in another quarter, and would continue to do so. He did not think she was shameless enough to own it, but she would do it.^[49]

Mr. NICHOLAS went on the same ground. He said that Britain had not been content with striking up a truce for Portugal, that the Algerines might be let loose on American commerce, but her Minister at the Court of Lisbon had endeavored to prevent our vessels from obtaining a Portuguese convoy. Not content with insuring a loss to America, she had striven to make that loss immediate. As to the duration of the truce, it could not last long, for the Queen of Portugal had, in fact, broken it already. She had declared that the trade to that country should pass unmolested; to which condition it was not likely that the Algerines would consent. The Portuguese nobility had clamored at the acceptance of a truce. So that, on the whole, it could hardly last long. A naval force was a very expensive affair. The greater part of the immense debt of England had been lavished on her navy. He was against building a navy.

Mr. SWIFT had been always sensible that the situation of this country was not fit for war. We have a very heavy debt; but still it is better to bear debts than depredations. A gentleman of extensive information (Mr. S. SMITH, in yesterday's debate) had stated the rise of insurance as much less than the armament would cost. Britain had always more dependence on her navy, than on the immense sums that she pays to these barbarians. Mr. S. had no doubt that the proposed fleet would have its intended effect. He despaired of either buying a truce or buying an ally. As to the militia of Algiers, they could not be brought into action against frigates. He considered the charge of hiring the Algerines, as an unfounded accusation on the honor of Britain. He could not bring himself to believe that she was capable of a conduct so exceedingly disgraceful. He had no direct evidence to convince. It might be objected to this armament, that it would augment the national debt, and throw too much influence into the hands of the Executive Government. But the same objection might be started against every armament whatever.

Mr. MURRAY said, the gentleman from Virginia, (Mr. MADISON,) yesterday, observed that he was not a little surprised that those who a few days since had appeared so alarmed at the phantom of war, should on this question appear so willing to meet it. He would remark that those gentlemen were alarmed at a shadow which appeared followed by the substance of war, and were unwilling to do any thing that might lead to a war that did not yet exist. But we were now at war with Algiers, and had no choice. They had been at war with the United States ever since the end of the Revolutionary war. The Spaniards and Portuguese kept them within the Mediterranean. Gentlemen who are averse to the report, hold up two substitute measures: one, which was suggested, and has been argued by the gentleman from Virginia, (Mr. MADISON,) is, that we ought to grant a sum to Portugal for her protection of our trade. The other is, that commercial regulations will accomplish our protection. He liked neither. The last, if permanent, will withdraw all temptation from Great Britain to interpose her good offices. The first is worse; it is subsidizing Portugal at the expense of our own people, and that too without security. Gentlemen would make it the interest of Portugal to make such breaches of truce as would occasionally withdraw protection, and oblige us to subsidize her higher. It would create a disgraceful dependence on a foreign power, and weaken the spirit of our marine; whereas, if you fit out frigates, you employ your money in nourishing the roots of your own industry; you encourage your own ship-building, lumber, and victualling business. He believed, that however true might be the suspicion of British interference in Indian affairs, and he feared it was too true, he did not believe the evidence as to Algerine interference strong enough to induce an argument against the report, under a supposition that as Great Britain had effected the truce, so she would aid Algiers against us. He thought so, because it was not now as much her interest as it was in times of peace. In times of peace, had she let loose the Algerines, her own navigation would have been enabled to carry for us, but now it would be molested by the French. He did not believe nations, more than persons, would do wrong purely out of evil designs, devoid of interest; the greatest villain would not. At present, their ships are liable to attack from the French, and he had it from good authority, that so far were the British from having advantaged themselves if they had been so base, that scarcely a British ship had appeared since in our ports. The ship frigates would be able to blockade the Gut of Gibraltar; the Algerines did not sail in fleets; they wanted plunder, not glory; when they discovered they had to get the first by hard fighting, they would listen to peace, accompanied by money. Spain, it was true, had purchased a peace, but there was an hereditary inveteracy against Spain, and a facility of attacking her shores which we need not fear; so it was her interest to buy a peace when war could bring her nothing but a glory that almost disgraced her armies; as to jealousy of power in the Executive, he hoped to see a proper equipoise in the powers of this Government; but, when proper occasions occurred, he hoped Congress would never refuse the adequate means to enable the Executive to discharge its constitutional duties.

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Mr. GOODHUE observed, that the committee had carefully looked over the statement of the marine force of Algiers for several years back, and had no reason to doubt that the six vessels would be equal to the purpose intended. There was no ground to suppose Algiers would have more force at present than she had during her war with Portugal. He had no doubt that the Algerines were let loose on the American commerce to prevent supplies going to France, and while the war lasts, we shall not be able to buy a peace. It is said, that the truce was but for a year, and in six months it will expire. He did not wish to depend on that, when the evil is so great. And why depend on Portugal? She is more under the influence of Britain than any other nation in Europe. When Britain has been at the trouble of stipulating a peace for Portugal, will she suffer that nation to assist us? Certainly not. Or is it wise to stand by and depend upon such a resource?

Mr. MADISON said, that gentlemen thought so differently on this subject, and advanced arguments

against his side of the question of such a different nature, that it was difficult or impossible to give them an answer. He then proceeded to quote the speech of Mr. GOODHUE; when that gentleman rose to explain. Mr. M. then proceeded to notice the speeches of Mr. FITZSIMONS and Mr. S. SMITH. Both of these gentlemen were up more than once to explain, as having been misquoted. In a speech of considerable length, he was not suffered long to proceed without interruptions of explanations. This produced a scene of altercation. One circumstance, however, was mentioned by Mr. FITZSIMONS that deserves particular notice. From April to December next, he said, the insurance on American ships from England and the rest of Europe, will not be less than twenty-five per cent. of their value on account of the Algerines.

The House now adjourned, without taking any question.

TUESDAY, March 4.

Estimate of Appropriations.

The House again resolved itself into a Committee of the whole House on the Report of the Secretary of the Treasury of the sums necessary to be appropriated for the service of the year one thousand seven hundred and ninety-four; and after some time spent therein, the Chairman reported that the committee had again had the said report under consideration, and come to a resolution thereupon; which he delivered in at the Clerk's table, where the same was twice read, and agreed to by the House, as follows:

Resolved, That, for the support of the Military Establishment of the United States, for the year one thousand seven hundred and ninety-four, there be appropriated a sum of money, not exceeding one million four hundred and fifty-seven thousand nine hundred and thirty-six dollars and one cent; that is to say:

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For the pay of the Legion of the United States,	\$303,684 00
For subsistence,	312,567 75
For forage,	31,632 00
For clothing,	112,000 00
For equipments for the cavalry,	7,314 05
For horses for the cavalry,	16,000 00
For bounty,	5,000 00
For the Hospital Department,	20,000 00
For the Ordnance Department,	6,715 32
For repairs and articles directed to be made and purchased by the President of the United States,	202,783 34
For defensive protection of the frontiers,	130,000 00
For the Indian Department,	50,000 00
For the Quartermaster's Department,	150,000 00
For contingencies of the War Department,	30,000 00
And for Invalid Pensions,	80,239 55

	\$1,457,936 01

Ordered, That a bill or bills be brought in, pursuant to the said resolution; and that Mr. BOUDINOT, Mr. TRUMBULL, and Mr. GILLESPIE, do prepare and bring in the same.

THURSDAY, March 6.

Slave Trade.

The House went into Committee of the Whole on the bill to prohibit the carrying on the slave trade from the ports of the United States, Mr. BOUDINOT in the chair.

The two first sections of the bill were agreed to, with one alteration moved by Mr. TRUMBULL, which was to give the District Court as well as the Circuit Courts cognizance of the offence.

The third section which relates to the penalty &c., it was moved should be struck out. This motion was negatived. It was then moved to insert the word *foreign* before "ship or vessel;" which was agreed to.

The committee proceeded through the bill, which was reported to the House with sundry amendments; these were agreed to by the House, and the bill ordered to be engrossed for a third reading.

MONDAY, March 10.

Algerine War.

NAVAL ARMAMENT.

Mr. GILES observed, that, from the sense of the House several times manifested on this subject, there remained no doubt but that the bill would pass. In that event, he most earnestly hoped that the success of the measure would, at least, equal the expectations of its advocates. Indeed, he hoped that their expectations would be disappointed and exceeded; for it did not seem to him that even they were very positive as to its full competency to the end proposed. He even wished that every ship could be furnished with the cap of Fortunatus and the shield of Hercules; for he was persuaded that, in the present state of things, some magical influence would be found essential to enable them to effect their undertaking. He observed, that, at present, the wisdom or folly of the proposed measure was mere matter of opinion; that the passage of the bill will furnish futurity with a complete experiment of its true character.

He intended to offer his reasons against the passage of the bill, not with a hope of making proselytes, but as a testimony of the real motives which influenced his opposition. With this view, he should only mention some of the general impressions produced on his mind by this subject, without fatiguing the House with minute exemplifications of them.

The subject had presented itself to him in two points of view—1st, as affording a protection to our commerce against the Algerine depredations; 2d, as the foundation of a permanent naval establishment.

He could not help premising that, in the course of discussion, the advocates of the bill had censured its opponents with a want of disposition for the protection of commerce, whilst they claimed a monopoly of all good intention towards this object. He did not mean to derogate from the good intention of the favorers of the bill, but he believed its opponents possessed as pure a zeal for the protection and due encouragement of commerce as its advocates. It is not a question whether commerce is, or is not, to be protected; but whether the plan proposed be the most effectual and the least exceptionable that can be devised for that purpose? The difference of opinion does not consist in the end to be produced, but in the means proposed to effect the end.

The first objection he should make to the bill would be, the obvious inadequacy of the means contemplated to effect the end proposed by them. The object proposed is an effectual resistance, not only to the whole present naval force of Algiers, but to their whole naval ability. The bill contains, in itself, essentially a declaration of war. Our calculations, therefore, should be extended to the utmost limit of the naval ability of the hostile nation. The means to be employed consist of four frigates of forty-four guns each, and two ships of thirty-six guns each. To decide with propriety upon the objection, this force should be compared with the naval ability of Algiers. He did not mean to go into a minute history of Algiers. He should only observe, in general, that it was a populous country; that it had furnished at one time one hundred thousand fighting men; that its power at this day was as great as at any preceding period; that they were a warlike people, accustomed to naval enterprises and desperate in naval engagements; that, for some time past, they had been subsidized for peace by almost every European nation. He could not help concluding, from these circumstances, that the naval ability of the nation either was or might, without any uncommon exertions, be rendered superior to four forty-four gun frigates and two thirty-six gun ships, the force contemplated by the bill; and, if the conclusions were just, the bill is unwise.

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Mr. G. proceeded to consider the bill as the foundation of a permanent naval establishment. He said there was a clause in the bill authorizing the PRESIDENT to suspend all proceedings in the equipment of the armament, in case of a peace with Algiers, which gave him some consolation; but it did not altogether relieve his apprehensions from this operation of the measure, because he knew that a permanent naval establishment was a favorite policy with some gentlemen, and because the argument had been urged in favor of the present bill.

He observed that a permanent naval establishment could be recommended to the United States but from one or both of the following considerations: either upon the principle of entering into a competition for naval power with the Powers of Europe; or as affording security to the collection of our own revenue.

He thought the question of a permanent naval establishment was one of the most important which could be presented to the consideration of the House, and that the most serious consequences were necessarily connected with it. In the first place, he viewed the establishment of a navy as a complete dereliction of the policy of discharging the principal of the public debt. History does not afford an instance of a nation which continued to increase their navy and decrease their debt at the same time. It is an operation exceeding the ability of any nation. The naval competition of the Powers in Europe has produced oppression to their subjects and ruin to themselves. The ruin of the French Monarchy, he believed, might be ascribed very much to that cause. A navy is the most expensive of all means of defence, and the tyranny of governments consists in the expensiveness of their machinery. The expensiveness of the French Monarchy is the true cause of its destruction. The navy of France furnished the principal item of that expense. The navy produced expense, the expense exceeded the revenue, new contributions became necessary, the people saw the tyranny, and destroyed the tyrant. The same effect, by the same policy, will probably be produced in great Great Britain. The Government is not yet destroyed, but the people are oppressed, liberty is banished. The extensiveness of the Government is the true ground of the oppression of the people. The King, the Nobility, the Priesthood, the Army, and, above all, the Navy.

All this machinery lessens the number of the productive and increases the number of unproductive hands of the nation in Great Britain. The operation has been extended so far that the poor rates alone probably afforded a greater tax per *capita* than the whole taxes paid in the

United States. He was astonished with these fatal examples before our eyes, that there should be any gentlemen who would wish to enter into this fashionable system of politics. He said the United States had already progressed full far enough into this system; for, exclusively of the ordinary expense of the Civil List, a debt had been funded upon principles of duration. An army had been raised, at an immense expense, and now there was a proposition for a navy. He observed that, for several years past, the appropriations for the support of the Military Establishment had exceeded a million of dollars per annum—from one million to one million and a half annually. He believed that, if the expense had been foreseen, there would have been more active efforts to have avoided it. It was a policy, at this day, very generally condemned; yet we are now to exhibit a counterpart of this policy upon the ocean, with this aggravation—that it will commence with greater certain expense, and with a more uncertain object. The system of governing by debts he conceived the most refined system of tyranny. It seems to have been a contrivance devised by politicians to succeed the old system of feudal tenures. Both systems were tyrannical, but the objects of their tyranny were different. The system of feuds operated upon the person of the individual—the system of debts operates upon the pockets of the individual. In the feudal system, the tenant often received some indulgence and lenity from the martial generosity which generally characterized the lord. The lord was gratified with the acknowledgment of the tenant that he was a slave, and the rendition of a peppercorn as an evidence of it. The product of the tenant's labor was left for his own support. The system of debts affords no such indulgences. Its true policy is to devise objects of expense, and to draw the greatest possible sum from the people in the least visible mode. It boasts not of economizing in calls upon the people for contributions. It boasts not of economizing in the objects of expenditure. It consults the obedience, and not the happiness of the people. There is no device which facilitates the system of expense and debts so much as a navy. And he declared, from that consideration, he should value his liberty at a lower price than he now did, if the policy of a permanent Naval Establishment should obtain in the United States.

Mr. W. SMITH remarked, that though it was not probable any proselytes were to be expected at this late period of the business, and after so ample a discussion as the question had received in its different stages, yet he considered it necessary to make a reply to some of the various objections which had just been made to the passing of the bill. Many of those objections appeared to him totally inapplicable to the subject, which he should pass over in silence. If it were the design of the House to incur a vast expense in the establishment of a navy, merely for the idle purposes of vain parade, there would be force in some of the objections; but, as this was not the case, and as the measure was a measure not of choice, but of necessity, extorted by the pressure of unavoidable events, he did not feel their force in any respect. The question was, simply, whether our commerce required protection against the Algerine corsairs, and whether this was the best mode of protection. The first part of the question was admitted on all sides. For himself, he had always considered the second equally clear. But in the course of the discussion, various difficulties had been started against the mode of protection, and various substitutes had been proposed, as offering a remedy more prompt, more effectual, and less expensive. He would first consider the proposed substitutes for a naval armament, and then answer the objections to it. The substitutes were: 1st. To purchase a peace of the Algerines. 2d. To depend on Portugal breaking her truce with Algiers, and shutting up their cruisers within the Straits. 3d. To pass commercial regulations against Great Britain. 4th. To subsidize other nations to protect our commerce.

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To these several substitutes, he might, in a few words, object that the first was impracticable, the second precarious, the third inoperative, and the fourth dishonorable.

Mr. S. next reviewed the principal objections to the bill. These were, he said, 1st. That the force contemplated was incompetent. 2d. That sending an armed force on the ocean would be the means of involving us in a war with some of the maritime powers. 3d. That we had no friendly ports in Europe, which our frigates could resort to for supplies or refitment. 4th. That the expense would exceed the object to be protected. 5th. That our trade would be deprived of the seamen required to man the frigates. 6th. That it was now so late in the season we could not protect our vessels the ensuing summer, and that some favorable events might occur before the frigates could be equipped, which would render them unnecessary. 7th. That this was the beginning of a Naval Establishment, which would hereafter involve this country in immense debts and maritime wars.

[To the arguments against a Naval Establishment, Mr. SMITH answered:]

The dangers resulting from a large Navy Establishment, and the immense debts they have created in other countries, had been depicted, and the House had been warned against such evils. How a bill providing six frigates, which were to exist only during the war with Algiers, could excite an apprehension of a large and permanent navy, and an enormous debt, Mr. S. said he was at a loss to discover. The clause which authorized the PRESIDENT, in the event of a peace with the Regency of Algiers, to discontinue the armament, was a complete answer to all the reasoning which had been indulged on the subject of navies and debts. Admitting there had been no such clause, he did not feel the weight or applicability of the reasoning.

This country is peculiarly fitted for a navy: abounding in all kinds of naval resources, we have within ourselves those means which other maritime nations were obliged to obtain from abroad. The nature of our situation, and the navigating disposition of a considerable proportion of our citizens, evince still more the propriety of some Naval Establishment. Perhaps the country is not yet mature for such an establishment, to any great extent; but he believed the period was not far distant, when it would be. Sweden, with a population not greater than that of the United States,

and with more slender resources, maintained a large navy. He saw no reason why the United States, with an increasing population, much individual wealth, and considerable national resources, might not, without ruin, do as much, or why the equipment of a squadron, inferior to that of any of the petty nations of Italy, should involve us in an insupportable expense.

The question was then taken on the passage of the bill, and it was resolved in the affirmative—yeas 50, nays 39, as follows:

YEAS.—Messrs. Fisher Ames, John Beatty, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Lambert Cadwalader, David Cobb, Peleg Coffin, Joshua Coit, Henry Dearborn, George Dent, Samuel Dexter, Thomas Fitzsimons, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glenn, Benjamin Goodhue, James Gordon, Samuel Griffin, George Hancock, James Hillhouse, William Hindman, Samuel Holten, John Wilkes Kittera, Amasa Learned, Richard Bland Lee, William Lyman, Francis Malbone, Peter Muhlenberg, William Vans Murray, Josiah Parker, Thomas Scott, Theodore Sedgwick, Jeremiah Smith, Samuel Smith, William Smith, Thomas Sprigg, Zephaniah Swift, Silas Talbot, George Thatcher, Uriah Tracy, Jonathan Trumbull, John E. Van Allen, Peter Van Gaasbeck, Peleg Wadsworth, Jeremiah Wadsworth, Artemas Ward, John Watts, and Richard Winn.

NAYS.—Messrs. Theodorus Bailey, Abraham Baldwin, Thomas Blount, Thomas P. Carnes, Gabriel Christie, Thomas Claiborne, Isaac Coles, William Findlay, William B. Giles, James Gillespie, Christopher Greenup, William Barry Grove, Carter B. Harrison, John Heath, Daniel Heister, John Hunter, William Irvine, Matthew Locke, Nathaniel Macon, James Madison, Joseph McDowell, Alexander Mebane, William Montgomery, Andrew Moore, Joseph Neville, Anthony New, John Nichols, Nathaniel Niles, John Page, Francis Preston, John Smilie, Israel Smith, Thomas Tredwell, Philip Van Cortlandt, Abraham Venable, Francis Walker, Benjamin Williams, Paine Wingate, and Joseph Winston.

THURSDAY, March 27.

Sequestration of British Debts.

Mr. DAYTON submitted the following resolutions:

"*Resolved*, That provision ought to be made, by law, for the sequestration of all the debts due from the citizens of the United States to the subjects of the King of Great Britain.

"*Resolved*, That provision ought, in like manner, to be made for securing the payment of all such debts into the Treasury of the United States, there to be held as a pledge for the indemnification of such of the citizens of the said States as shall have suffered from the ships of war, privateers, or from any person, or description of persons, acting under the commission of authority of the British King, in contravention of the law of nations, and in violation of the rights of neutrality."

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Ordered, That the said resolutions be committed to a Committee of the whole House immediately. The House accordingly resolved itself into said committee.

Mr. DAYTON then rose in support of his propositions. When he brought them forward he did not accompany them (he said) with many observations, because he was then laboring under indisposition. The same cause would render him very concise now.

The injuries and insults we have suffered from Great Britain, he conceived, need not be dwelt upon. They are well known, and it is universally acknowledged that we ought to adopt such measures as would screen us from a repetition of them, and secure to us reparation. The resolutions he had brought forward he intended as part of that system of defence and preservation, other portions of which had already received the sanction of the House. These resolutions, he conceived, would not be the least efficient part of that system.

He believed that, when the conduct of Great Britain is reviewed, it would be found that it is treating their subjects with great lenity to speak of sequestration only; we should be warranted in confiscating, for they have subjected our property to condemnation, without an appearance of an intention to indemnify.

As to restitution of the property of which we have been plundered on the high seas, it is impossible. It is condemned, sold, and scattered, and no hope can be entertained that they intend to indemnify our suffering citizens. If it had been their intention to indemnify, their Court, in explanation of the instruction of the 6th of November, would not have given orders to condemn vessels detained in suspense in the West Indies until that elucidation was received.

Since, then, restitution is impossible, and not a shadow of hope exists that indemnification will be granted; we have only to determine whether we shall give up the property of which we have been plundered, or claim it with effect—claim it, and enforce the claim, by showing that we have the means of retaliation within our power.

After the proceedings of the British towards us, he believed, we should have been warranted in confiscating the property now proposed to be sequestered, without negotiation. This would have been meting to them as they meted to us. If sequestration is hostility, as he had heard it called,

what, he asked, is condemnation? Besides, they have impressed American citizens into their service. We have reason to believe, (he concluded by remarking,) from the negotiation of our Minister with Lord Grenville, from private information on the tables of Congress, and from the conduct of some of their officers high in command, that to make war on us is part of their system.

Mr. S. SMITH said he always had wished for peace, as the first desideratum. With this view, agreeably to the wise recommendation of the PRESIDENT, he agreed to those measures calculated to put the country in a posture of defence. This was the best mode of securing peace. With the same view, he proposed an embargo to be laid, which would have drawn to our ports the remainder of our maritime possessions, and have left them no longer within the grasp of a nation whose only rule of right is the measure of her power. He still wished, as long as a shadow of hope exists, to secure the blessings of peace. With the resolutions now offered, he was of opinion that we might yet have peace; but, without them, we shall certainly have war. They will arrest twenty millions of dollars in our hands, as a fund to reimburse the three or four millions which we have been stripped of by that piratical nation, Great Britain, according to the instructions of that king of sea robbers—that leviathan, which aims at swallowing all that floats on the ocean—that monster, whose only law is power, and who neither respects the rights of nations nor the property of individuals! This character the nation he had mentioned had long deserved. Many proofs might be cited in support of the assertion. He would only refer to their conduct at St. Eustatia, when they robbed their allies, the Dutch, and their generals and admirals turned vendue-masters, and conducted the plundering, to collect rewards for their exploits. Is it from such a nation (he asked) that we are to hope for justice? They know not what justice is. It is said that they showed their love of justice when they so liberally compensated the Tories after their war with us. Though they despise traitors, yet self-interest will lead them to reward the treachery, to encourage a principle which may again be useful to them. Self-interest, then, and not justice, actuated them on that as on every other occasion.

Let us pass the resolutions, then send an envoy to Great Britain, and we shall have peace. We shall then be able to speak to them of their interest. But if war should be the inevitable issue, Americans, he was sure, would meet it like men, rather than submit to insult and suffer the honor of the country to be prostrated.

If we were able, while in infancy as a nation, to assert our rights, will it be said, that, now we have arrived at a state of manhood, we shall fear them? No! our young men burn for an opportunity to defend the liberty, rights, and property of their country. They will step out as one, and meet the event like men.

He read a quotation from *Vattel*, to show that a nation has a right to pay her citizens for losses inflicted by another nation, contrary to right, by confiscating the property belonging to the citizens of that nation. The tie of interest, he concluded by remarking, is the strongest tie we have upon Great Britain. Let us pass the resolutions, and that nation will never again give us cause to pass similar ones. The people out of doors will say that we have done right. The nations of Europe will rejoice to see this power, which is committing depredations on all nations, humbled. The resolutions, he observed, do not regard the property in the funds. To touch this is not one of the means of retaliation warranted by the law of nations. Public contracts should be sacred.

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Mr. BOUDINOT said, he had not intended to take part in the debate at this early stage of it; but what had fallen from the member last up, convinced him that the House should not go into a consideration of the subject at this time. It should be considered with coolness, and all passions put out of the question.

No doubt we have a right to make reprisals, as the Legislature has a right to declare war; but he doubted whether the United States, in their present situation, would find it their interest to go into such measures. The authority read from *Vattel* by the member last up, he observed, made against that member's opinion. *Vattel* expressly says that reprisals should not be made on property intrusted to public faith. The debts of British subjects here are in that predicament. He had heard that gentleman, not long since, with pleasure, expatiate with warmth on the advantages of credit, especially to this country. Should that credit be destroyed (he asked) by destroying the confidence of foreigners in our faith? But, even if this retaliation is lawful, will it be the interest of the citizens, or rather of the Government, to take such a step at the present time? We have no doubt been cruelly treated; but we have made proper application for redress, and received an answer? We should first send a special envoy and insist on an immediate answer. This would be the mode of securing peace; at least, it offers the best chance of securing it.

The aggressions on our commerce made by Great Britain are no doubt enough to rouse any American's feelings; but the Legislature ought not to be swayed by passions; they should discuss the subject calmly and deliberately. He hoped the committee would rise and allow time, at least, to take the necessary measures of defence; for, could the Legislature justify to their constituents this step of retaliation, should immediate hostilities, warlike hostilities, be the consequence? To justify a measure of this kind time should be given for the defensive system adopted to be carried into operation.

Mr. MERCER next spoke. He owned the measures proposed appeared to him great and momentous, and, had he any powers of declamation, he should think it improper to give loose to them on a question of this kind. We should weigh well our interest, examine carefully the situation in which we stand, and determine calmly where we shall place our next step. The proposition is, to arrest, not to confiscate, the debts due to British subjects. From his recollection of the positions established by the best jurisprudence writers, no doubt remained in his mind that we have a clear

right to secure to ourselves reparation in that way, and, in our predicament, confiscation even would be warranted, and by a point as firmly established as any principle which has the general practice of nations for a basis.

One of the latest writers on national law (*Binkershoek*) is of opinion that debts are property, as well as any thing else, and sees no reason why they should not, as well as other kinds of property, be seized to secure indemnity for injuries. This is the opinion of *Wolfius*, of *Vattel*, *Grotius*, and of his commentators. He could go on with a long list of authorities, and refer to actual treaties to show that it has been the practice of nations. Having established the right, he proceeded to consider the expediency of the propositions. Gentlemen, he hoped, did not wish that we should make a solemn declaration of war before we acted. This is no longer the custom among nations. It would be a pompous display of candor which no longer exists. Have any nations in the present European war, premised their operations by a declaration? No; their first step was to do all the injury in their power to their enemies. Then, we having taken what steps will best tend to our security, and give us the best hold of our enemy, let us not, however, lose sight of a settlement by negotiation. Let us show mankind that peace is our first wish. When we are thus prepared, let us step forward to an amicable negotiation. Let us call on the Executive to send forward some proper person to the Court of Great Britain, to assure them that we have a high sense of the injury done us; that we have it in our power to resent it, but wish to see the difference settled by receiving an indemnification. We shall thus make it their interest as well as duty to allow it. This he conceived to be the line of conduct we should adopt if we wished to preserve the Western Hemisphere from the scourges that desolate the Old World. By some such measure as that proposed, we should make their motives for peace more weighty, and we should give assurances of our amicable disposition, by showing that all we wish is a just compensation.

In a matter of this kind he was sensible of the danger of precipitation. The best mode of arresting the property proposed should be calmly weighed. He believed that something like the proposition made by Mr. SMITH, of South Carolina, before the House resolved itself into a committee—a stop to all transfers of British property—would be proper as a preliminary step.

He concluded with some observations on the respect which nations, however weak, will command from their superiors in strength, by showing that they will not suffer imposition, by joining heart and hand in defence of their rights. This spirit, he was sure, animates Americans, and now their power is better able to keep pace with that spirit than when we humbled that nation. At that time we were in our infancy—an infancy by no means thriving under the trammels of the mother country—and, when they turned us adrift, and began their hostile spoliations, they carried with them all our means of defence; but now, thank Providence, we have spirit and power to defend ourselves. If the gentleman from South Carolina (Mr. SMITH) would modify his proposition, and make the term thirty days, it should have his assent in preference to that now before the committee.

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Mr. SMITH (of South Carolina) said, that the proposition he had read before the House went into committee was in the nature of an embargo on debts, securing them from transfer until the necessity of sequestering them more plainly appeared. The proposition did not then appear to meet the wishes of the House. When the committee should rise he would again bring it forward. The question now before the committee is, whether they will agree to a sequestration of British debts. He wished this object had not been coupled with the indemnification to our own citizens, because it is fairer to decide each question upon its own merits. That part of the resolutions which contemplates an indemnification may give a weight to the first part which it might not intrinsically deserve.

He made some observations on the propriety of cool deliberation on the present important subject. The passions should be banished, and calm reason more than ever courted. It requires all the wisdom of the Legislative body now to combine our national honor with our national safety. He had doubts on the propriety of the resolutions proposed, but acknowledged that the arguments used in their favor had great weight in his mind. If the situation of this country be compared with that of other commercial nations, the propriety of something like the present resolutions would appear more evident. When other commercial nations wish to quarrel with us, their navies enable them to seize our vessels, and we cannot retaliate in the same way. Then we must fly to such means of retaliation as are in our power. If they take our property of one description, and we cannot lay our hands upon the same kind, we must take any of theirs within our reach. This reasoning has, no doubt, great force; but the sacredness with which the modern usages of nations has shielded debts is a great bar to our proceeding in the present case. Contracts between individuals are now considered as out of the reach of governments, and it is the modern usage not to meddle with them. In the beginning of our late war, debts were not confiscated. The State of South Carolina, though certainly not wanting provocation, while confiscating all other property, left debts untouched, under the idea that private contracts are sacred. But this, in a case of war, and urgent necessity, might be overlooked; but if we are not in a state of war, perhaps meddling with private contracts might provoke it. Credit is certainly important to this country. We should consider how far the operation of the resolutions proposed would give a shock to it. Besides, they might have a tendency to involve us in future wars. We shall yet long be under the necessity of receiving certain supplies from Europe, and shall have debtors among us for those supplies. These debtors may at any time, when the burden weighs heavy, think of easing it by fomenting dissensions with the foreign creditor nation, in expectation that a confiscation of the debts may be an effect. It is true that, in such a case, they will not be exonerated. But it cannot be supposed that the government to whom the debts would be transferred could prosecute the recovery of them with as much ardor as an individual.

The gentleman last up had relied on the authority of ancient and foreign jurists. Some among this class of writers warrant putting prisoners to death—a principle which modern custom has put a stop to. They also, it is true, warrant the confiscation of debts; but *Burlamaqui* says this is not the practice of modern nations. None, or very few trifling examples can be cited, he believed, of a departure from this principle, in modern times, among nations where commerce is cherished. This country depends on commerce, and credit is one of the means by which it flourishes; we should, then, not endeavor to weaken it. If we are once over the barrier, by trifling extensions of the principle we may be carried to immoderate lengths, indeed. Some persons who are in favor of sequestering private debts, speak with horror of touching the public funds. For his part, he did not see much difference between confiscating private and public debts. The object is the injury of an enemy, and to retaliate for injuries. Again: if we go to war with Great Britain, it is probable we shall be involved with her allies, then will it be said, that we shall confiscate what the Dutch lent us at a time of distress or since the peace. The Dutch have bought largely in our funds. The same principle will lead us to lay our hands upon that property. It will be difficult to draw a line, if we admit the principle.

Under these impressions, if called upon to give his vote, he should now feel much embarrassment. It had been said that the adoption of the present resolutions would be a means of obliging Great Britain to do us justice; that it would strike a terror among the subjects of that country, and make them clamorous for peace. It might, he feared, have a very different effect exasperate them, and unite the people with the Government against us. Some further forbearance on our part may separate them. It will convince the people of Great Britain that we really wish for peace, and then, if war is the issue, the impression will be severely felt by that Government. We shall render the Administration very unpopular, and hasten its dismissal for one more friendly to this country. He was of opinion this crisis was fast approaching.

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He concluded by again adverting to his propositions for preventing the transfer of British debts, which he hoped would be considered as a sufficient provision in the present exigency, and would give time to deliberate on further measures, and to watch the course of events in Europe, which, he believed, would have great influence upon the conduct of Great Britain towards us, and probably bring forward the change in the Administration of Great Britain.

The committee now rose and reported progress.

FRIDAY, March 28.

Sequestration of British Debts.

The House resolved itself into a Committee of the Whole on the state of the Union, and took up Mr. DAYTON's resolutions for the sequestration of debts due to British subjects.

Mr. GILES commenced his remarks by observing, that he had intended to have given a silent vote upon this question before the committee, and probably should not have altered that intention, if it had not been from the solicitous requests expressed yesterday by several gentlemen in the opposition, that the favorers of the proposed measure should furnish the committee with the reasons upon which it was founded. Although it appeared to him to be rather unreasonable that some gentlemen should be expected, not only to possess reasons for their own opinions, but to furnish reasons for others; and, although he did not conceive that the favorers of the measure were under any obligation to disclose the reasons inducing it, provided they thought proper to hazard its fate upon a silent vote, yet he was willing to indulge the gentlemen with presenting to them the general course of reflection which the subject had produced in his mind, and which had strongly suggested its propriety. He had, however, a more powerful inducement to disclosing his opinion, since the subject has become matter of discussion and its propriety doubted.

The measure is deemed a bold one, and pregnant with the most serious consequences; in all such cases, he was desirous that his responsibility to the United States in general, and to his immediate constituents in particular, would at all times be tested by the real motives which should influence his conduct.

Several gentlemen in the opposition had earnestly admonished the committee against the indulgence of their passions upon this subject, and recommended the exercise of cool and deliberate reasoning. He should not pretend to say how far such an admonition was necessary, or justified by the temper of the committee, but he believed it applied as strongly to the gentlemen who suggested the caution, as to those to whom it was addressed; and he hoped, in the course of the future discussion, the gentlemen would show an example in themselves of the precepts they had prescribed to others.

As to himself, Mr. G. declared that, impressed with the awfulness of the present crisis, he had never reflected upon a subject with more coolness; and, if he understood his own situation, his mind was never in a state more susceptible of conviction.

The proposed measure is expected to eventuate in a final explanation of the relative state of things between the United States and Great Britain. It will probably result, therefore, in an open hostility, with the usual appeal to arms, or in a peace, with all the rights of neutrality attached to it. For this purpose, the resolution proposes a sequestration of the debts due to the subjects of Great Britain, to be held as a pledge for the indemnification of the losses sustained by American citizens under the orders of the British King, in contravention of the laws of nations, and violation of every rule of morality and justice. In the course of debate, this subject seems to have resolved itself into two questions. First, as it respects the right of one nation to sequester the property of

the individuals of another in any possible case. Second, the policy of exercising this right at this time, under the existing circumstances of the United States.

He presumed that a state of things might exist between two nations in which reprisal would not only become the right but the duty to the nation sustaining the wrong. This happens where one nation, without cause, forcibly seizes upon the effects of another, or of its citizens, and withholds them without restitution or compensation, and when the nation, whose effects shall be so seized and detained, shall possess no other means of indemnification. The right of reprisal in the injured nation, in such a case, grows out of its injury sustained, and its inability to redress itself in any other way.

The duty of the injured nation to make reprisals, is founded on self-preservation; and in case of the losses of its citizens, upon the promise of the protection of property sacredly made by the nation to its individual members.

This he believed to be the doctrine of the laws of morality and reason, and he knew it to be the doctrine of the laws of nations, which were, in fact, nothing more than the laws of morality and reason systematized and reduced to writing.

Believing this principle to be a just one, he would apply it to the existing state of things between the United States and Great Britain. Almost as soon as Great Britain had taken part in the iniquitous war against France, the Executive of the United States manifested their regard for peace, by proclaiming their existing state of neutrality, and recommending to their citizens, not only the observance of neutrality, but of impartial neutrality—although the partiality of the American people for the cause of France was well known—although, at that moment, their affections for the French nation were addressed by the most honorable and powerful considerations that ever existed between two nations. The peculiar similarity between the existing French cause and that which had just given birth to American liberty and independence; the material agency which the French nation had exerted in bringing about that event; and the existing principles of Government here, the product of the Revolution, which are the great object of attack by the combination against France.

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A pure and laudable regard for peace, and a detestation of war, however, had overcome all these sensations, and produced a neutrality, which he believed, on the part of the United States, had been rigidly observed; at least, he was sure, that such was the intention of Government. In this state of things, Great Britain commenced an attack upon this state of neutrality, which it was certainly her interest to preserve, and which she ought to have deemed a favor to obtain. Great Britain continued to keep possession of posts upon the acknowledged territory of the United States, to carry on a contraband trade with our savage enemy. She, shortly after our proclaimed neutrality, proceeded to interrupt our lawful trade with our allies. She seized, condemned, and sanctioned the complete transfer of the property of American citizens to her own subjects; and, as if there could be no limits to her iniquity and resentment, she has contrived to open upon our Eastern frontiers a barbarous enemy to aid in making depredations upon our commerce.

These acts constitute injuries which amount to war, and they are infinitely aggravated, both by the perfidy which attended the execution of some of them, and the total want of provocation for the commission of any of them.

If, then, Great Britain shall have committed acts towards the United States which furnish just cause of war, the United States possess the right, consistently with the laws of nations, to exercise any act towards Great Britain which would be justifiable in a state of war. The United States having received the injuries, are authorized to select such measures and means as they may deem the most expedient for self-preservation and indemnification. Reprisal is within their power. All other means of redress are without their power. In such a state of things, reprisal is a right—reprisal is a duty. An objection, more plausible than solid, has been made to this course of reasoning, that the individuals who will be the immediate objects of the reprisal, have not been the immediate agents of the aggression. The laws of nations state, that the property of individuals is as much a subject of reprisal as the property of the aggressing nation; but, as the nation is the immediate agent in the wrong, the individual who sustains an injury thereby, becomes entitled to recompense from his nation. The nation which commits the wrong, by this process, will ultimately sustain the loss. Hence, in the present case, the innocent and unsuspecting victims of the United States, have received losses from the lawless aggressions of Great Britain, and the question is, whether they shall finally sustain those losses, without any clear claim of indemnification upon the Government of the United States? or, whether the losses shall be transferred to British subjects, who will thereby possess the clearest claim for recompense from the British Government? He thought the laws of God, the laws of morality, the laws of reason, the laws of nations, would all pronounce that the British Government which had done the wrong, should afford the recompense.

Mr. G. said, that if the losses were to be ultimately borne by the individual subjects of Great Britain, the remedy would seem to be a harsh one; but, even in that case, the only alternatives left to the United States would be to say whether their own citizens, to whom they have promised protection, should finally sustain the losses, or the British subjects, to whom they have promised no protection. But the situation of the individuals who may be the subjects of reprisal, is greatly meliorated, by the consideration of their just claim to recompense from their own Government, which he had no doubt but they would ultimately obtain, if they were put into a situation to demand it; but if they should ultimately be denied justice, it would be a consolation to reflect, that it was the injustice of their own Government, not of the United States.

He observed, that a reprisal in the way proposed, stood upon the same ground as the invasion of

the property in every other case did, and was justified upon the same principle, to wit, self-preservation. He presumed, if there existed an acknowledged state of war, letters of marque and reprisal, commissions to privateers, &c., would be deemed justifiable and expedient, and that no discrimination would be made between the property of individuals and the property of the nation; yet the invasion of the rights of property in that case would be as palpable as in the case of the reprisal proposed, with this aggravation; that, in that case, the individual sustaining the loss would not be entitled to ultimate recompense from the Government—in the case proposed, he would be entitled to recompense. He observed, that the British nation had not discovered this delicate discrimination between national and individual property, in their late instructions given to their privateers and ships of war, although they had sustained no wrong; and he thought their conduct an example in point for the United States, who had received the injury and committed none.

A gentleman (Mr. SMITH, of South Carolina) yesterday attempted to make a distinction between vessels at sea and other property; although he acknowledged that, at the first blush, he could discern no distinction in principle.

Mr. G. said, that every species of property stood on the same principle—the promise made by the Government to afford protection to all property—the same rights are attached to every species of property, and the Government is bound to afford an equal security to all. A sentence read yesterday, by a gentleman, (Mr. S. SMITH), from a writer upon the laws of nations, clearly shows the right of a nation to make reprisal upon all the effects of individuals of an aggressing nation indiscriminately, except stock in the public funds; which has been exempted, under the idea of its being a pledge in the hands of Government; the withholding of which would be a breach of public faith. He believed that the practice and policy of some nations might have given rise to this distinction, but he doubted whether the practice had been uniform and universal, and he was clear that there was no rational distinction in principle. The idea that the public funds are a pledge in the hands of Government, and ought not, therefore, to be touched, is equally applicable to every other species of property. In the case of contracts between individuals, the Government guarantees the performance upon the refusal of one party to pay, or comply. In the case of lands or personal chattels, the Government guarantees the exclusive enjoyment to the proprietor; it would be equally a violation of faith for the Government to deny its obligation in the one case as in the other, and nothing could justify an invasion of the rights of property, in any case, but self-preservation—the first of all rights, and the highest of all duties.

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He positively denied that any pre-eminence was due to one species of property over another. He said, however, that this discussion was not immediately necessary, as the resolution under consideration did not embrace the stock in the funds of the United States.

Mr. G. observed, that it had been said, and repeated in the committee, that the proposed measure was war. He denied that the measure in itself was war, or that it furnished a just cause of war. He believed, however, that it was problematical whether it would eventuate in peace or war; indeed, he remarked, that the crisis of affairs is already such, that, whether the measure be adopted or not, he viewed war as a probable event, peace as a possible event; but the point he contended for was, that if the aggressions towards the United States be sufficient to justify reprisal, the exercise of the right does not furnish a just cause of war. The exercise of a right by one nation can never involve the absurd consequence of giving another nation the right to exercise a wrong. He said, that gentlemen on one side of this question seemed to act upon an imaginary, instead of the real, state of things. He was not, therefore, astonished at hearing the committee cautioned against the violation of neutrality. He did not conceive that the present state of things between the United States and Great Britain would justify the use of the term neutrality. Neutrality is a term used to signify the relation in which two nations stand towards each other. Neutrality, therefore, requires parties—either party may destroy the relation between the parties. It therefore appeared absurd to him to say that Great Britain was in a state of depredation and war towards the United States, and the United States in a state of neutrality towards Great Britain. It has been said, that the United States have not abandoned their neutrality; this is true, but it is no evidence that neutrality exists. Great Britain has abandoned it for them.

He said, however, that this was disregarding the substance and entering into a mere cavil about names. It was not material, in his opinion, what name ought to be given to the existing relation of things between the United States and Great Britain—whether it was called a state of peace, a state of war, a state of neutrality, a state of reprisal, a state of retortion, or a state of very uncivil conduct on the part of Great Britain. Nor did he conceive it material to ascertain whether there was any intermediate stage between a state of peace and a state of war, or in which state the depredations of Great Britain should technically be classed; but one thing was certain and material—that the United States had sustained substantial wrongs, which required a substantial remedy. Gentlemen who have regarded names and disregarded substances have also been extremely alarmed at the idea of a discrimination of conduct by the United States towards foreign nations. A gentleman (Mr. BOUDINOT) observed yesterday, that the United States had sustained injuries from France and Spain as well as Great Britain, and asked why there should be any discrimination in their favor? Mr. G. said he was extremely hurt that the conduct of France should be so unnecessarily and inopportunistically arraigned in that House. He submitted it to the gentleman to say, if the United States should be compelled to enter into the war, which was at this moment not an improbable event, why then it would be wise to irritate the only nation in the world who could afford them any substantial assistance! He said that this conduct was the less justifiable, from the recollection that the conduct of France was the result of necessity, and there

was every reason to conclude that the conduct of that nation would be explained in a satisfactory manner. But a consideration mentioned by a gentleman, (Mr. SMITH, of Maryland,) yesterday, was a conclusive answer—the United States owe to France a pecuniary obligation, as well as one of a more sacred nature. This is at all times sufficient for their indemnification. With respect to Spain, if the gentleman would show the injury sustained, and point out a fund for indemnification, Mr. G. declared he would not hesitate a moment to apply it to that object.

But will the gentleman conclude, that because one nation has injured us, in a degree against which we have no redress, that therefore we shall not indemnify ourselves from a nation which has injured us in the extreme, and against which we have the most ample redress?

He believed the gentleman's coolness, his wisdom, and his deliberation, could not possibly lead him to such a result. With respect to discrimination in the conduct of the United States towards foreign nations, it necessarily grew out of the character of the conduct of other nations towards the United States. Some gentlemen appeared to him to have carried their ideas upon this subject to the most fanciful absurdities. To keep France out of the comparison, let this indiscriminate conduct, so much applauded, be applied to Great Britain and Holland. Great Britain destroys our trade, plunders our property, and, to her injuries, adds insult and contempt. Holland, engaged in the same cause, fosters our trade, and respects us as a nation. Under these circumstances, do gentlemen contend that an indiscriminate conduct is due to Great Britain and to Holland? Or do they mean to carry this delicate indiscriminate conduct so far as to refuse to themselves all redress from one nation, because they would wish to deal out the same conduct to all others, whether they had offended or not? He said, that discrimination was stamped in the front of the conduct of foreign nations towards us, and to make an indiscriminate return would be the worst and most unjust of all discriminations. He hoped gentlemen would pardon him, but he could not help thinking that they had carried their ideas upon this subject to the most fanciful absurdities. A gentleman (Mr. SMITH, of South Carolina) yesterday remarked, that of late the condition of war had been much ameliorated as it regards the rights of property, and he thought the amelioration ought to be extended rather than abridged. Mr. G. declared, that he heartily joined him in his wishes that the condition of war would ere long be ameliorated, both as it regards property and persons. He hoped that mankind would soon learn more wisdom than to butcher each other for the amusement or security of the privileged orders of the world. From that source he believed all wars arose, and until the cause was banished from the earth, he feared the fatal effects resulting from it would continue to exist. He declared, that he should view the banishment of the privileged orders from the world as the surest harbinger of the approach of the millennium. But this is not the happy period of the world; for, although the United States are free from this pest of the human species in their internal organization, yet the evils they at this moment experience arise from their external intercourse with that part of the world which is less fortunate. The attack made on the United States at this moment, is an attack upon property. If there should be a war between the United States and Great Britain, it will be a war of property. Unless there should be a species of madness in the nation not to be calculated upon, they cannot think of invasion and subjugation. It is known that the United States cannot make an attack upon Great Britain, and territory and conquest with them are no objects. Hence the war will be confined to depredations upon property. This is the most dishonorable species of warfare, and therefore the more to be regretted. There is this obvious distinction, however, between the United States and Great Britain. With Great Britain, at least with the privileged orders, it is matter of choice; with the United States, it is matter of compulsion. The United States despise this mode of warfare; they covet not the property of any nation upon earth, but self-preservation demands it. They are under the strong hand of a powerful nation, despising their rights, and regardless of justice. In this state of things, there is but little hope of strengthening the sacred ties of property; for, in the example of Great Britain, her late conduct can furnish no consolation for these theoretic speculations; and however the United States might be inclined to practise upon them, yet the British depredations will forbid them—for submission will be an invitation to new acts of aggression. He most ardently wished the state of things were otherwise; but, exposed to these inconveniences, the most effectual means ought to be adopted for their resistance.

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Mr. G. proceeded to observe, that having shown the right of reprisal to be conformable to the laws of nations, and clearly justified by the existing relation of things between the United States and Great Britain, he would now submit a few remarks upon the policy of exercising the right at this time. Under the existing circumstances of the United States, he thought the policy of the measure was recommended by the clearest and most obvious principles. The relation of things between the United States and Great Britain is such as to demand a final and unequivocal explanation, whether the proposed measure be adopted or not. In all parts of this committee, in all parts of the United States, a definitive explanation is called for. The present state of things between the two nations cannot long exist.

It is to be hoped that, the tone of language to be used by the United States will be adjusted to the nature of the injuries they have sustained. Acquiescence and submission are no longer recommended. Hence, matters are already reduced to extremities, and all the irritations already exist which can grow out of an extreme state of things. The proposed measure can add nothing to these irritations. The question, therefore, appears to be reduced to this—whether, in demanding an explanation and attempting negotiation, we shall use all the means in our power to compel a favorable issue? or whether we shall tamely supplicate for justice, and suffer the most effectual means of compulsion to elude our grasp? He did not mean here to recapitulate the conduct of Great Britain towards us; he hoped it was sufficiently impressed upon the mind of every gentleman in the committee; but, after the recent experience of her conduct, it would be madness, it would be folly, to address our complaints to her justice or moderation. He thought it

would be wise to lay hold of every thing in our power, and hold it as a pledge for her good behavior. This measure would put us in the best possible situation for negotiation. It would authorize an appeal to her interest, which she could not resist. He begged the committee to reflect upon the argument which had been used here, to prevent a late measure which had been adopted, and which had been renewed upon the present resolution, that a great value in property, belonging to the citizens of the United States, was in the power of the British, and that any counteracting measures would place it in extreme hazard. This seemed to him to have been the most prevailing argument which had been urged, and for some time was irresistible. If, then, the argument shall have been applied with so much force here, with how much more force will it be applied in Great Britain, when they find that the property of the individuals of that nation is placed in jeopardy here, and that it greatly exceeds in value the whole of the property which they have infamously detained and condemned? Besides, if, in the event of a war, it should be a war of property, as is every where contemplated. Great Britain will find that the war will be commenced upon very unequal terms. Viewing this measure, therefore, as to its probable tendency to peace or war, he thought the probability greatly in favor of its producing peace. When Great Britain shall find that she is entering into a contest upon unequal terms, when she shall find that it may terminate in a permanent loss of the advantages of her commerce with the United States, when she shall see before her a precipice, into which if she should once enter she never can return, she would pause before she acted, she would take time to count the probable loss and gain, and peace would be the infallible consequence of such deliberate calculations. This measure will convince Great Britain that the United States possess a knowledge of their rights, a confidence in their ability, and a determination in their disposition to assert and support them.

A gentleman (Mr. SMITH, of South Carolina) observed yesterday, that a pacific system would probably attach the people of Great Britain to the United States, and detach them from their own Government. The gentleman ought to recollect, that a pusillanimous conduct will not. It is with nations as it is with individuals—to be respected by others, they should respect themselves. The same gentleman remarked, that a change of Ministry might be expected, and advised waiting for the event. The idea is as undignified as it is chimerical.

Mr. G. said, he knew nothing of the change of the Ministry—the principle was unknown here. The people here were their own governors. It was immaterial to them who the Minister was. Even in the country where the people were less fortunate, where Ministers govern, a change of Ministers never produced any solid advantage to the nation. It was merely an expedient of the moment, to smother a popular clamor. But, even proceeding upon the gentleman's hypothesis, which Mr. G. thought wholly inadmissible, he submitted to the gentleman to determine, whether a positive submission by foreigners to the avaricious regulations of a Minister, be the most likely mean to render him unpopular at home? On the other hand, whether it was not the most effectual mean of preserving his popularity, and of keeping him in office? He presumed the people at home would never complain of injuries abroad, if those who sustained them refused to complain. It is but by resistance, and throwing the burden upon the people of England, that they can be brought to complain. But, in cases of such extremities as the present, all appeals to the people of England are futile and degrading. Our only resource should be in our own exertions. They would be abundantly sufficient, if we could be brought to believe it.

Mr. G. remarked, that the people of Ireland had lately afforded an instructing lesson upon this point. They had arms in their hands for the purpose of asserting their rights; under the idea of acquiescence and submission they had surrendered them to the Government; perhaps, under the expectation of a change of Ministry. Did this act of submission render them more respectable in the eyes of the people of England? Did it encourage the hopes of those who wished the establishment of Government upon the principle of equal rights? Did it not rivet the chains upon the people of England? Did it render the people of Ireland more respectable in the eyes of the people of the United States? To these questions it was unnecessary to give an answer. The people of Ireland reaped the usual merits of submission—imposition and insult.

There was another consideration strongly in favor of the policy of the proposed measure. Applications have been already made from different parts of the United States by the immediate sufferers from the British depreciations, for an indemnification of their losses. These applications will, probably, be increased, repeated, and continued; the agricultural and other interests of the United States will, probably, never consent to equalize this burden. The claims of the sufferers upon the Government will gain additional weight, unless this fund should be offered to them for their indemnification. This is the obvious, the natural and the rightful fund for their indemnification; and he thought it was, at least, the duty of the Government to hold it as a pledge for their security. If this measure should not now be adopted, the refusal will lay a foundation for further parties in the United States, which may ultimately have a serious effect upon the Government.

An objection, of a very delicate and influential nature, has been made to the proposed measure, which required some consideration—that it would affect the character and credit of the Government. He had viewed this objection with the most deliberate attention, and felt the whole force of its imposing delicacy; but was at length perfectly satisfied that it was unfounded. This objection relates rather to the right than the policy of the United States to adopt the measure. If the United States possesses the right of reprisal upon an honest and sound interpretation of the laws of nations; if the conduct of Great Britain towards the United States be sufficient to justify the excess of the right, he believed the policy of exercising the right could never tarnish the American character, nor lessen the credit of American citizens hereafter. The world of nations, as well as individuals, will easily see, that it was a measure of compulsion, not of choice; that,

although the United States believed, they regretted the necessity; that they were not the authors of the original wrongs; that they had borne them with patience, had used their endeavors to prevent the commission of them; and that, when these wrongs were committed and repeated, the United States possessed no other means of redress.

Under these circumstances, in the exercise of a substantial right, he did not believe there could flow any consequential wrong.

The motive would be looked at, and it would furnish a complete exoneration from blame, whilst the original aggressors would become justly responsible for all the consequences.

Mr. G. said, he could not sit down without making some remarks upon the fruits of the conduct heretofore observed by the United States. The most pacific system has heretofore marked the character of the Government. All America looked upon the late proclamation of neutrality as a competent guarantee for peace. He had no doubt but that it was dictated by the purest regard for peace. But what have been the fruits of it? He did not mean to condemn the conduct of the Executive. Perhaps it was suggested by the then existing state of things. He only intended to show, that it had not met with the return it merited, and which was reasonably expected from it.

It has not produced peace. A regard for peace has been construed into a fear of war. A resistance of the feelings of the people for the cause of France has been a palatable food for British arrogance and presumption. Submission to aggression has invited new aggressions; appeals for justice have been deemed testimonies of debility, till at length the United States, after having been stripped of their citizens and property, are upon the eve of a war, because they have not exerted their rights at an earlier period. If this conduct should have been heretofore wise and pacific, experience has taught us that it is no longer so; nothing can be expected from the justice, the honor, or the moderation of a court which has proved itself equally a stranger to them all; but, before such a tribunal, acquiescence will beget injuries, injuries will beget insults, and insults will beget contempt, degradation, and war.

Mr. SWIFT remarked that, on the first view of the subject, he had been inclined to favor the proposition, not having attended minutely to the distinction made by the laws of nations respecting the property of an enemy liable to reprisal; but on a full investigation of the subject, and mature deliberation, he was convinced that the proposition under consideration would be a direct and manifest violation of the laws of nations; he was, therefore, clearly and decidedly opposed to its adoption. Gentlemen have said much respecting the insults and the injuries which we have received from the British nation; but Mr. S. conceived it to be unnecessary that gentlemen should describe their insults and injuries in the highest colors to inflame our passions, and to animate our resentment. He believed that every gentleman in the committee deeply felt the indignity which had been offered to their country, and was convinced that Great Britain had been guilty of a violation of the laws of nations; but, under such circumstances, it was our duty to conduct with coolness, candor, and moderation. He thought that the heat and passion which had been manifested in the course of the debate were inconsistent with that dignity and propriety which ought to mark the deliberations of the Legislature.

Mr. S. observed, that the conduct of the British Court in regard to their concealing in such a singular manner the Order of the 6th of November, and the equivocal terms in which it was expressed, was greatly to their dishonor. But he thought that the words *legal adjudication*, would fairly admit of a construction that no American vessel that should be taken pursuant to that order, could be liable to be condemned, unless warranted by the laws of nations. There was reason to apprehend that such was the intention of the British Cabinet; and that the Courts of Admiralty in the West Indies, in their condemnations, had exceeded their jurisdiction, and contradicted the design of the Court of London. Recent intelligence confirmed the idea. No information of these illegal transactions had yet been communicated to them. It was possible that when that court were made acquainted with the injuries we had sustained that they would award restitution or compensation. Mr. S. remarked that, by the laws of nations, no nation had a right to make reprisal for any injury till all other means of obtaining justice had failed; that it was our duty in the first place to represent to the Court of Great Britain the spoliations that had been made on our commerce by the illegal condemnation of our vessels; that, till we had done this, the laws of nations would not warrant us to make reprisals on the goods and effects of the British nation. That there was a possibility of obtaining a satisfactory explanation of their conduct and reparation for the injuries we had suffered. It was, therefore, a proper subject of negotiation. But, he said, if that nation will not do us justice, then we are authorized to make reprisals.

Mr. S. then observed that, when we had taken such steps as would authorize reprisal, we should be precluded by the laws of nations from adopting the proposition under consideration. He said that a gentleman from Maryland (Mr. MERCER) had yesterday asserted that *Burlamaqui* was the only authority among the writers on the laws of nations against the measure; and that the opinion of *Vattel* was in favor of it. Another gentleman from Maryland (Mr. SMITH) had read a passage from *Vattel*, which he considered as an authority in point, to justify the seizing of private debts; but not debts due from the public. But if these gentlemen had thoroughly examined *Vattel*, they would have found, instead of his being an authority in their favor, he had in the most direct terms maintained a contrary opinion. He then read a passage from *Vattel*, that showed that the effects of an enemy in a country at the time of a declaration of war cannot be seized, but that the owner is entitled to a reasonable time to remove them; and another passage, which expressly declared that, by the usage and custom of modern nations, public and private debts are not the subject of reprisal. Mr. S. conceived that these rules were founded in the highest wisdom; that all debts were contracted under a sanction of public faith, and an understanding that a war should not render them liable to seizure or confiscation; that a moral obligation existed between the

contracting parties for the payment of the debts; and that no government could ever have a right to violate a moral obligation. That, therefore, by the law of nations in all instances where property comes into the possession of a nation by a confidence reposed in their honor and faith, as in case of public or private debts, such property can never be the subject of reprisal, because this would be to authorize a breach of public faith; but reprisals are always to be made on property in possession of the nation who has done the injury, and which may be taken without any violation of those principles, which ought to be held sacred in time of war.

Mr. S. remarked, that it had been suggested that the British nation had been guilty of a violation of the laws of nations in their treatment of us; and that, therefore, we were not bound to govern ourselves by that law in our conduct towards them. This argument, however plausible, he said, would not bear the test of examination; that all reprisals were justified only on the principle that the nation on whom reprisal is made has been guilty of a previous violation of the laws of nations. When a nation disregards that general law by which the conduct of all independent communities towards each other is to be regulated, the same law points out the mode of redress. If there has been no violation of that law, there can be no reprisal. If there has been a violation, then the reprisal must be pursuant to the law, for it is the highest absurdity to say, that because there has been an infraction of a law which authorizes a certain mode of redress, that we may pursue a different mode of redress in violation of the law which gives us the right. This would be at once to renounce the whole system of the laws of nations, and throw mankind back into a state of savage barbarity and ferocity.

Mr. S. then adverted to the policy of the measure. He said, upon a fair calculation, it would be found that the adoption of the proposition would be productive of far greater injury to this country than the amount of the losses sustained by our citizens in consequence of the spoliations committed upon our commerce. It is evident that this country, even admitting that a war should take place, would wish to renew their commercial connection with Great Britain. But if, in contempt of the law of nations, we seize on private debts, we shall for ever forfeit all credit; no trust can be reposed in our citizens, and no faith in our Government. No foreign merchants will ever deal on credit with our citizens, from a well-guarded apprehension that, in case of a war between the countries, the sacred nature of private contracts will not protect them against the hand of a Government which has exhibited the example of a deliberate violation of the laws of nations. When we consider the immense advantages that can be derived from private credit and national honor, it will be easy to imagine the infinite mischief that must result from a disregard of those principles.

Mr. S. objected to the measure on the ground that he considered it to be a declaration of war; and he did not think that the circumstances required or justified our taking that step. He said that notwithstanding the unwarrantable proceedings of the British nation; yet, no act had been done by the British Court that clearly indicated an intention to make war directly upon us, or that could be considered as direct and intentional war, though we might consider many of their acts as just causes of making war on our part.

The revocation of the Order of the 6th of November, the new instructions of the 8th of January, and the explanation given to the merchants of London, clearly evidenced that a war might be avoided with that nation. While there was the remotest possibility of preserving our peace we ought not to do an act which might endanger a war. While then the conduct of the British Cabinet would admit of an explanation, while there was a prospect that we might obtain by negotiation restitution of the property of our citizens or compensation for the losses they had sustained, we ought to pursue that mode; but if we proceeded to make reprisals by adopting an illegal measure, it must certainly be deemed a declaration of war.

The omission of the regular means of obtaining satisfaction by negotiation, and an unwarrantable mode of reprisal, would certainly be just causes of war. If we must be driven into a war, it would be of the highest advantage to us to conduct it in such a manner as to convince the people of Great Britain that we sincerely wished to avoid it, and that the unjust and illegal proceedings of their own court have been the sole cause of the war. In such a case we have reason to think, that so great is the interest of that nation in preserving our commercial connection, that a powerful party will be formed in our favor to oppose the injustice of the Government. The sentiments of the people will be against the war, and the court will find it extremely difficult to maintain it under such circumstances.

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But if, without demanding an explanation, we proceed to adopt rash, violent, and unwarrantable measures, the spirit of the nation will rise against us, and the people will join the court in prosecuting a war which will be then deemed just and necessary.

Mr. S. then observed that we ought to take into consideration the present situation of Europe; that the late successes of the French nation had materially changed the political prospect. It was possible that these successes had been the cause which had produced an alteration in the views of the British Court. If events had happened which had rendered the disposition of that nation less unfriendly and hostile, we ought to take advantage of that circumstance, and not do any thing to check the progress of that favorable disposition. He most sincerely hoped that these successes would convince the combined powers of the impossibility to conquer France, and produce a general pacification.

While such were the prospects, he ardently wished that a measure repugnant to the principles of common honesty and common justice might be rejected; and he hoped that no gentleman in the committee would vote in favor of a proposition which would fix an indelible stigma on our national character.

The committee now rose, and had leave to sit again.

THURSDAY, April 10.

Non-Intercourse with Great Britain.

The House again resolved itself into a Committee of the whole House, on the motion of the 7th instant, to prohibit all commercial intercourse between the citizens of the United States and the subjects of the King of Great Britain, so far as the same respects articles of the growth or manufacture of Great Britain or Ireland.

Mr. SEDGWICK said he was sorry to rise, unprepared as he was, as he had yesterday occupied as great a portion of the time of the committee as perhaps he was entitled to. He had hoped some other gentleman would have risen, who, having better arranged his ideas than himself, had a preferable claim to the attention of the committee. Unprepared as he was, he could not permit a question so important as that under consideration to pass, without entering against it his solemn protest: a question involving the dearest interests of our country, and threatening to exchange the unexampled prosperity it had for some years enjoyed, for all the horrors of war. He said he the more regretted the part he was obliged to take on this occasion, because he feared he should, in his vote, divide from many gentlemen whom he much respected; but as his opinion had been formed on mature deliberation, neither his honor, his conscience, nor the duty he owed to his country, would permit him to be silent. If the evils he foresaw should result from the measure under consideration, he wished it might be known that no part of them could with justice be imputed to him as their author. If, therefore, he should be so unfortunate as to stand single and alone, he would not fail to oppose, as far as he could, the measure before the committee.

That injuries unprovoked and inexcusable had been inflicted by Great Britain on this country, was acknowledged by all. No man felt stronger indignation than himself at the insults which had been offered to our country, and the wrongs which had been done to our citizens; no man was less disposed tamely to bear the haughty and unprovoked aggressions of any foreign nation; no man would go further to procure redress for our wounded honor, and indemnification for our injured citizens. If, after seeking reparation in the way dictated by prudence and humanity, happily prescribed by the modern usages of civilized nations and commanded by the principle of religion; if fair negotiation should be tried, and justice not obtained, he would then seek redress by the means which God and nature had given us. He remembered well the miseries and vices of war, a war in which he had taken a part. It was a war of honor and interest: he well remembered its circumstances and effects. He had lived to see the wastes of that war repaired; to see a state of order and security; to see his country progressing in all the means of happiness. No man who loved his country, and rejoiced in its prosperity, would consent, but from inevitable necessity, to see it again plunged in the horrors of war.

Although all combined in opinion that our injuries were great, that they must be redressed, yet no one had suggested that war should precede negotiation. Respecting this, there was happily but one opinion. On every side of the House, it was acknowledged a duty indispensable in our present situation, to state our complaints of injuries to the authors of them, and to demand redress. We were only divided as to the manner of our application, and the circumstances under which our demand should be made. He had already, on another occasion, taken the liberty to declare his opinion of the line of conduct which was dictated by our present situation; that we should manifest that we are averse to war; but, should it become inevitable, we should encounter it with that undaunted spirit which became freemen, insulted in their honor and injured in their rights. He had the most perfect confidence in the bravery of our citizens. At the same time that he knew they would never surrender their rights, he was sensible that they would avoid, if possible, an unnecessary and wanton effusion of blood.

Gentlemen had disclaimed any intention to adopt any measures tending to war; they had said this measure had no tendency to such an event. This assertion he could not believe, because this measure contained a threat of inconvenience; and every threat of inconvenience was a cause of irritation, and every irritation between nations who had already differences to decide, undoubtedly tended to widen the breach, and of course to produce war. If gentlemen were sincere in their declarations, that all differences between America and Great Britain should be terminated by peaceable negotiation, (and he would not call their sincerity in question;) if Great Britain was proud, haughty, and insolent, as she had been repeatedly denominated, was it probable, he asked, that she would be more inclined to do us justice, by enlisting her pride and insolence against us?

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Mr. S. said, that the late violences by which the property of our citizens had been plundered, were the immediate and avowed cause of the present measure; that as yet no representation of these injuries—no demand for compensation had been made; that such representation and demand should precede hostility was conceded by all. It only then remained to be considered, in what terms and manner such claim should be exhibited. In terms, he said, doubtless firm and decided; but if it was intended to produce the desired effect of peace, and to prevent hostility, the language should be decent and conciliatory. He called on gentlemen to show an instance, in modern times, where a nation complaining of injuries, but desirous of peace, had accompanied their demands of justice with threats of inconvenience? The opposite practice was universally established, and on the known principles of human nature. He appealed to the feelings of every honorable man in the committee, whether demands for justice and reparation for injuries were enforced by threats? whether repugnance to a compliance with such demands was not created by

such means? If every man felt the operation of this principle, how much more powerful would it be on the minds of the governors of a nation styled proud and insolent? He said he would charge no man with an intention to involve this country in all the horrors and desolating scenes of war. He could not, however, help declaring, that war or amicable negotiation evidently must decide the controversies between America and Great Britain, and that were his mind determined on the former, he should recommend those measures which gentlemen had brought forward to the consideration of the House, as the most operative means of rendering the event certain, and of banishing every prospect of accommodation. To seize on British property, to confiscate or sequester British debts, to annihilate as far as in our power her commerce, to starve her manufacturers, and to humble her pride; these were infallible means of defeating negotiation, and of uniting, as one man, that nation against us, in all the views of her administration.

It had been said, that a principal benefit to be expected from the institution of Republican Government was, that cool and temperate reflection would direct the conduct of nations. How far our conduct on this occasion had verified such an expectation, he wished gentlemen to reflect. He had himself fondly hoped, in the Government of this country, to have seen these principles exemplified, and all intemperance of expression, and all the heat of passion, banished. It had been said, that a statesman should be all intellect: never, surely, was a time or a country, which more required than the present time, and by this country, the exercise of cool temper, to the exclusion of passion, to conduct with safety the political machine through surrounding dangers. He well remembered a former non-importation agreement; he remembered, too, its effects: they were such as might have been expected; they were such as to convince every cool and considerate man, that the measure itself was impolitic and unwise. It immediately raised the price of all articles of importation to an exorbitant and extravagant height. Hence it was immediately beneficial to importers and shopkeepers, and hence it may be easy to understand why this measure was said to be so popular in Philadelphia and other great towns. But as the Representatives of the whole people of America, the Legislature ought to reflect, that in proportion as this measure would operate beneficially to the dealers in imported commodities, it would become burdensome and oppressive to those who are best entitled to our regard—the substantial yeomanry of the country—on whom we must principally depend for support, in the arduous conflict which we had too much reason to apprehend. If we must eventually support our claims by arms, the more property we could import before the commencement of war, the more beneficial would it be. In that case, the most wise and prudent policy would be, that which would give the greatest extent to our credit; and, on the contrary, the most unwise and wretched, that which would tend to deprive our people of the ordinary means of supplies.

If this system should prevail, were we to receive British productions through other countries? This would be injuring ourselves, without affecting Great Britain. Was there any other country which could give us the same supplies we wanted? There certainly was none. Were we to depend on ourselves alone, the inconvenience would be great, if not intolerable. What, he further asked, would become of our produce, in the event contemplated? Without entering into a minute detail, he said, he would venture to pronounce that a great part of it would perish on our hands.

It was, he said, doubtful, how far at any time the proposed system might go to distress Great Britain; but, at this time, it would afford facility to her in recruiting her fleets and armies. Were manufacturers and laborers thrown out of employment, and thereby deprived of bread, they would be alike stimulated by want and despair to fight the battles of their country against those who had reduced them to necessity. In short, he saw nothing which should stimulate the Legislature to adopt this measure, but passion without, and resentment within, these walls. He saw nothing in the system itself, as it respected Great Britain, but vain and ineffectual irritation; nothing in relation to our own country, but defeat, wretchedness, and want.

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He said he had taken the liberty to suggest to the committee certain constitutional considerations. The answers which had been given had been by no means satisfactory. It was incumbent on gentlemen who had so frequently warned us of the danger of usurping power—who had so frequently, and in language so animated, charged us to avoid grasping power, by implication and construction; it was incumbent on those gentlemen, would they preserve consistency of character, clearly to demonstrate the authority which they assumed, that it might not be supposed that their construction of the constitution was a convenient accommodation to the existing circumstances. It was not now a question whether the people had made a wise or prudent distribution of the powers of their Government: they had declared their will, and that will we were bound by every consideration of honor and duty to execute. In the instrument under which we acted, they had declared that the PRESIDENT, under certain modifications, should be their organ, to treat exclusively with foreign powers. This authority, thus exclusively delegated, includes all the terms on which a treaty could be formed. What was the present measure? Prescribing the terms of treaty, and restraining the constitutional power from treating on any other terms. If the Legislature could prescribe those terms, in this instance, it may then prescribe all the terms, in every instance; and of course control, in all things, the exercise of that power.

To this reasoning two answers have been given; the one by a gentleman from Pennsylvania, (Mr. SMILIE,) that the Legislature might make such a law, because the Executive could repeal it. He really could not comprehend the force of the reasoning; he was glad, however he could, with perfect confidence, contradict the assertion, which he was sure would be a very disgusting one to the people of America. There was, in fact, in no instance, an authority given to the Executive to repeal a constitutional act of the Legislature. The other answer was that given by a gentleman from Virginia, (Mr. NICHOLAS,) that there could be no objection to the exercise of this power, if it should be assented to by the PRESIDENT and Senate. This was a still more extraordinary and

unsatisfactory answer than the other. It implied that the PRESIDENT and Senate could make grants of power to this House not contained in the constitution. To this he would answer, that all the powers which the House could legally exercise, were expressed in the instrument under which we acted; that those powers could be neither enlarged nor abridged, by any man or body of men on earth, but in the way pointed out by the instrument itself.

Mr. S. said these considerations he had expressed without any previous preparation, as they occurred to his mind. Should gentlemen who viewed the subject in the light he did remain silent, he would, in the further progress of this measure, he pledged himself, with more orderly arrangement, and he hoped with more perspicuity and force, address himself to the consideration of this committee, or of the House. It would avail little to tell him that his opposition would be unpopular; no man more than himself wished the good opinion of his countrymen, but no personal inconvenience, no loss of fame or popular affection, should ever induce him to see his country threatened with evils incalculable in number and duration, without warning her of her danger; a country which he loved, and which he might, on this occasion, be permitted to say, he had long served with honest fidelity, and without a single instance of sinister or mere personal regard.

The committee now rose, and had leave to sit again.

FRIDAY, April 11.

Non-Intercourse with Great Britain.

The House again resolved itself into a Committee of the whole House on the motion of the 7th instant, to prohibit all commercial intercourse between the citizens of the United States and the subjects of the King of Great Britain, so far as the same respects articles of the growth or manufacture of Great Britain or Ireland.

Mr. BOUDINOT first rose this day, and said: Mr. Chairman, in a question of so much national importance, there needed no apology from any member of the committee for claiming their attention, while he gave the reasons for his vote. The impatience shown by his colleague, (Mr. CLARK,) or any other gentleman, for the question, ought not to influence any member of the committee. When the fate of a nation of as much consequence as the United States, appeared to be suspended on a vote, the least to be expected from gentlemen was, to act with freedom, deliberation and independence. He supposed he should be among those who, at the taking of the question, would probably be found in the minority. That this would be his vote, if he was convinced that he should be single and alone. He felt himself deeply and seriously affected with a view of the precipice on which, in his apprehension, his country seemed to stand, and he wished, for his own part, to take a full and deliberate view of it, before he joined in precipitating a leap, that might not add to her safety or happiness. Reasoning and not declamation should be expected from gentlemen in favor of the measure under consideration.

He said, he would address himself to the judgments, and not to the passions of the committee. He acknowledged it might fall to his lot to mistake the true and essential interests of his country; but, if this should be the case, he had the satisfaction of knowing that it would arise from the most honest and upright intentions. It was, therefore, on these principles, that he should proceed in giving his opinion on the important resolution on the table.

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But, before he went further, he could not forget the respectful compliment paid yesterday by his honorable friend from Maryland (Mr. SMITH) to his moderation and gray hairs; indeed, he should not have taken it to himself, as he had the honor of having white, instead of gray hairs, had not Mr. S.'s attention been immediately fixed on him. If either age or moderation would command his worthy friend's close consideration of this subject, he besought him, as well as the other gentlemen of the committee, to join in attending to it calmly and seriously for a few moments, before the die was cast. He said, he owed much, on behalf of his country, to that gentleman for his services in the field during the late war, when both his zeal and his passions were rendered so eminently useful, that he could with pleasure apologize at all times for his warmth and animation on any subject when their common country was not to be affected. But would he permit him, earnestly, to request that, with other members, he would call to mind, that they were now the Representatives of four millions of people? That perhaps the lives of thousands of their fellow-citizens were depending on a single vote. That the welfare of a country dearer to them than life was at stake. Gentlemen must, therefore, agree, that the question was a serious one, and deserved to be treated with the most serious and deliberate consideration. Judgment, and not resentment, should direct the final determination, let it be what it may, and give a sanction to all their measures.

He observed, that gentlemen against the question had been accused of want of propriety, in looking calmly, and without the exercise of their passions, on the sufferings of the unhappy prisoners at Algiers, and the piratical spoliations of our fellow-citizens in the West Indies. Yes, sir, said he, when he knew that it was neither passion nor declamation that could afford effective relief to these suffering members of the political body, he should continue to persist in that steady, serious, and deliberate line of conduct, that, in his estimation, was only calculated to produce that permanent and efficient aid and relief, which their extreme distress so loudly called for; but, in his turn, he asked gentlemen to give up their warmth on this occasion, that they might also reflect, even without passion, on the number of their fellow-citizens that must fall a sacrifice in the most successful war. Will not gentlemen weigh well that vote, that may possibly increase the number of mourning widows and helpless orphans?

These considerations had led him to consider the measure now proposed, as of great moment and importance, and to wish it might be reasoned on and considered in a manner becoming Legislators and Representatives of United America, who have been sent here as her counsellors and trustees, and to whom she has committed her best and most sacred interests. He said, for argument's sake, and to simplify the debate, lest he should be drawn into unnecessary disputation, he should concede for the present: the constitutionality of the resolution proposed; the right of the committee to originate and determine on the measure; the unprovoked aggressions of Great Britain to warrant and justify the prohibition.

These arguments had been repeated and urged with great apparent force, by gentlemen in favor of the affirmative side of the question; but, were the principles arising from these facts sufficient to justify a determination in favor of so harsh and unprecedented a proceeding, without previously demanding an explanation and full indemnification, agreeably to the customs and usages of other nations?

Would arguments of this kind satisfy our constituents, if they should find themselves suddenly plunged into an expensive and ruinous war? Would it not very naturally be asked, why were not the true interests of the United States under these existing circumstances carefully inquired into, and made the principal and leading object of attentive consideration? In his opinion, this should peculiarly be the sum of their present inquiry—was it not the duty of the committee critically to examine into the preparation they were in for a step, that, in the imagination of some gentlemen of character and reputation, at the last, might precipitate our country into an immediate war? Were our ports and harbors in any tolerable state of defence? Were our magazines and arsenals properly supplied? Were our citizens in a state of organization as militia? In short, did not the measure threaten a sudden transition from a state of profound peace and happiness, unequalled by any nation, into a state of war and bloodshed, without taking those previous and prudent measures that might probably lead to an avoidance of this national evil, or at all events enable us to meet it with decision and effect?

Gentlemen had referred the committee to the conduct of America in 1776, and the success of the late war has been urged for our encouragement. The non-importation agreement has been recurred to as a precedent in point. He said, he was well acquainted with most of the events of the late Revolution. The first motions towards it, found him engaged in the common cause, and his best endeavors to complete and secure it had never since been wanting. He well remembered the consequences of the non-importation agreement, and the sufferings of our brave fellow-citizens from that imprudent measure. He had tracked them over the frozen ground by their blood, from the want of shoes, and was sensible that many had perished by the inclemency of the season, for want of tents and clothing: that agreement was universally reprobated, as a measure imprudently entered into on the principle of expecting to be involved in a war, which had it been then contemplated, nothing could have justified. Mr. B. appealed to the knowledge of many men who heard him, that this agreement had often been urged to Great Britain, as a conclusive evidence, that at the time of its adoption, America had not the least intention of independence, or a separation from the mother country; otherwise, she could never have been guilty of so impolitic a resolution. He asked, then, if the committee would now repeat the mistake with their eyes open, and expose our country to the same misfortunes, and our fellow-citizens to a repetition of sufferings, by a measure that promised not one important advantage to the Union that he had heard of? In the late war, America had all the ports and harbors of the other European nations open to her, but now circumstances would be altered; in case of a war the very reverse would be our position, excepting as to those of France.

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Mr. B. confessed, that his arguments were founded on his conviction that the resolution was a measure that would necessarily produce war, immediate, inevitable war.

His reasons were drawn from the present state of Great Britain, being in alliance with the principal powers of Europe, and under treaties to make all wars, arising from the united opposition to France, a common cause.

The necessity she would have of employing her supernumerary hands, if not in manufactures, in her armies and navies, to prevent trouble at home, added to her old grudge against us on account of principles that promise much trouble to all the monarchs of Europe: her late conduct with regard to our trade, founded on the instructions of the 8th of June, and 6th November last: her withholding the posts, contrary to every principle of justice and good faith, and against the most positive assurances: and lastly, from the anxiety to regain the territory between the Lakes and the Mississippi;—he agreed that neither of these singly, nor even the whole together, could justify her in her own opinion, in making an open attack upon us, but might tempt her to construe the measure before the committee into an act of hostility on our part, as contrary to our professed neutrality. He said, it was a point conceded in the laws of nations, that granting to one of the belligerent powers advantages in your ports which were refused to another, was a breach of neutrality.

The object with Great Britain would be, to convince her allies, that the aggression arose on account of the war with France, to prevail on them to make it a common cause; and in this they would not want plausible evidence. It was not sufficient, he alleged, that we knew ourselves innocent of the charge. We should be prudently careful not unnecessarily to give reason to justify the construction. If the previous steps of negotiation, used by all civilized nations, were neglected, they would have the advantage of the argument, and we should injure ourselves. He asked if any gentleman would say that a prohibition of commerce at the eve of a war, or even the apprehension of it, was wisely calculated to clothe an army, replenish our magazines, supply our arsenals, or provide a revenue by which to support a war?

He wished every member had taken the trouble he had done, of looking into their stores, inquiring what was on hand, calculating what would be absolutely necessary, and reflecting seriously and dispassionately on the sources of supply. If they had, he doubted not but that they would find something more than passion and resentment necessary, to meet the probable consequences of so premature a determination.

It was no uncommon thing for gentlemen to differ on important measures; and he would not even insinuate, that he might not be found wrong in these ideas, and wholly mistaken in his conjectures on this occasion, but he begged members to consider the different ground on which the two sides of the House stood. If the minority, of whom he expected to be one, should in the end be found to have been alarmed with consequences altogether unfounded, and that the issue proved successful to the peace of our common country, they would have the happiness of rejoicing with the majority in their superior wisdom and foresight; and though even they should suffer in character, yet their country would be saved. But if the minority should in the end be right, and our country should be deluged in a destructive war, and her best interests be endangered by the discovery of the mistake too late for redress, gentlemen in favor of the resolution, would seriously regret that they had not at least used more caution.

He said, as at present advised, he should give his vote against the resolution. It would be from a thorough conviction, on the most careful examination, that the resolution was against the interest and welfare of the United States, all circumstances considered. And this he should do, wholly regardless of the malevolent insinuations, that Britain had an influence in that House. He felt a conscious dignity of mind, a virtuous pride of heart, in believing that it was not all the wealth of that opulent nation could purchase his influence to a single measure injurious to his country; and under that conviction, he could not believe there was a member of the committee in a different predicament.

He again repeated, that he should most sincerely rejoice, if this measure should be adopted, to find, in the end, that his mind had viewed it, as productive of consequences that were wholly unfounded; and, although under his present view of the subject, considering it as inimical to his country, he was bound in conscience to vote against it, yet the councils of America were directed by superior wisdom, and that this country had reaped the rich harvest of peace and happiness. But it might now be asked, if it was meant passively to submit to the injuries acknowledged on all hands to have been sustained by the imperious and overbearing conduct of Great Britain? He answered no, by no means.

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He would follow the examples and pursue the measures of other nations in like circumstances—examples and measures founded in policy and sound understanding. He would, by a special envoy, make known to that court our sense of her unwarrantable aggressions; he would demand immediate indemnification for the present, and security against future sufferings of the like nature—insist on a categorical answer, after applying to her justice and best interests; and if at last a war must be the only means of obtaining justice, he would then (being previously prepared) meet it as became a free and independent nation, trusting to the righteousness of her cause.

By this means, the other nations of Europe would be made acquainted with our complaints—become witnesses to our love of peace, and bear testimony to the justice of our appeal to arms. He said, he had fully considered the question—he had viewed it in every point of light—he had endeavored to consider the consequences which most probably would arise from it, and he could not convince his mind, that the measure would be productive of any good to the United States, while it offered many reasons to conclude, that it might be fraught with the greatest evil. In case of the most successful war, America had nothing to gain, while her loss of blood and treasure was sure and certain. He had once flattered himself that this was the only country on the globe, whose interest it was to be at peace with all the world, and at the same time the interest of all the world to be at peace with us. But he feared we had been so much actuated by a resentment of injuries received, as to lose sight of our true interests under existing circumstances, and, therefore, should be hurried into measures we might hereafter have reason seriously to lament.

The committee now rose.

MONDAY, April 21.

Non-Intercourse with Great Britain.

The House resumed the consideration of the resolution reported by the Committee of the whole House on the fifteenth instant, to prohibit all commercial intercourse between the citizens of the United States and the subjects of the King of Great Britain, or the citizens or subjects of any other nation, so far as the same respects articles of the growth or manufacture of Great Britain or Ireland; and the amendment and modification thereof, which was proposed on Friday last, being further considered and debated, the said resolution was amended to read as follows:

"Whereas, the injuries which have been suffered, and may be suffered, by the United States, from violations committed by Great Britain on their neutral rights and commercial interests, as well as from her failure to execute the seventh^[50] article of the Treaty of Peace, render it expedient for the interest of the United States, that the commercial intercourse between the two countries should not continue to be carried on in the extent at present allowed:

"*Resolved*, That, from and after the first day of November next, all commercial intercourse between the citizens of the United States and the subjects of the King

of Great Britain, or the citizens or subjects of any other nation, so far as the same respects articles of the growth or manufacture of Great Britain or Ireland shall be prohibited:"

And then the main question being put, that this House doth agree to the said resolution, as amended, it was resolved in the affirmative—yeas 58, nays 38, as follows:

YEAS.—James Armstrong, Theodorus Bailey, Abraham Baldwin, John Beatty, Thomas Blount, Thomas P. Carnes, Gabriel Christie, Thomas Claiborne, Abraham Clark, Isaac Coles, William J. Dawson, Henry Dearborn, George Dent, William Findlay, Thomas Fitzsimons, William B. Giles, James Gillespie, Nicholas Gilman, Christopher Greenup, Andrew Gregg, Samuel Griffin, William Barry Grove, George Hancock, Carter B. Harrison, Thomas Hartley, John Heath, John Hunter, William Irvine, Matthew Locke, William Lyman, Nathaniel Macon, James Madison, Joseph McDowell, Alexander Mebane, William Montgomery, Andrew Moore, William Vans Murray, Joseph Neville, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, Andrew Pickens, Francis Preston, Robert Rutherford, Thomas Scott, John S. Sherburne, John Smilie, Israel Smith, Samuel Smith, Thomas Sprigg, Thomas Tredwell, Abraham Venable, Francis Walker, Benjamin Williams, Richard Winn, and Joseph Winston.

NAYS.—Fisher Ames, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Lambert Cadwalader, David Cobb, Peleg Coffin, Joshua Coit, Samuel Dexter, Uriah Forrest, Dwight Foster, Ezekiel Gilbert, Henry Glenn, Benjamin Goodhue, James Gordon, Daniel Heister, James Hillhouse, William Hindman, John Wilkes Kittera, Henry Latimer, Amasa Learned, Richard Bland Lee, Francis Malbone, Theodore Sedgwick, Jeremiah Smith, William Smith, Zephaniah Swift, Silas Talbot, George Thatcher, Uriah Tracy, Jonathan Trumbull, John E. Van Allen, Peter Van Gaasbeck, Peleg Wadsworth, Jeremiah Wadsworth, Artemas Ward, John Watts, and Paine Wingate.

MONDAY, April 28.

ALEXANDER GILLON, from South Carolina, appeared, produced his credentials, and took his seat.

MONDAY, May 12.

The Embargo.

On a motion made and seconded, that the House do come to the following resolution:

"Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the present Embargo be continued, and every regulation therein shall be in full force until the twentieth day of June next:"

Mr. PARKER observed, that, although he was much in favor of the Embargo when it was first enacted, yet, at the present time, he thought it would be improper to continue it. [Pg 499]

At that time, a system was formed by a majority of the House, for carrying into effect measures that might counteract the nefarious practices of the British Government on our commerce; that the first object which presented itself to him was to lay an embargo, in order that the large fleets and armies of the British in the West Indies, who were there on a design to conquer the islands of our friends, and had committed robberies on neutral property, that would disgrace a banditti of pirates; and, in order that they should be deprived of the supplies which they might require, as well as to prevent the further capture of our vessels, and treating the American flag and citizens with insult and cruelty, I thought that would be the stepping-stone to other measures which were concerted to oppose the insults of our enemies, and doing justice to our citizens, whose property had been robbed and persons abused by British armed vessels; that this was to be followed by a bill which had passed the House of Representatives by a great majority for breaking off all commerce with Great Britain after November next, and this was to be followed by an arrestation of British property, to reimburse our citizens for the losses we had sustained; that, as the second measure was rejected by the voice of the VICE PRESIDENT in Senate, which had broken the chain; and, as the PRESIDENT had appointed a pacific Envoy Extraordinary to the British Court, and as the fleets and armies of the British in the West Indies, under Sir John Jervis and Sir Charles Grey, had captured most of the French islands, he thought it would be improper to continue the Embargo, the more so as the PRESIDENT, by slipping in and arresting the progress of the Representatives, no doubt, with a certain hope of the continuance of peace, and being responsible therefor, he deemed it best not to interfere, and to give up every further prospect of hostility, until the event of the mission to Britain shall be known.

Another reason that operated very forcibly with him, was, that our French friends were much in want of provisions; and, as there was no prospect of discriminations in their favor, which he had wished for, he should give it as his opinion, that it would be improper to continue the Embargo after the 25th instant.

From the commencement of the administration of this Government, certain gentlemen, and particularly those of the Eastern States, had been charged with regulating their political conduct by local considerations. They had disregarded the interest of every part of the United States, but the particular districts of country from which they came. The charge was now reversed: those

districts have suffered infinitely beyond their neighbors, by the effects of those measures of which we complain; and, notwithstanding all this, the Representatives of those districts have all at once so totally changed, have become so tame, so torpid, as to be regardless of the interests and sufferings of their immediate constituents. Nor (said he) is this all; our kind Southern brethren have, from pure disinterested benevolence and with a most acute sensibility, determined to procure for our constituents that redress to which we are indifferent.

It had been said, that the gentlemen who were in favor of indemnification had opposed every measure of energy. They had, indeed, opposed certain measures to which they would give a very different appellation. They had not only favored, but had been the authors of every measure of respectable efficiency, as well in respect to force, as the means of defraying the expenses which our situation had rendered it necessary should be incurred. He need not say who had opposed those measures.

Mr. FITZSIMONS hoped that the House would not agree to the resolution. He stated the numerous inconveniences which had arisen from the measure already. The system of British conduct was now altered. There were at present many ships detained in the harbors of the United States, that were cleared out before the Embargo was laid. Their detention, as far as he could learn, was contrary to the common practice of nations, in cases of that nature.

Mr. W. SMITH said, that the reason why the Embargo had been laid on was, the piracies of Britain. The second orders of the 8th of January last had produced no alteration for the better in the conduct of her privateers. We had yet heard nothing from the agents despatched to the West Indies; and we ought not to revoke the Embargo till some change of system, on the part of Britain, should warrant the measure; we knew nothing about the actual state of matters in the West Indies. The newspapers were filled with stories of releasing American vessels in one island, and of capturing them in another. One captain had come to this port, and told a story to the editor of a newspaper. He then went to another publisher of a paper, and told a story *quite opposite!* The House could make nothing of such a farrago—such a jumble of contradictory reports. The public sentiment was against taking off the Embargo.

Mr. WADSWORTH was against the motion. It had been said that American ships did not arrive from the West Indies. They did arrive in great numbers, and as quickly as could be expected. From this he inferred that the ravages of British privateers had, in a great measure, ceased. Insurance at present is not higher than ten per cent. A million of bushels of salt will be wanted this season in the American States; and they will be a million of dollars dearer, if the Embargo is kept on, than if it is taken off. Mr. W. said, that he had got home all his importations for this year. He had nothing, therefore, to apprehend on his own account, from the continuance of the Embargo. It was his firm opinion, and he could declare it upon his honor to be so, that, if the Embargo continued, the value of his own imports would rise one hundred per cent. He believed that salt would rise to three dollars a bushel.

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Mr. NICHOLAS had approved of the Embargo when imposed; and he now hoped that it would be repealed by as great a majority as that which voted for laying it on.

Mr. GILES recommended a discontinuance of the Embargo. The gentleman from South Carolina had urged the public sentiment as a reason for keeping it on. He was glad to hear that the public sentiment was an argument in that House for the adoption of measures; and he was particularly highly pleased that this respect for the public sentiment had now come from the quarter from which it was at present announced. He hinted that the gentleman (Mr. W. SMITH) had not always paid an equal deference to public sentiment. He was for the Embargo being taken off, because he understood that France would suffer considerably by its continuance; because it would materially affect the American farmers; and because, as the danger was now more fully known, merchants would beware of the danger, and provide more or less for their individual security. Farmers in the United States had entered into contracts of various kinds. For the discharge of these, they depended on the sale of their crops. He was originally for the measure, which had answered many good purposes, by preventing American vessels from falling into the hands of British privateers. He was likewise for it, as connected with a system of other measures. [Mr. G. alluded to the sequestration of British property, &c.] These measures had been laid aside; and therefore, he would now likewise be for laying this aside.

Mr. DAYTON said, that he had been in favor of laying the Embargo, both in the first month and in the second month of its continuance; but he should now be opposed to the proposition on the table, and against extending the Embargo beyond the 25th of this month, when the present one would expire. He would not be understood to found any part of his conduct upon a belief that there was a returning sense of justice in the Government of Great Britain, or that there had been any material change in the predatory system. He lamented that any of those who were on the same side should have entertained such a belief, and especially that they should have mentioned it as an argument against the motion. Where, he asked, was the proof that the instructions of the 8th of January had effected a change favorable to this country in the conduct of that nation? If there was such a change, as some gentlemen asserted, where were the two or three hundred American vessels that have been captured and carried into the British West India Islands? If we look for them in our ports they are not to be found. It is true, that now and then a solitary vessel enters into our harbors, escaped from British depredation; but you would hear the seamen who arrived felicitating one another almost as much as if they had escaped from the clutches of pirates. He said that those instructions might make them more complacent highwaymen, but still they would be highwaymen. They might practice a little more of the solemn mockery of judicial process; they might be a little more observant of forms; but they had since continued, and would probably continue to rob us. He mentioned those things to show that there were other

considerations which influenced him. These were, that an embargo would operate hereafter most unfavorably for ourselves, particularly our farmers, and for our allies, the French. Produce, he said, would certainly fall much lower, if we continued the Embargo longer than the 25th. Our farmers and planters depend upon the sale of that produce to pay their debts, or to purchase necessaries for their families; and the resolution on the table would operate doubly hard for them, not only in lowering the value of the product of their farms, but by increasing the price of every foreign article which they would need to purchase from the merchants. The injury which its further continuance would occasion to our allies, the French, had great weight with him in opposing it. It could not be denied, that France was much more dependent upon this country for supplies of provisions, in her present arduous struggle, than any other nation, or than all others; and he inferred from thence, that there could not be a disposition in that House to extend a prohibition which should add to the sufferings of those who are fighting in the cause of liberty against the most powerful combination that was ever formed to crush it.

Mr. DEXTER was likewise for taking off the Embargo. It was become pretty evident that the United States are not in immediate danger of hostilities. It was difficult to continue the Embargo till we could hear from Mr. Jay, which might require six months. Farmers suffer as much by the present restraint upon commerce as they would suffer by war.

Mr. CLARK was for letting the Embargo die of itself. He did not think it quite fair for gentlemen all to speak upon one side of a question. There was another embargo that Mr. C. wished to see taken off as soon as it could be done with propriety. We have been embargoed in this House, said he, for six months, and if we persist in this habit of making fine speeches upon every occasion, it will be a long time before this second Embargo can be taken off.

Mr. GILLON desired that the matter might have a full discussion. He and his colleague from Charleston supported the motion by order of their constituents.

Mr. HUNTER then laid on the table a letter subscribed by forty-eight of the merchants and other citizens of Charleston, who had suffered by the piracies of Britain, with a list of the ships thus taken, and an estimate of their value. The letter was read by the Clerk.

Mr. GILLON then proceeded to make a variety of remarks in support of the motion before the House. He apologized, if any part of what he had to say, should seem a digression, as the subject was of so great an extent. Mr. G. said, that he remembered, in that Assembly, in 1777, they had used to flatter themselves, that the Eastern States would build ships, and the Southern would supply them with cargoes; and they would mutually support the interest of each other. He regretted that this cordiality was not, on the present occasion, so ardent as could have been wished. As to Britain relaxing her outrages in the West Indies, the sole object of that nation is gain, no matter by what means it could be obtained. Mr. G., to show the infamy of Britain in its proper light, quoted some passages from the letter of a captain in the West Indies, who had received the most unprovoked and the most horrible treatment from these miscreants.

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Mr. G. hoped that the Embargo would continue for a longer period than to the 25th of June, the term specified in the resolution. He recommended that the House should adjourn but for a short time, and continue the restriction till they sat again. It had been said, that this step would injure our allies; that the price of imports would rise, while that of exports would fall. He would be one of the last men willing to distress our allies. He hoped that the Embargo might be restricted, so as to let the French import from this country whatever they wanted in American bottoms. This would promote our commerce, if gentlemen acquainted with that business considered the measure as practicable. Reverting to the remarks of Mr. WADSWORTH, Mr. G. observed, that salt is at present only three shillings and sixpence or four shillings a bushel in Charleston. The price has fallen there, and it has not even risen at Philadelphia. He did not see much danger of a rise in the price of foreign articles here; merchant ships came at present frequently to this country. They encourage one another, as sure of a high market; and as to the Embargo, they say that it cannot hold long. If the British depredations have ceased, it certainly is not owing to any change of principle in them. But our ships are kept safe at home in our harbors; their British system changes with the course of events in Europe. No nation is more insolent in prosperity; none more humiliated in adversity. Mr. G. concluded by expressing a hope that some way might be contributed for keeping on an embargo, without injury to the farmers. If this could not be done, it must be taken off.

Mr. MURRAY hoped that the resolution would not succeed. Indeed he thought, that a total refusal of its terms would consist of our true policy. He said, he was among those who supported the first unsuccessful vote for an embargo, and had in each following vote been for it. There were two reasons that had led him to think the Embargo a good measure, when it was laid, and continued: the risk the American trade and seamen were exposed to from that infamous course of depredation which followed the Order of the 6th of November, and the evidence that flowed from that order of an intention to involve this country in war. The depredation on our trade had been immense; and the Embargo was not only defensible as a good cautionary measure, to secure the seamen and vessels of this country from violence, but by shutting out our vessels from the opportunity of being longer exposed to British depredation, the occasions would be diminished that would bring up the irksome question, how far Government is bound to indemnify citizens for losses sustained under a violation of the laws of nations? The same act under which the depredations had been committed, manifested a spirit of hostility that betrayed the probability of war. He had believed when he voted for the Embargo, that there was something of system in the November 6th Order. He thought that order was the first movement of a system of hostile operations, which some intermediate events had set aside: of this, the Order of the 8th January, and the subsequent dismissal of the captured vessels, was evidenced. If the depredations have

ceased, and the vessels captured have been released, and if the probability of war be diminished, the leading motives that justified so strong a measure had ceased to operate. There can be no doubt that vessels that have been taken have been released: the daily arrivals in various parts of the Union prove this. Had the chance of war continued in full force, the continuance of the Embargo, as is designed by this resolution, though it stood on a prodigious sacrifice of present interest, would have been not only defensible, but perhaps essential. It would not only prove negatively a benefit in the preservation of our shipping and seamen, but would operate, in the most sensible manner, as a withdrawal of supplies from the power with whom hostilities might be expected. This great sacrifice to policy he could not now believe to be necessary longer than the term assigned by law—the 25th of this month.

The reason why he had voted for the continuance of the Embargo, though we had received intelligence of the revocation of the obnoxious and shameful Order of 6th November, was, because he had lost all confidence in the justice or wisdom of those who issued it; as he thought the first unjust by premeditation, he had suspected the last as insidious; however, this we know, that they have released our vessels. So very extensive was the influence of embargoes in this country, that nothing but dire necessity could justify them; a country with small capital and yet of immense export, and a great part of that export of a quality that could not endure the summer's heat. In such a moment as the present, where evidence of the opinions of the public was so contradictory, he would endeavor to do what appeared to be the broad and general interest. There was, he believed, a field open to speculation by the doubt entertained of this day's decision: a variety of opposite interests of course was thus created, and opinions and wishes might be expected out of doors from the different views of self-interest. Those who had to purchase grain, for instance, calculating on the almost certain termination of the Embargo some time this summer, and foreseeing great prices in foreign markets, might, if they were actuated by selfish principles, wish to see this resolution succeed. As the aspect of affairs had certainly considerably altered, and the reasons that led to the Embargo had so diminished as no longer to warrant either a dread of the capture of our vessels or the apprehension of war, (at least speedily,) he hoped the resolution would fail of success.

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Mr. BOUDINOT asked what assurance we have that Britain will not play the same game over again that she has done already? Does not that new order prohibit, as much as ever, American vessels from carrying provisions to the West India Islands? As to the Republic of France, he could make great allowances for their situation; but, after all, what apology could there be made for the starving of American sailors in French harbors! Is this proper! These men, as Mr. B. had been well informed, were at this moment actually starving, and in want of the common necessaries of life. If the Embargo is taken off, this must be done upon the principle that it ought never to have been laid on. We must expect, that if our ships go back again to the West Indies, they will be taken as formerly. He could wish to stand by the measure, since it had once been adopted, and let the West Indies see that we can starve them out; let them see that we can make them feel the effects of our measures. He did not wish to continue the Embargo one moment longer than public necessity requires; but to have made the merchants and farmers suffer as they have done for two months, and then to have the business end in nothing, was rather vexatious.

Mr. W. SMITH defended his resolution. It had been alleged, that emigrants wanting to get back to the West Indies, were prevented by this Embargo. Government had provided for that. The point, it is said, has been determined, that the West Indies depend on America for subsistence. He asserted, on the contrary, that this point was not determined; and this revocation will prove to the world, that we are as eager to sell, as they are to buy. He hoped that there was a spirit in this country to stand the consequences of the measures. He next replied to the ironical applause bestowed upon him in a former part of this debate, by Mr. GILES, for his recently assumed respect to the public sentiment. He said that it is often very difficult to say what public sentiment is. The member himself had often opposed the public sentiment: he had opposed the arming of frigates, and yet that was surely a popular measure. At the same time, he hoped that no member would vote for a measure that his judgment condemns, because it is said to be a popular one; as this would reduce him to a mere puppet—a machine. It had been said, that this Embargo should be taken off on account of France; but our vessels, if that obstacle is removed, will not go to France: they will go to the West Indies, where they can get thirty dollars a barrel for their flour, which they cannot get in France.

Mr. S. next adverted to the other Embargo, upon the members of the House, referred to by Mr. CLARK. He hoped that public business would not be treated with levity, and that they would rise, when they found it convenient; but if the gentleman was so very impatient to get home, he could be very well spared by the House.

Mr. CLARK rose, and said a few words in reply.

Mr. GILES approved of the idea of Mr. GILLON, as to the limiting the Embargo to the sailing of vessels for the West Indies: and a resolution to this effect was laid by the member on the table. Mr. G. thought this a proper discrimination, and, if it could be effected, the true ground that the House ought to take. As to what the farmers of America had suffered by the Embargo, Mr. G. believed that there was not a single planter in the district which he represented, who would not rather burn his wheat, and dance round the bonfire, than sell it to the West Indies to feed the British army. He would have brought forward a motion of this nature sooner, but he had not thought that it would succeed, nor did he think yet that it would. It would, however, show his sentiments, and he hoped the gentleman from South Carolina, (Mr. W. SMITH,) if he was anxious to support his reputation for consistency, would give his vote for the resolution.

And then the main question being taken, that the House do agree to the said resolution, it passed

in the negative—yeas 13, nays 73, as follows:

YEAS.—John Beatty, Elias Boudinot, Lambert Cadwalader, George Dent, Alexander Gillon, Benjamin Goodhue, John Hunter, Francis Malbone, Joseph Neville, John Page, William Smith, Artemas Ward, and Richard Winn.

NAYS.—Fisher Ames, Theodorus Bailey, Abraham Baldwin, Thomas Blount, Benjamin Bourne, Thomas P. Carnes, Gabriel Christie, Thomas Claiborne, Abraham Clark, David Cobb, Peleg Coffin, Joshua Coit, Isaac Coles, William J. Dawson, Jonathan Dayton, Henry Dearborn, Samuel Dexter, William Findlay, Thomas Fitzsimons, Dwight Foster, Ezekiel Gilbert, William B. Giles, James Gillespie, Nicholas Gilman, Henry Glenn, James Gordon, Christopher Greenup, Andrew Gregg, Samuel Griffin, William Barry Grove, George Hancock, Daniel Heister, James Hillhouse, William Hindman, Amasa Learned, Richard Bland Lee, Matthew Locke, William Lyman, Nathaniel Macon, James Madison, Joseph McDowell, Alexander Mebane, William Montgomery, Andrew Moore, Peter Muhlenberg, William Vans Murray, Anthony New, John Nicholas, Alexander D. Orr, Josiah Parker, Andrew Pickens, Francis Preston, Thomas Scott, Theodore Sedgwick, John S. Sherburne, John Smilie, Israel Smith, Zephaniah Swift, Silas Talbot, George Thatcher, Uriah Tracy, Thomas Tredwell, Jonathan Trumbull, John E. Van Allen, Philip Van Cortlandt, Peter Van Gaasbeck, Abraham Venable, Peleg Wadsworth, Jeremiah Wadsworth, Francis Walker, John Watts, Benjamin Williams, and Joseph Winston.

THURSDAY, May 15.

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Indemnity for Spoliations.

Mr. GOODHUE moved the following resolution:

"Whereas it is a primary object in the establishment of Civil Government, to protect the persons and property of its citizens from the violence of nations as well as individuals; and whereas many of the citizens of the United States have suffered great losses, by spoliation made on their commerce, under the authority of Great Britain, in violation of the law of nations and the rights of neutrality,

"Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States will guarantee an indemnification to all such citizens of the United States, whose property may have been captured and confiscated, under the authority of Great Britain, in violation of the law of nations, and the rights of neutrality."

Mr. GOODHUE moved that the resolution might be referred to a Committee of the whole House, which was seconded by Mr. DEXTER. It was then moved, by way of amendment to the motion, by Mr. DAYTON, to add these words, "to whom was referred the resolution, for the sequestration of British debts:" to which Mr. GOODHUE objected, because, he said, the subjects were distinct and separate in their nature and ought not to be combined. His resolution went only to establish the principle of indemnification, by guaranteeing it to the sufferers, leaving the fund from which it should be made (in case Great Britain should refuse to do us justice) to a future consideration. That whether British debts were sequestered or not, he said, the United States were bound to see that indemnity was made to the merchants whose property had been kidnapped in a secret, clandestine manner, while pursuing a lawful trade, under the authority of this Government and law of nations, or to give them an opportunity of indemnifying themselves by making reprisals. That it was well known there was great opposition to the sequestration of British debts, and it was very doubtful whether such a measure would ever be adopted; and if this resolution was to be referred to the same committee, and become connected with that, he should very much despair of ever getting any indemnification. That British debts were a very precarious and uncertain fund; and the idea of ever getting indemnification from that source, would operate as a delusion. That if sequestration, under any circumstances, could be proper, it was highly improper at this time, when an Envoy Extraordinary had just been despatched to Great Britain; and more so, as we had discontinued the Embargo, which would put all our remaining vessels in the power of that nation. He should, therefore, consider an agreement to the amendment as amounting to a determination not to consider the subject, at least for the present session.

In support of the amendment, it was argued, that the two subjects had an intimate connection with each other, and never ought to be separated; that British debts and British property were the natural and only funds for paying British depredations, and if indemnity was not given this way, it ought not to be given at all; that, as it was probable the resolution for sequestration would lie dormant for some time, it was best to refer this to the same committee, that they might sleep together. The amendment was supported by Messrs. LYMAN, NICHOLAS, SMILIE, DEARBORN, and MADISON.

Mr. DAYTON made a number of pointed remarks on what he considered as the total futility of such a resolution. He looked on it as nothing better than an awkward attempt to gain popularity. He complained bitterly of the injustice of bringing up this motion alone; because when he voted against it, it might be surmised that he was unfavorable to the redress of the injuries of a certain class of citizens. He was for redressing their wrongs, and he had marked out to the House the only effectual way in which these wrongs should ever be redressed, viz: the sequestration of

British property. He adverted to an expression made use of, some days ago, by Mr. SEDGWICK, who had called this a *mad* project. Mr. D. was of opinion that the *mad-cap* might with propriety be transferred to a different situation, which he specified to the House. He said, that we were frequently told of the justice due to the British subjects. Be it so. But was there no justice also due to the people of the United States? And what justice could there be in attempting to make the American citizens pay for depredations committed by British privateers, when we had in our hands British property? Were we not bound to take as much care of our own interest, as of that of other people? It had been said, that as a negotiation was to commence under an Ambassador Extraordinary, that this measure would impede its success. He was, on the contrary, convinced that this was the only step that could be likely to insure the success of Mr. Jay's mission. It would teach Britain to give up her infamous conduct. It would convert, in the literal sense of the word, every English manufacturing house, that had debts due to it in this country, into an American negotiator; and they would, for their own sakes, compel their Government to do justice to the American merchants.

Mr. D. scouted the idea of taxing America, to pay for the depredations committed in the West Indies. Supposing, what every gentleman in the House knew to be impossible, that if Congress actually were to pass such an act, the people would not submit to pay their money for any such purpose.

Mr. SEDGWICK said, it certainly had not been his wish that the question should be brought forward at the present time. As it was, however, before the House, as he approved the motives of his colleague, who made the motion, and as he perfectly concurred with him in opinion on the subject, he would make a few concise observations. He believed, that in a Government such as that of this country it was the peculiar duty of those to whom the administration has been committed, to extend security and protection to all the interests, and redress for all the injuries of the citizens. That inexcusable and unexampled injuries had been perpetrated, and an immense value in property unjustly spoiled, and that the honor of our country had been insulted, without provocation, were facts admitted by all. Those whose property had been the sport of wanton violation, which, in many instances, had reduced the sufferers from ease and affluence to want and misery, came forward and demanded redress and indemnification. That they were entitled to such indemnification, from the nature of our social compact, he understood to be agreed by every gentleman.

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[Here Mr. S. was interrupted by several members; and Mr. NICHOLAS and Mr. SMILIE declared that in their opinion, there was no obligation to indemnify the sufferers, except it were done out of a fund to be formed by the sequestration of British property.]

Mr. S. said he was obliged to the gentlemen for setting him right; till now he had believed that the right of the sufferers to indemnification was denied by none. If this, however, was really a question yet to be decided, it was due to the sufferers, it was due to our own honor, to decide it without delay. It was asked, by what means is the Government to administer redress? They were first to apply to the Governments which had inflicted the injuries, to state their nature and extent, and to demand, in unequivocal terms, redress. This business, notwithstanding all the opposition which had been made, was happily in a proper train. He hoped and believed that the application would be effectual. It might, however, fail; and in that case, he was free to declare that we owed it to our honor and to our injured citizens, to attempt redress by means of the last resort. In that unhappy event, the interests of the sufferers must be involved with the general interests of the nation, and must abide the ultimate result of war. But if satisfaction should not be obtained by negotiation, and should the Government, from any political considerations, not seek redress by force, in such events the sufferers would have a just claim on their country for indemnification. The question now immediately before the House was, to refer the motion for indemnification to the Committee of the Whole on the subject of sequestration. This was not fair, as it respected that part of the House who approved an engagement to indemnify, and who would never consent to sequestration. It was not fair as respected the sufferers, because he believed there was not a gentleman in the House who supposed that the measure of sequestration would prevail. He was astonished that any should believe that it ought to be adopted. He, himself, without hesitation, approved of engaging to indemnify the sufferers; but at the same time, with all his heart, he abhorred sequestration and confiscation of debts, as the measures which all civilized nations had for more than a century abandoned as immoral and unjust. He would not now enter into a discussion of the question of sequestration. Whenever it came directly under consideration, he pledged himself to undertake to prove that it was against the law of nations, that it was immoral, unjust, and impolitic. He had been sorry to perceive that the feelings of the mover of that proposition (Mr. DAYTON) were wounded, by the terms in which gentlemen had spoken of his motion. He himself, in his conscience, believed it to be immoral and unjust; and, as such, he felt himself bound as a man of honor to give it his strenuous opposition. The gentleman surely could not reasonably expect that independent men would sacrifice opinion to politeness or to friendship. All he could do, and that he did with pleasure, was to declare that he believed the gentleman's motives were pure and upright, and that he had a perfect confidence in the correctness of his moral sentiments. Viewing the subject in the light he had expressed, he appealed to the candor and fairness of gentlemen, to what tended the combining of those irritating questions of indemnification and sequestration, but to wound the feelings and evade the just application of the sufferers? Gentlemen had charged his colleague, and those who had supported his motion, with attempting, by these means, meanly to court popularity. To refute this charge would, in his opinion, be unnecessary, because no well-informed man in America could believe it. He did not know that the opinions which were held by his friends and himself on this subject, were popular; it was sufficient that they were believed to be just. Was he, however,

disposed to recriminate, by disclosing motives which were not avowed, but concealed, he could tell a tale, which, he believed, could be heard with effect.

Mr. GOODHUE spoke a few words, in direct opposition to what had been advanced by Mr. DAYTON. The two propositions ought to be discussed separately. We had sent a negotiator to Britain, and a sequestration would put an end to his business. The citizens of the United States ought to be taxed, in the mean time, to pay these losses; and it was possible that a sequestration might, hereafter, be thought advisable. He very strongly pressed the idea of a tax to this end. It would be a proceeding of the most superlative impropriety, to lay on such a sequestration at this particular juncture, when we had just agreed to take off the Embargo, because our ships would go to England, and be all seized, by way of reprisal.

Mr. CLARK recommended that both propositions should be laid aside for the present, and be suffered to take a sweet nap together, till a more convenient time. He spoke with much contempt of the notion of taxing the people of this country to pay for the ravages of Britain. The Court of London would say to the world: "You see that we acted right: you see the United States think so likewise; for they themselves pay their merchants."

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Mr. GILES agreed with Mr. CLARK: but as there is a necessary sameness in the arguments on this question, and as they have already been detailed in so many different forms, it seems needless to repeat them over again so frequently. He said that when this tax came to be levied, every farmer would say, every man in America would say, "We shall have nothing to do with this business. Why don't you indemnify British depredations out of the British property that is within your grasp?" He had heard that Congress ought to decide an abstract proposition, viz: that this Government was, in any event, bound to pay the recent losses of its merchants by sea; and then proceed to assign funds for the payment. He thought that before Congress undertook any such engagement, they ought at least to be possessed of the money requisite to discharge it. He hoped that the House would never proceed to a vote in support of any abstract axiom, especially where taxes and public money were concerned, till they had carefully digested the collateral circumstances.

Mr. DEXTER spoke against the amendment. He said, that very strong reasons existed both for taking into consideration a proposition for indemnity to the sufferers, and also against connecting it with sequestration or any other subject. Each ought to stand or fall on its own merits. The sufferers were numerous, and deserving citizens; they had waited a long time, and had a right to know, before the close of the session, what protection they were to expect from the Government of their own country. Sequestration, without a change of political circumstances, would never pass both Houses of the Legislature; to connect them, then, would be to deny relief, without even examining the principles on which they claim it. He said, British debts had been called the only proper and natural funds: in his opinion, they would be no fund at all, even if sequestration could be adopted. The debts would never be collected; and not only so, but sequestration would be the beginning of hostilities, and war must ensue; this, at the same moment, would prevent all hope of obtaining justice from Britain, and also discharge our own Government from every obligation to indemnify. Mr. D. said he would state what, in his opinion, was the proper and natural fund—the money to be demanded of Britain by our Envoy Extraordinary. Should this fail, the Government of America would either pay the sufferers, or grant them letters of marque and reprisal. This, he said, is the constant course of nations, and this the sufferers have a right to demand, as a counterpart of their allegiance. Mr. D. said, it had been objected that the British Government would be encouraged by it to refuse a recompense. This, if true, would be a serious objection, for he had always viewed negotiation as affording the only probable chance for indemnity to the sufferers. If a recompense be refused by Britain, war will be the consequence. The objection, however, he thought, would be entirely removed, by attending to the resolution itself. It is not, he said, a provision for taking the debt on ourselves, but merely to *guarantee* a recompense to the sufferers. The very word itself implies that the Government of America is not the principal debtor, but is to compel another to make indemnity, or become the debtor. Mr. D. closed with saying that he had attended only to the reasoning of the gentlemen, and not to their personalities. It was not his practice to leave the question, to impute to others motives either corrupt or paltry: if they chose to glean imaginary laurels on this ground, he was not anxious to share them; they could best judge whether, in this way, they were likely to increase their reputation or benefit the public.

MESSRS. AMES, MURRAY, SMITH, (of South Carolina,) and HILLHOUSE, also spoke against the amendment, and said the merits of neither proposition were now before the House, but only the mode in which the subject should be considered; that they were in themselves separate and independent, and ought to have a separate and independent consideration; they were questions of very great national concern, and that blending them together would give an undue bias, and neither would be fairly and impartially decided. It was doubtful whether the resolution for sequestration ever ought to be adopted, and that to connect the two subjects, would be to hang a millstone about the necks of the sufferers; that, as they were a numerous and very meritorious class of citizens, their claim merited a candid and full examination, unembarrassed with any other matter.

A warm dispute arose about the form in which the question on this resolution should be taken. The point actually contested seemed to be, whether the resolution was to be referred to the committee on Mr. DAYTON's motion for the sequestration of British property, or to a separate committee, which was insisted on by the mover, Mr. GOODHUE.

A division took place upon the question of agreeing to Mr. DAYTON's amendment, to add, after the words "be referred to a Committee of the Whole," the following words, viz: "to whom were referred the resolutions for sequestering the British debts;" and the yeas and nays being called

for, were taken—yeas 57, nays 31, as follows:

YEAS.—Theodorus Bailey, Abraham Baldwin, John Beatty, Thomas Blount, Elias Boudinot, Thomas P. Carnes, Gabriel Christie, Thomas Claiborne, Abraham Clark, Isaac Coles, William J. Dawson, Jonathan Dayton, Henry Dearborn, George Dent, William Findlay, William B. Giles, James Gillespie, Alexander Gillon, Christopher Greenup, Andrew Gregg, Samuel Griffin, William B. Grove, George Hancock, John Heath, Daniel Heister, William Hindman, John Hunter, Matthew Locke, William Lyman, Nathaniel Macon, James Madison, Joseph McDowell, Alexander Mebane, William Montgomery, Andrew Moore, Peter Muhlenberg, Joseph Neville, Anthony New, John Nicholas, Nathaniel Niles, Alexander D. Orr, John Page, Josiah Parker, Andrew Pickens, Francis Preston, Robert Rutherford, Thomas Scott, John S. Sherburne, John Smilie, Israel Smith, Silas Talbot, Philip Van Cortlandt, Abraham Venable, Francis Walker, Benjamin Williams, Richard Winn, and Joseph Winston.

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NAYS.—Fisher Ames, James Armstrong, Benjamin Bourne, David Cobb, Peleg Coffin, Joshua Coit, Samuel Dexter, Thomas Fitzsimons, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glenn, Benjamin Goodhue, James Gordon, James Hillhouse, Henry Latimer, Amasa Learned, Richard Bland Lee, Francis Malbone, William Vans Murray, Theodore Sedgwick, Jeremiah Smith, William Smith, Zephaniah Swift, George Thatcher, Uriah Tracy, Jonathan Trumbull, John E. Van Allen, Peter Van Gaasbeck, Peleg Wadsworth, and John Watts.

And then the main question being put, that the House do agree to the said motion for commitment, as amended, it was resolved in the affirmative.

FRIDAY, May 16.

Revenue Bill: Salt and Coal Tax.

The House resolved itself into a Committee of the whole House on the bill laying additional duties on goods, wares, and merchandise imported into the United States, and on the tonnage of ships or vessels.

The three cents per bushel of additional duty on salt was objected to by Mr. FINDLAY, as oppressive to his constituents.

Mr. AMES was convinced, that this was much better than a land-tax. It was beyond all comparison, more cheap, more certain, and more equal in the collection than a land-tax. He would rather tax salt, at even half a dollar per bushel, than agree to a land-tax.

Mr. CLARK would be very glad to hear the gentleman from Pennsylvania (Mr. FINDLAY) specify, upon what subject he was willing to pay a tax? It was beyond the comprehension of Mr. C., for what sort of a tax the gentleman was prepared to vote, or, indeed, what sort of taxes the Western settlers of Pennsylvania pay. We lay a duty on sugar. They make sugar for themselves. We lay a tax on tobacco. They are to manufacture for themselves. We lay an excise on distilleries. They refuse to pay this tax, and, in fact, they do not pay it. We tax wines; but we are told that these people are poor. They cannot, therefore, afford to drink wine, on which the duty is very heavy, for that duty is paid only by the rich. We tax the importation of foreign fineries, such as silk, but silk also is not the dress of poor people, so that here again the constituents of the gentleman get off. We are going to tax the importation of foreign coals, but they have plenty of their own, and so far from paying a tax on them, are cutting a canal to bring them down to Philadelphia; which will drive out the importation of foreign coals, and so destroy the tax altogether. Under these circumstances, Mr. C. was solicitous to learn what taxes the back settlers paid, for, as far as he could understand, they paid none; and their Representative would do well to inform the House on what they were willing to pay a tax. Was Government to be burdened with them, and derive no compensation? Was it a sufficient reason for exempting a district from public burdens to say that the people are poor? Are taxes to be paid exclusively by the rich?

Mr. RUTHERFORD objected to this duty on salt. It was often to be carried from one to three hundred and fifty miles inland, and in fact, it frequently costs twenty shillings per bushel. No tax could be so universally unpopular as this would be.

Mr. FINDLAY replied to Mr. CLARK. As to sugar, though some of his neighbors made theirs, Mr. F. bought his own in Philadelphia. As to silks and other female fineries, his constituents did just like other people. They spent, in that way, as much as they could possibly afford, and had among them ladies very well dressed. As to other matters, his constituents purchased their manufactures in Philadelphia, and paid for them as other people did. Salt, he said, was known to be necessary for cattle in the back country. He was strongly against the tax.

Mr. GILLON likewise opposed the tax on salt. It had been proposed, in the State which he represented, but never could be carried through.

On a division, it was rejected—ayes 32, noes 47.

A motion was made for striking out twenty-five cents per ton of additional tonnage, on foreign vessels, in order to insert fifty.

It was passed in the negative—ayes 39, noes 41.

After going through the bill, the committee rose, and the House went into consideration of the amendments made in Committee of the Whole.

On the subject of an additional duty on coal imported, Mr. GILES said, that the rise was very moderate, from four and a half to six cents per ton. A Boston company was about, as he understood, to embark in this business, but waited to see the steps taken by Congress. There was as much coal in Virginia as would serve all America and Europe besides.

Mr. WADSWORTH would have the additional duty restricted to all coal imported in foreign vessels.

Mr. HEISTER wanted to know, whether the price of coal had not been already doubled within these few years. He was informed that coal imported had of late risen from six dollars per ton, to twelve dollars and a half.

Mr. FITZSIMONS said, that a few years would put an end to importation altogether. He defended the tax. He saw no danger to any of the manufactures in America, that make use of foreign coal arising from this tax. Nothing but a capital was wanting to make America supply herself.

Mr. SHERBURNE recommended the amendment of Mr. WADSWORTH, as to the restriction of this duty to foreign bottoms. [Pg 507]

Mr. MADISON worded this amendment, "on all vessels not belonging to citizens of the United States;" because foreign bottoms might belong to people of this country. He was not solicitous about the fate of the motion. The amendment was lost; but the original motion was carried.

SATURDAY, May 17.

Tobacco and Sugar Duties.

The bill laying a duty on tobacco manufactured, and sugar refined, in the United States, was read a second time.

Mr. LYMAN opposed its passing to a third reading, on the ground that those articles deserve yet the fostering care of Government, and are entirely incapable of bearing such a burden; for, even now, notwithstanding the present protecting duties, they, especially the article of manufactured snuff, are yet imported. He also objected to the bill from the exceptionable nature of an excise.

Some objections were made to the propriety of opposing the bill in its present stage.

Mr. CLARK thought the bill unnecessary, because the two and a half per cent. of additional impost would supply all the wants of the public. He thought that the bill had an *immoral* tendency, because it tempted men to perjure themselves. It was oppressive, as making every man's house liable to be searched at midnight. He thought it also would produce an expensive mode of collection. He, therefore, objected against it, as unnecessary, of an immoral tendency, as oppressive, and expensive. He had always voted against it, and he always should persist in voting against it.

Mr. AMES pressed the necessity for money, and the want of other funds to discharge the services of the current year. He said, that to impose taxes was an unpopular office, and exposed members to dislike. Perhaps they might be *persecuted*; but it was still requisite for members to perform their duty. He had a great repugnance to the excise as established in Europe; but in America it was of a different nature. To reject the present bill would place the finances of this country in a very alarming point of view. If this bill was thrown out, we might bid farewell to firm and determined measures. We must go home when we are to lay a tax, and ask the people whether or not they like it.

Mr. NICHOLAS went into the old arguments against excise. He was severe on the general character of excise officers, whom he represented as the dregs of society. Very few persons in America would accept of such an office at all, and those who accepted of it, were by no means of a respectable rank in life.

Mr. FITZSIMONS.—There are as good men employed in the collection of the revenue as any others in the country, not excepting the gentleman himself; and men who are as well liked by their neighbors.

Mr. W. SMITH.—The rejection of the bill at this time will not decide the principle of excise; if rejected, it will not be owing to the arguments against it, but to the absence of a great many members, who never dreamed that the question would have been brought on to-day, and who do not even know that the bill has been so much as reported. The practice is uncandid, and unprecedented, to endeavor to reject a bill at this stage, before it has been printed, and the members know its contents. Was it fair and consistent, in a thin House, to reject the bill without any further consideration than one reading, for the sake of form, a reading, to which *nobody had listened*? How was this to settle the principle of excise? Was it not already settled in the constitution and by existing laws? But a new argument had been this day resorted to; there was a surplus of revenue in the Treasury, without new taxes, and this had been discovered since this tax had been agreed to. If this argument was founded in fact, it would put an end to all debates on all the new taxes; but what was this notable discovery? an additional two and a half per cent. on impost. This was no discovery which could change the question, for it was agreed to before the duty on manufactured tobacco and sugar; and the latter had been therefore established by the House, with a knowledge that the former was laid. He asked if, in the present situation of the country, all dependence was to be placed on commerce? How could certain members reconcile this proceeding with their former votes and language? But the other day we were to prohibit all commercial intercourse, to sequester debts, and to prepare for war. Now, we are to derive the whole of the revenues from trade; the same gentlemen who urged these measures were now

defeating every kind of revenue which might be productive. There was something so extraordinary in this, that he could not account for it. It was said, that the Committee of Ways and Means ought not to have reckoned on a defalcation, in the impost of \$1,300,000, but the gentlemen assign no reasons for their assertion, whereas the committee founded their report on the best information. Admit, however, that it is doubtful; was it safe, in the present critical state of the country, to place all dependence on *external* resources, which were every moment in danger of being cut off? Did not duty require a provision for the defence and safety of the United States by *internal* resources? This was certain, that the extra appropriations of this year exceeded those of any former year by two millions and a half of dollars. Where was the money to come from? The members in opposition to this tax, voted out land and salt; they endeavored to vote out stamps and carriages. They will agree to nothing but impost. Are the merchants to be saddled with the whole burden, because, like friends to order and tranquillity, they have not called *town-meetings, or published inflammatory resolves*? It is said, war is no longer expected; this country is willing to submit to every thing. Was this insinuation pointed at Congress or the Executive? It was unfounded in either case; because negotiation was tried, it did not follow that either the one or the other branch of the Government were disposed tamely to submit to injury; for himself, he was ready to aver that, if proper reparation were not obtained, he should be for war. The balance now being trembling on its beam, and no one could say whether it would settle for peace or war, he was for preparing seriously for the latter, while he strove to preserve the former. Pecuniary exertions were indispensable; it might be a pleasant thing to oppose taxes, and the advocates of new taxes might be obnoxious, but this would not draw him from his duty. The increase of excise officers had been mentioned; the bill did not propose a single one; the bad character of the excise officers had been mentioned; the supervisors were among the most respectable men in the United States, and the inspectors were as virtuous as the officers of the customs. The embarrassments, the taking of oaths, &c., were not more applicable to manufacturers than to merchants and captains, who could not enter, or unlade, or clear out, without difficulties, embarrassments, and oaths; but this was disregarded, as if they had less feeling than other people. As to the injury to morals, the necessary oaths required by all revenue laws were not injurious to the morals of the honest, and those who swore to the truth; and, as to those who were disposed to commit frauds and perjuries, no injury could be done to the morals of those who had none. Mr. S. wished that less had been said in the way of general reflection on the collectors of the revenue. Some years ago, a member of that House, when they were at New York, attacked the tide-waiters. There happened to be a tide-waiter in the gallery, who wrote, next day, a pretty smart letter to the member who had spoken so freely of his profession.

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Mr. NILES hoped that no gentleman would say, that he wished to see the Treasury empty. He would, for his own part, be glad to know whether there was a deficiency or not, clearly stated. He did not see so much as some others did, in the objections to an excise. It was *called* an excise, it was true, but we do not know yet the way in which it is to be levied; so, we cannot tell whether there will be any hardship in it or not. He went over some of the statements of different gentlemen, but on the whole, there was so much contradiction in the assertions of different members, that Mr. N. knew not what to make of them.

Mr. BOUDINOT moved that the House adjourn, which they did immediately, at three o'clock.

MONDAY, May 19.

Impressment of American Seamen.

Mr. MURRAY moved, that a committee be appointed to report a bill to provide such regulations as may enable American seamen to obtain and carry evidence of citizenship, for the purpose of protecting them from impressment into foreign service. He said, that it was a reasonable expectation that the subject of this resolution should be seriously attended to, at any time; but there were the most urgent reasons for an attention to the situation of our fellow-citizens of this description at the present period. That the evil of impressment into foreign service existed, no gentleman could doubt, and it was equally doubtless, that it was the duty of Congress, as far as they could, to provide a remedy for the evil. A few years since, when Britain armed her navy against Spain, on the Nootka-Sound question, it had been the fate of several hundreds of the American seamen to be impressed into a service which they abhorred. For a proof of this fact, he would recall the remembrance of the House to the claim made by Mr. Cutting for repayment of money actually expended by him, in the liberation of seamen in this humiliating situation. Congress repaid Mr. Cutting two thousand dollars. That they had thus attended to this claim was proof that the fact complained of existed. The evil arose, not more from the extreme insolence of disposition of the pressgangs, than from a real difficulty of discriminating American citizens from British subjects. The difficulty was in similarity of language, dress, and manners; and from the deficiency of evidence of citizenship, which, in a foreign port, could not always be obtained. For, though the Lords of the Admiralty of England had laid down certain rules, in the case that he had mentioned, the rules laid down had exacted so rigid and pointed an oath, from personal knowledge, that they scarcely could, in any case, be complied with. A captain might, in many instances, *believe* his sailor to be an American, and yet not think himself warranted in making oath to this fact. The object of his resolution was, that seamen, who are American citizens, might all pursue a uniform line of evidence in proof of citizenship, and that, by an entry of such evidence solemnly obtained in the clearances or other authentic papers of the ship, the same weight and authority should be given to their part of a ship's papers as were, in all cases, given to all sea letters and other papers. He believed that, if the subject went to a select committee, a

particular regulation on this subject might be digested, which would, in many cases, if not in all, afford such good evidence of citizenship, as would save American seamen from the injustice and cruelty that many, he believed, now actually suffered under; for he had heard that a number of them had been impressed in the West Indies on board of the British fleet. He was not so sanguine as to imagine, that any law could give full protection to our seamen; for he was convinced that, in order to give complete protection, certain rules of evidence must first be recognized, by convention between this country and Britain, stipulating the extent of certain political principles relative to alienage and allegiance. Till, however, that is done, he thought it the duty of Congress, and particularly at this disturbed period, to afford every aid in its power to this class of citizens. To bring the subject before the House, he had moved the resolution, which he gave notice that he would call up to-morrow.

Tobacco and Sugar Duties.

The House then resumed the consideration of the bill for laying a duty on manufactured tobacco and refined sugar, which had been debated and postponed on Saturday.

Mr. GOODHUE wished for a delay. He had seen a gentleman from Pennsylvania, last night, whom he did not now see in his place in the House, and who was making out an estimate, whether the money proposed to be raised by these taxes would be wanted or not. If they could really do without the money, it would be better to reject the bill.

Mr. SHERBURNE thought that the question might be delayed, till it was seen whether the sums to be produced by this bill, would be actually required or not.

Mr. DAYTON believed that the money was wanted. He would therefore vote for the bill. It was incumbent on gentlemen who objected to the bill, to show that the money would not be wanted.

Mr. SMILIE and Mr. LEE rose at the same time.

The SPEAKER observed, that Mr. SMILIE had risen first.

Mr. LEE said, that the gentleman from Pennsylvania had already spoken twice on this subject and he *insisted for order*. [Mr. L. referred to the proceedings of Saturday, for Mr. SMILIE had not spoke any before, this day.] Our time, said Mr. L., is too precious to be wasted in talking, when every gentleman is competent to give his vote already. I call for the question. His opinion was, that the money was not yet wanted; and that it was being too provident to vote for taxes, before they were required by necessity.

Mr. W. SMITH contended, that there would be a very considerable deficiency. He asked, who would lend us money, if there was such a difficulty in establishing funds to pay the interest of it?

Mr. WADSWORTH hoped that the bill would not be altogether thrown aside. There was part of it that he approved, and part of it that he did not perfectly approve. In discussing this question, much stress has been laid upon the two and a half per cent. of additional impost on importations, as if *that* would be a fund for the increase of revenue, and supersede the necessity for some other taxes. Mr. W. assigned his reasons for believing that this supposition was perfectly chimerical. Within the last six months, American vessels and property had been captured by the British privateers in the West Indies, to the extent of *one million of dollars*. This will make the importations less, by at least five hundred thousand dollars, and, of consequence, destroy a great part both of the old and new impost. Property to the extent of one-fourth of a million of dollars, perhaps, had likewise been seized by the Spaniards, and other nations had most likely taken as much more. The total loss to American commerce could not, therefore, be less than *fifteen hundred thousand dollars*. The imposts on importations must, therefore, be very much reduced; as from Britain, for example, there would not, in his judgment, be one-fourth part of the imports, from this time to the first of December, that had been formerly. And no man could imagine that, at the most, they would exceed one-half of their former amount. The British merchants would be afraid, on account of the matters that had been proposed. These people, they would say, have been laying embargoes, and speaking of sequestration, and indemnification. We must be cautious. Mr. W. added, that it was possible enough, that America might, in the fall, be at war with Britain; and then impost and importation will fall together. These were his motives for believing that the two and a half per cent. would be of no great consequence. It had been said, that the ten per cent. would produce a large augmentation. He did not, from the diminished quantity of imports, believe that it would be *so much*, by twenty or thirty per cent. as the old seven and half duty had produced. Mr. W. next reverted to the bill before the House. One part of it (the duty on snuff) he could not agree to. The other part, refined sugars, would fall on those who could afford to pay it, and after all that had been said against this bill, he was firmly convinced, that, so far from injuring the manufacture, it would thrive the better for this tax. He, on this account, hoped that the bill would pass, in spite of his objection to some things that might, perhaps, be corrected. He then replied to the complaints of some gentlemen, who, as an excuse for repeating over and over again their former arguments and opinions, observed, that they had not received an answer. It was very likely that they might think so, and he, for his part, did not think that he had been *answered*. This kind of reasoning had no end. Perhaps it was impossible for him, or gentlemen of his sentiments, to answer the opposite side of the question. And, again, perhaps the gentlemen of the opposite opinion could not answer them. The matter must rest there, and the question come to a vote.

Mr. FITZSIMONS was convinced that there was a deficiency, and a great one. But he was not fully prepared to speak upon the subject; though he was sure of the fact. He did not wish to hurry the subject. The bill might be printed.

Mr. NICHOLAS was sorry to have learned that he had, on Saturday, made a general reflection on a profession of men. With some gentlemen, in the line referred to, he had as strict a friendship as with any persons on earth. He said, that ten lines of figures, which he had in his hand, would satisfy the House, that the taxes in the present bill are not wanted. He then began a detail of considerable length, to which Mr. FITZSIMONS replied.

Mr. TRACY.—One gentleman says that we have a surplus of three millions; another, that we have a surplus of one million. It is very strange for gentlemen to be coming forward in this stage of the debate, and to say that money is not wanted, after the want of money has been so frequently advanced, and admitted, in the House. It is unaccountable, that there should be a contradiction on a point of this nature. He next went into a long series of calculations.

He objected to the estimate of the impost of 1793, that was reckoned upon for the current expenses of 1794. A great part of this impost was still due, by bonds. The persons who had given these bonds were, many of them, broke by the British depredations in the West Indies; and, in fact, a large proportion of that impost never would be paid in to the collectors of the revenue.

He was displeased with the way in which some gentlemen had spoken of the national debt. He had no share, for his own part, as a creditor; but a part of his property must go to the discharge of it, and he should cheerfully pay it. He did not agree with those gentlemen who, in the event of a peace, would not wish to replenish the Treasury. It was curious, that the House had now been assembled for nearly six months; and that their chief object had been to discover ways and means for raising public money. A bill for that purpose had been brought in; and just when it was on the point of being passed, we make a sudden and wonderful discovery, that no money is wanted; but that we have an overplus of three millions of dollars. The thing cannot be. The calculations are not founded on truth. He did not believe that members understood the bill. He could demonstrate that there was occasion for a supply of money.

Mr. MADISON thought that the arguments on each side of this question might be reduced to a narrow compass. If peace continues, he supposed it likely that the revenue would not fall so far short, as the committee had apprehended. But if there was a war, the expense would much exceed any thing yet thought of. He was for laying aside the subject at present, and if a rupture with England should ensue, he would then recommend, at once, a *direct* tax, and that these excise acts should be entirely thrown aside. If there was no war, he believed that no new taxes were required; let the matter therefore die, as to the present. He disapproved the principle of the tax, and should, on that account, think himself justified in voting against it.

Mr. GILLON rose, and replied to several gentlemen, who were for the excise on tobacco, snuff, and loaf and lump sugar; and observed, that he had partly obtained his object, by drawing gentlemen forward, with the calculations which had been kept back. But as the gentlemen, after having, by their own account, been three months on this subject, avowed that his request of detailing those large sums came rather unexpected, and that they wished to have more time to make their calculations, he had not much objection to let this bill have a second reading; but he hoped they would be accurate, in proportion to the time taken to preface them. As to the idea of our general taxes not taking place until the first of next March, that had no weight with him; because he knew the Civil List for the year was not all then due, nor would all the sum for military and naval preparations be to be paid down, the day the ore was dug for the guns, nor on the day that the first tree was cut to begin the frigates.

He agreed that a deficiency might arise on the supplies now due, for the terms which the gentlemen had assigned by the plunder of our merchants' property. He was happy to find that gentlemen had not lost sight of the serious applications they had received from that respectable and utile body (the merchants) for redress; and he should take care to remind gentlemen of their own observations, when the requests of the merchants were brought forward, as he was clear something must be done, either by restitution on the debts to be sequestered, a loan for them under the guarantee of the Union, or by prolonging the time to a remote period, of paying the duties that they owed. He was accused of making *wonderful discoveries*, of making calculations not founded in truth. The latter he denied, for, if there is any untruth in them, it cannot be on his side, but must have arisen from the committee; therefore, to them be the untruth applicable, as he did not make use of a figure but what they placed in their report.

He still retained his opinion, that surplus revenue was dangerous in the hands of any Government. What did they want to do with it? He hoped nothing else but to buy up the national funded debt as cheap as they could, which act was pardonable, only by the intent, he presumed, they must feel of at last doing justice to our late armies. His meaning was, that the profits arising from this speculation should be kept as a sacred deposit out at interest, and that interest to be employed towards paying off the interest due on the principal losses which our brave officers and soldiers had met with, by being obliged to part with their shares of pay at a very inferior value. This you may better pay to patriotism and misfortune than pay to speculators.

Mr. TRACY.—If I have said what is alleged, the language is too indecorous to be used by me to any gentleman on this floor. If any thing of that kind has escaped from me, I am ready to ask the gentleman's pardon. I have the highest respect for his character.

And the question was then put, Shall this bill be rejected? It passed in the negative—yeas 31, nays 56, as follows:

YEAS.—Thomas Blount, Thomas P. Carnes, Gabriel Christie, Thomas Claiborne, Abraham Clark, Isaac Coles, William Findlay, William B. Giles, Alexander Gillon, Andrew Gregg, Daniel Heister, William Lyman, Nathaniel Macon, James Madison,

Joseph McDowell, William Montgomery, Andrew Moore, Peter Muhlenberg, Joseph Neville, Anthony New, John Nicholas, Josiah Parker, Francis Preston, Robert Rutherford, Thomas Scott, John Smilie, Thomas Tredwell, Abraham Venable, Francis Walker, Richard Winn, and Joseph Winston.

NAYS.—Fisher Ames, James Armstrong, Theodorus Bailey, Abraham Baldwin, John Beatty, Elias Boudinot, Benjamin Bourne, Lambert Cadwalader, David Cobb, Peleg Coffin, Joshua Coit, William J. Dawson, Jonathan Dayton, Henry Dearborn, George Dent, Samuel Dexter, Thomas Fitzsimons, Dwight Foster, Ezekiel Gilbert, James Gillespie, Nicholas Gilman, Henry Glenn, Benjamin Goodhue, James Gordon, Samuel Griffin, William Barry Grove, Thomas Hartley, James Hillhouse, William Hindman, John Hunter, Henry Latimer, Amasa Learned, Richard Bland Lee, Matthew Locke, Francis Malbone, Alexander Mebane, William Vans Murray, Alexander D. Orr, Andrew Pickens, Theodore Sedgwick, John S. Sherburne, Jeremiah Smith, Israel Smith, William Smith, Zephaniah Swift, Silas Talbot, George Thatcher, Uriah Tracy, Jonathan Trumbull, John E. Van Allen, Peter Van Gaasbeck, Peleg Wadsworth, Jeremiah Wadsworth, Artemas Ward, John Watts, and Benjamin Williams.

The said bill was then read the second time, and ordered to be committed to a Committee of the whole House on Wednesday next.

Augmentation of the Army.

The House resolved itself into a Committee of the whole House on the bill to augment the military force of the United States; and after some time spent therein, the Chairman reported that the committee had had the said bill under consideration, and made amendment thereto; which was read, as follows:

Strike out the first section of the bill, in the words following, to wit:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be raised, for the term of — years, or during a war which may break out between the United States and any European Power, an additional military force, consisting of twenty-five thousand non-commissioned officers, privates, and musicians, together with a proper proportion of commissioned officers of all grades, respectively, according to the present Military Establishment of the United States:"

And on the question that the House do agree with the Committee of the whole House in the said amendment, it was resolved in the affirmative.

A motion was then made and seconded to amend the said bill, by inserting, in lieu of the section stricken out, the following section, to wit:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be raised, upon the terms and conditions hereafter mentioned, an additional provisional military force, to consist of — non-commissioned officers, privates, and musicians, together with a proper proportion of commissioned officers."

It passed in the negative—yeas 30, nays 50, as follows:

YEAS.—Fisher Ames, John Beatty, Benjamin Bourne, David Cobb, Peleg Coffin, Jonathan Dayton, George Dent, Samuel Dexter, Thomas Fitzsimons, Dwight Foster, Ezekiel Gilbert, Benjamin Goodhue, James Gordon, James Hillhouse, William Hindman, Amasa Learned, Richard Bland Lee, Francis Malbone, William Vans Murray, Theodore Sedgwick, William Smith, Zephaniah Swift, Silas Talbot, George Thatcher, Uriah Tracy, Jonathan Trumbull, John E. Van Allen, Peter Van Gaasbeck, Jeremiah Wadsworth, and John Watts.

NAYS.—James Armstrong, Theodorus Bailey, Abraham Baldwin, Thomas Blount, Thomas P. Carnes, Gabriel Christie, Thomas Claiborne, Abraham Clark, Joshua Coit, Isaac Coles, William J. Dawson, Henry Dearborn, William Findlay, William B. Giles, James Gillespie, Alexander Gillon, Nicholas Gilman, Henry Glenn, Christopher Greenup, Andrew Gregg, William Barry Grove, Daniel Heister, John Hunter, Matthew Locke, William Lyman, Nathaniel Macon, James Madison, Joseph McDowell, Alexander Mebane, William Montgomery, Andrew Moore, Peter Muhlenberg, Joseph Neville, Anthony New, John Nicholas, Alexander D. Orr, Josiah Parker, Francis Preston, Robert Rutherford, Thomas Scott, John S. Sherburne, John Smilie, Israel Smith, Thomas Tredwell, Philip Van Cortlandt, Abraham Venable, Francis Walker, Richard Winn, Benjamin Williams, and Joseph Winston.

And then the question being put that the said bill, as amended, be engrossed and read the third time, it passed in the negative. And so the said bill was rejected.

FRIDAY, May 23.

Tobacco and Sugar Duties.

The House went into a committee, Mr. TRUMBULL in the chair, on the bill for an excise on tobacco, snuff, and refined sugar.

In the first section, it was agreed to strike out the words, "tobacco and." This proposed that the word tobacco be struck out in every subsequent part of the bill, so that the duty be confined to the manufacture of snuff.

Mr. MUHLENBERG (The SPEAKER) moved to strikeout the second section, "that from and after the — day of — there be levied, collected, and paid, upon all sugar which shall be refined within the United States, a duty of two cents per pound."

He would not trouble the committee with any comments on the excise, enough having already been said on that subject; although he could not forbear mentioning, that in England, where almost every thing was subject to an excise, and where the Minister is ever on the watch to discover new articles for that purpose, loaf sugar had never yet been taxed, the Committee on Ways and Means had all the credit of the seasonable discovery. The reason for not attempting an excise on this article was obvious, because the manufacture employed a greater quantity of shipping than any other, they therefore rather wished to encourage than to depress it; the former of which they effectually do, by allowing a generous drawback on exportation of refined sugar, for which the different ports of the Continent afford them a constant and ready market. The case was widely different here. The manufacture is yet in its infant state—it has to contend with the old established ones in Europe, who have larger capitals and can afford longer credits, whereas we have not only no market to export it to, but even now already, can annually make a quantity more than sufficient for the consumption of the United States. It is true, it appears from the last returns, that upwards of 200,000 lbs. of refined sugars were imported last year, which is about the same quantity which two houses might furnish in one year, but it is to be observed, that owing to the high price of raw sugars, some establishments were not worked at all, whilst others did not work above eight or nine months in the year, and I will here, said Mr. M., venture to assert, that if this duty of two cents actually takes place, some of those who are now engaged in this difficult and expensive business will abandon it and turn their capitals into other channels. I do not stand alone in this opinion; others, of more experience, join me, and it is founded on the following incontrovertible facts. Raw sugars have for several years past been so high, that refined sugars naturally bore an equally high price. This has already lessened the consumption, to a considerable degree, in the United States, and from the present prospect before us, when the French islands are in the hands of the British, the probability is, that they will rather be higher than lower; and if the two cents be added to the present high price of refined sugars, the consumption will still be lessened in the same proportion as the price of the article increases. This observation is founded on facts, which every person concerned in the business has felt, and daily experiences; nay, it can be proved, however strange it may appear, that a less quantity of refined sugar is consumed at present in the United States, than a year or two before the Revolution. Again, owing to the high price of refined sugars, and which must be still higher when this duty takes place, many even of our opulent families have, in a great degree, abandoned the use of it, and substituted the white Havana, or the white East India sugar. I well remember a remarkable instance of this kind which took place not many months ago in this city. A gentleman having imported a considerable quantity of white East India sugar, sold it to the refiners of this place. Before the sale was concluded, he reserved a quantity for himself and an opulent friend of his. The consequence was that neither himself nor his friend used half the quantity of refined sugar they had used the year before.

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Permit me to add another circumstance. Sugars are higher at present, and from a variety of circumstances must continue to be higher here than in England, and although an additional duty on imported loaf and lump sugar may take place, unless it exceeds what I have yet heard mentioned, they will be able to undersell the manufacturers here, and this from the single circumstance of their being allowed a drawback of 26s. sterling per cwt., for if even a drawback of the same sum was allowed us here, which is not to be expected, it cannot operate, because we have no market for this article. In the West Indies, it is well known to be contraband, and to transport it to Europe, would be carrying water into the ocean, and even then it could not be accomplished on as low terms as the Europeans can afford to do it.

One fact more, equally incontrovertible, suffer me to add. By the additional duty on coal, which I am far from disapproving, because I wish to encourage the consumption of our home productions, you have, in fact, laid an additional tax on sugar. Every work of this kind consumes annually from 2,000 to 4,000 bushels. This article was heretofore at the rate of eleven pence or one shilling per bushel; owing to the duty on imported coal, it has now risen to 2s. to 2s. 4d. This naturally enhances the price of the article made in this manufacture, which is already burdened to a considerable degree with taxes or duties. Thus, there is a duty on the raw material, a duty on the paper they use, a duty on the twine, a duty on the coal, and, to crown all, a duty is intended on the article produced in this devoted manufacture. If it is thus my friend from Connecticut means to do us good, or if this is the decided encouragement and protection my colleague means to yield us, it is such a one as I am sure the manufacturer will not thank him for.

Sir, I could add that this bill partakes strongly of the nature of a sumptuary law; that in case of a war it will not produce you any revenue, because the supplies of the raw material are too irregular, and no other but imported sugar is refined, which already pays a duty; and that by this duty you not only lessen the consumption, but also increase the number of those who cannot pay for it; but I forbear to trespass any longer on the patience of the committee on this subject.

But, Mr. Chairman, we want money to build our frigates and arsenals, to fortify our ports and harbors, and to release our unfortunate brethren in captivity. We want revenues. If this really be

the intention of the committee, and not merely to establish the principle of excise on home manufactures, no one will join more cheerfully in such measures as shall appear most prudent and most likely to obtain the object, and which, in my opinion, will neither injure the commerce of this country, nor in an equal degree the manufactures, nor indeed the poorer sort of the community who consume the article of sugar.

By the last returns which I could lay my hands on, it appears that there are annually imported into the United States upwards of twenty-five millions of pounds of sugar, and from the same returns it appears that about four or four and a half millions are exported, which are allowed a drawback of the duty on exportation; thus then there are upwards of twenty millions of pounds annually consumed in the United States.

You have, in the late impost bill, imposed an additional duty of one cent per pound on coffee; half that sum additional duty on raw sugar will yield you upwards of 100,000 dollars. This then will at once yield you the sum which the committee expected from an excise both on sugar and manufactured tobacco, and will neither injure the merchant, nor in an equal degree the manufacturer, nor indeed the poor; the latter, and in my opinion none but the idle can be so, as well as many others, have long since substituted molasses for all the purposes for which they heretofore used sugar; besides which the American sugar is daily getting more into use, and bids fair to become general, at least at and near the frontiers.

When, therefore, it is considered that this manufacture is yet in its infancy in the United States; that it has to contend with the old established ones of Europe; that there is no excise on this article in England; that this manufacture employs a great quantity of tonnage; that raw sugars are high here, and comparatively low in Europe; that there is a drawback in England, which operates as a bounty, and which from local situations cannot operate, if even granted, with the same advantage here; when it is reduced to a certainty that the duty will operate injuriously on the manufactures here; and when it appears that double the sum can be raised by a trifling additional duty on raw sugar, without any additional expense or inconvenience, and which will effectually remove the evils complained of, I flatter myself the motion will prevail.

Mr. FITZSIMONS objected to the proposal of the SPEAKER, for a tax of half a cent per pound on common sugar imported. The unrefined sugar formed a considerable portion of the subsistence of the poor. Formerly, the price of it was not more than sixpence, (currency,) but it is now twelve pence per pound. The coffee duty was another, to which Mr. F. had felt reluctance, because coffee is an article of universal consumption, and the tax upon it falls where taxes ought not to fall, that is upon the poor; but there is no help for it. He would, if possible, have avoided this tax, for coffee, formerly eleven pence or a shilling per pound, has risen to one shilling and ten pence. Mr. F. said, that we are able to lay a heavy enough tax on imported sugar effectually to protect our own sugar refiners. It had been said that the two cents per pound duty would make it requisite for the refiners to augment their capitals. This he could not believe, because the Executive gives credit to the manufacturers for the payment of the duty. Mr. F. said, that the time was perhaps not distant, when we shall be obliged to seek sugar in the East Indies. Britain has acquired the West Indies, which will increase the difficulties of this country in obtaining it from that part of the world.

Mr. McDOWELL hoped that the section would be struck out. He objected to the principle of the bill. He considered it as highly impolitic to tax the infant manufactures of America. He would rather, if the Public Treasury could afford it, give a premium for the encouragement of our manufactures, to dissolve the dependence of the United States upon Europe. This dependence of ours has repeatedly been urged as a reason why the House ought not to adopt certain commercial regulations and restrictions. Some gentlemen had undertaken to prove that the manufacturers would be benefited by such laws, an assertion which he considered as very extraordinary. The manufacturers themselves understood their business best, and thought quite otherwise. This tax will not only alarm those already engaged, but will prevent other men of enterprise and capital from engaging in manufactures, when they find that the moment their business becomes profitable, they are to be taxed.

He could not help remarking upon some observations that fell from his friend, (Mr. BALDWIN, from Georgia,) when this subject was before the committee some days ago. It had been objected that the bill was not well founded, as it established a new principle; and the member (Mr. BALDWIN) replied, that it was not new, as there was already an excise fixed on ardent spirits. He had opposed that law, but since it was passed, he could not object to the present bill. Had the gentleman reflected, he would have seen that there was equal reason for resisting this bill, because it fixed that obnoxious principle more strongly, by giving a further sanction to an American excise. Mr. McD. also considered the tax to be unnecessary. The tax was contemplated on the prospect of a war which has now become less likely, the British having, since the Orders of the 8th of January, relaxed their depredations. Further, the tax was unnecessary, because, it was asserted by several very well informed merchants, that the amount of the impost this year would exceed that of the last.

On dividing, the motion for striking out the clause was rejected—ayes 31, nays 45.

WEDNESDAY, May 28.

Advance of Money to France.

The House again resolved itself into a Committee of the whole House on the report of the

Mr. GILES offered the following motion:

"Resolved, That the President of the United States be authorized and requested to apply the proceeds of the loan of three millions of florins, lately obtained in Holland, towards the discharge of the debt remaining due to France; or to the protection and defence of the United States, if, in his opinion, the same should be found necessary for that purpose, any appropriation to the contrary notwithstanding."

Mr. HILLHOUSE was of opinion that, before any payments in advance should be made to the French Minister, it was proper to secure the indemnification of our own citizens, who had sustained such immense losses by the detention of their vessels in the ports of the Republic, both in Europe and the West Indies. Mr. H. here made a distinction, that if the term stipulated for payment of an instalment to France had actually arrived, he would have made that payment, though they had burnt our ships, and have sought redress in the ordinary way. But when they come forward before the money is due, and make such a requisition, he thought it a fair opportunity to secure the claims of American citizens.

Mr. NICHOLAS was in favor of the motion. He felt, as an American, that the cause of this country and of France were inseparably connected; and that giving the money to the Republic was equivalent to expending it in the service of the United States. He reminded the House of the indelible obligations of America to France. That Republic is now reduced to distress, as this country was when supported by the French arms. Every principle of humanity, of honor, of gratitude, and of justice, calls upon us to give that nation the most effectual support in our power.

Mr. FITZSIMONS.—The Americans have applied to M. Fauchet, for payment in this country. He has assured them that he cannot give it, but that he will inform the French Government of their application. They are satisfied to wait for the reply to the Minister, which is expected from Europe.

Mr. AMES remarked, that, as the three millions of florins had been loaned in Holland for the defence of this country, it would be something worse than imprudence to give it away for any other purpose. The cause of France does not depend on her receiving a million of dollars. She is in a much better situation to give us that sum, than we are to advance it for her. He did not think that, to keep our money to ourselves, and to bestow it upon France, were the same thing, nor did he believe that it would be so considered by the citizens of the United States. He could not approve the motion.

Mr. GILLON thought that, as to the claims of American citizens, a complete answer had been given by the member from Pennsylvania. If the merchants themselves are willing to wait for an answer from France, nobody else has any concern with the matter. He rejected the idea of not paying the money to the French until it was due, unless with a restriction in favor of the American claimants. The money due to France had been advanced by her in the time of our utmost distress. It was at present wanted for her own defence. To indulge us, indeed, she had formerly granted a longer time than she was obliged to grant for the repayment. But if necessity compelled her to solicit an abridgment of that indulgence, is it inconsistent with the feelings of honor and generosity, to refuse her such a request?

Mr. WADSWORTH was too ill-informed upon this question, to know upon what side he ought to vote. Much had been said about the gratitude due from this country to France. We had been grateful, indeed, since we had suffered them for a long time past to plunder our vessels without making a complaint. He stated that the American property seized in the ports of France amounted to one million of dollars, and that taken by her in the West India Colonies, to four millions of dollars. Much of this property had been paid for in such a way, that the owners did not realize more than twenty-five per cent. of its value. The present application had been made a long time ago, and Mr. W. did not suppose that the French Minister could, at present, be in any want of the money. Since the time when he first sought for it, something had happened which altered the case. The greatest portion of specie in America is now at the command of M. Fauchet. There can be, therefore, no pretence for giving away this million of dollars on the plea of necessity. The Republic herself possesses, if we are to believe common fame, more cash than all the kings in Europe; and, though the story may be very greatly exaggerated, yet make allowance for exaggeration, and still her treasures are very great. No part of her misfortunes can be ascribed to the want of money. Matters so standing, he thought that it was our duty to make a halt, and begin to take some care of the interests of our fellow-citizens. As for gratitude towards the Republic, he felt as much of that sentiment as those who talked more about it than he did. But he had not learned any good reason why this money should be disposed of in this way; and he could not agree to vote so great a sum where he could not see the need.

Mr. BOURNE said, that the purposes for which it had been first asked, had been long since accomplished without it. The transportation of the emigrants of St. Domingo to France had been given as a reason for this request, but they were all gone already.

Mr. SEDGWICK and Mr. GOODHUE also spoke. The resolution was carried in the committee, and reported to the House, where it was likewise carried; and it was

Ordered, That a bill or bills be brought in pursuant to the said resolution, and that Mr. MADISON, Mr. BEATTY, and Mr. HEISTER, do prepare and bring in the same.

Military Establishment.

The bill sent from the Senate, entitled "An act to increase the Military Force of the United States, and to encourage the recruiting service," was read the first time.

Mr. SMILIE objected that there must be some other purpose for these troops than any that had been acknowledged; for he could see none. The principle of the bill was wrong.

Mr. GILES said, that the bill ought to be named "A bill authorizing the PRESIDENT *to pass a law* for raising ten thousand men." In point of principle, it was infinitely worse than the former one, which the House had already rejected, (the one supported by Mr. SEDGWICK.) He hoped that they would not suffer it to go to a second reading. We had made estimates of the expenses of this year, and have been told that the ways and means are not sufficient. Yet, in the face of this, to come upon us all at once with the expense of a standing army of ten thousand men was too hard. He trusted that gentlemen who would vote for a second reading would explain the reasons that could induce them to such a measure. The time spent upon such a bill would be perfectly cast away. He was at a loss to discover against whom these ten thousand men were to be employed.

Mr. HILLHOUSE could not, at this moment, decide whether he ought to vote for this bill or not. He would recommend a Committee of the Whole to examine its merits. He should think it ungenerous for any gentleman in that House to call for his vote till it had been fully discussed.

Mr. FITZSIMONS.—If we were to debate for a week upon it, I am sure that there cannot be one new idea started. The whole argument lies in so narrow a compass that every member may decide on a first hearing. The question is, whether, on account of the particular state of the country at this time, it is proper to intrust the PRESIDENT with a discretionary power of raising an army of ten thousand men? For my own part, I am as ready to decide just now as I ever can be.

Mr. AMES.—If we are to go to war, will it not be a prodigious saving of expense to have all matters ready beforehand? By being prepared two months before the war breaks out, the advantages in economy would be immense, as the price of enlisting men would rise fourfold when it was once known that war was certain. He knew many weak parts in the Union that might be attacked and in danger before a body of militia could be ready for effectual service. He was not qualified for details of this sort; but he knew that Rhode Island, for example, might be taken, and, in a short time, so strongly fortified, that it would be difficult or impossible to retake it. Why were we afraid to intrust the PRESIDENT with the power of raising ten thousand men? Can any body of men to be raised in this country tread down the substantial yeomanry? This is quite a Utopian dread. It is infinitely cheaper to raise and embody an army at leisure, when the storm is seen to be approaching, than all at once, when twenty things must be done at the same time. There is, besides, a material distinction between this bill and the former. The force may be discontinued whenever the Legislature thinks proper; nor is it to be raised at all unless the PRESIDENT sees or thinks it necessary. The principle of the bill is, therefore, much less exceptionable than that of the other. To reject a bill on the first reading is a bad practice. Mr. A. hoped that the House would guard against it, unless where any thing was grossly improper, and depended on a single principle. But he trusted that the House would, in every common case, set their faces against it.

Mr. SMILIE controverted every thing said by Mr. AMES. He thought that the measure would involve this country in a very useless expense. Did we intend to rival the military establishments in Europe? The British might be expected to increase their forces in Canada in proportion to those of the United States.

Mr. DAYTON followed Mr. SMILIE, and said, that the arguments of the member who spoke last, although intended to make a different impression, had convinced him of the impropriety of rejecting this bill upon its first reading. That gentleman had thought proper to enter into the intrinsic merits at this stage of it, when those who favored its principles could have no opportunity of defending or amending the particular parts of it. He had heard the objects of it grossly misrepresented. It had been asserted that the bill contemplated the increase of our military peace establishment to sixteen thousand men.

[Mr. SMILIE interrupted Mr. DAYTON by declaring that he had never said or meant any such thing. But the defence of the Western Territory was to require six thousand men; and these, with the ten thousand to be raised by this bill, would amount, in the whole, to sixteen thousand men.]

No such thing (said Mr. D.) was to be found in it, and he called upon gentlemen to show upon what such an assertion was founded. He, for one, was of opinion that the interests and safety of the United States might be materially promoted by our vesting the PRESIDENT with the power to raise these men, if war should break out in the recess of Congress. Who did not believe that such an event was not only possible, but in some degree probable? Who would say that, if war should be forced upon us, this would not be considered as a most valuable provision, because we might have this respectable body of troops engaged, equipped, and prepared to act the moment that hostilities should be declared by the constituted authority? He would address himself to the feelings and interests of the member who spoke last, and those similarly circumstanced. They resided in the interior parts of the country, and hence it was that they did not seem to experience such lively sensations at the approach of danger on the eastern frontiers—the sea. What (he asked) was their situation, and what had they to fear in case of an open rupture with Great Britain? It was easy to foresee that they would be vigorously pressed, not only by those Indians which are at present hostile, and by the regular troops in that quarter, but by all the neighboring

nations of savages over whom British threats or bribes could have influence. A part of the Six Nations, too, would probably join the confederacy, and the frontier settlers of Virginia, Pennsylvania, and New York, would certainly be driven in. With such a corps as the one proposed, an early check might be given to their irruptions, and the war be carried to their towns.

On the other hand, what would be the consequence, if, after the PRESIDENT perceives a war inevitable, he is not permitted to make the smallest preparation until he can convene Congress? Two months must be lost in convening them, owing to the extreme distances of their residence, all which time would be employed by our enemies in increasing their forces, in strengthening their posts, and establishing new ones, and in invading our country. Let this discretionary power be given to the PRESIDENT, (with whom much greater had repeatedly been lodged, and had never in any instance been improperly exercised,) and the men might be engaged while the members were collecting, and a small army in readiness to act as Congress should by law direct and authorize. No danger could arise from it, because the enlistments of those who might be engaged would be void, unless the Legislature, immediately upon their meeting, should confirm them. It had been said, that our reliance should be upon the militia. He had, Mr. D. said, as high an opinion of militia as any member in that House, for he had witnessed their exertions and importance in the late war; but could it be said that it would be very convenient or agreeable to them, to be drawn a distance from their own homes, to be employed in taking and garrisoning posts, if it should be deemed advisable to direct operations of that kind? He concluded, with wishing that the bill might be allowed to have a second reading, as constructions had been imputed to it which it certainly would not bear.

Mr. MADISON did not accede to the principle of the bill. He did not see any such immediate prospect of a war, as could induce the House to violate the constitution. He thought that it was a wise principle in the constitution, to make one branch of Government raise an army, and another conduct it. If the Legislature had the power to conduct an army, they might embody it for that end. On the other hand, if the PRESIDENT was empowered to raise an army, as he is to direct its motions when raised, he might wish to assemble it for the sake of the influence to be acquired by the command. The constitution had wisely guarded against that danger on either side. He could not, in the present case, consent to the breaking down of this barrier of public safety. He saw no necessity for it; nor any violent probability, that this country will be speedily invaded by any force, to which the present military establishment cannot make an adequate resistance. Let us hear from the Minister whom we have just sent to Britain, before we take such abrupt and expensive measures. We shall certainly hear from him, at least, before we are invaded. Now, if we enter into a calculation of the time requisite for his arrival in Britain, for commencing his business, and for sending back an account of what kind of reception he has met with, we shall find that by this period, Congress will have met again; or at least, the interval will be so small as to make it not worth while to embrace any measure of this kind.

Upon the whole, he could not venture to give his consent for violating so salutary a principle of the constitution as that upon which this bill encroached.

Mr. SEDGWICK differed from Mr. MADISON. He did not think that, in certain contingencies, war was so distant a prospect. Simcoe is going to erect a fort in our territories, and the PRESIDENT has declared that he will repel the attempt. We all know the waste of time and property in the last war, at its commencement, by trying to do the business with militia. The proposal met his approbation, as did the resolution of the PRESIDENT to repel force by force.

Mr. FINDLAY spoke against the bill.

The question was then stated, to wit: "Shall the said bill be rejected?" and, after debate thereon, the question being taken, it was resolved in the affirmative—yeas 50, nays 32.

Advance of Money to France.

Mr. PARKER then moved that the House take into consideration the bill for the payment of a certain sum of money to the French Republic.

The House resolved itself into a committee on this bill, Mr. PARKER in the chair.

Several amendments were proposed, and several members spoke.

Mr. GILES knew that Mr. Fauchet was anxious for this money, and spoke of it as necessary for his operations. He did not know whether to-day, to-morrow, or at what time in particular; but in fact the money was needed. He had another remark to make. This loan of three millions of florins had come upon all parts of the House alike unexpectedly. Before it was known, we heard of no particular complaints from the Treasury, for want of money to raise the fortifications. But now, when the loan was come, the tone was altered, and there was a loud cry of emptiness in the Treasury.

Mr. GILLON said, that gentlemen talked of giving this money, as if we were doing a favor to France. Is this so? We are sending a new ambassador to that country. A very pretty introduction truly he would have at Paris, with our credentials in one hand, and a refusal to pay the debts due to the Republic in the other. We have been in need of her assistance before, and we may want it again.

The committee made some amendments; the Chairman reported them, and the bill finally passed the House.

Protection of South-western Frontier.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for the more effectual protection of the South-western frontier settlers."

Mr. GILES expressed the utmost surprise at such a proposal. First, it had been projected to raise a standing army of fifteen thousand men, then twenty-five thousand, then ten thousand; and now, when all these schemes had been put to an end, this regiment of eleven hundred and forty men has appeared. Proteus never assumed a greater number of shapes than this attempt has done. His jealousy was highly excited by such a steady adherence to an idea so extremely offensive. The people of the United States did not wish to be trodden down by a Continental army. How this amendment might sit on the stomachs of some people, he could not say; but, if he were one of the gentlemen who represented the people from whom the requisition for defence had come, the amendment of the Senate would sit very badly indeed upon his stomach.

Mr. NICHOLAS said, that a bill had been wanted to *protect* the frontiers, but, by this amendment, the bill would *scourge* them. He wondered at the pertinacity of some people, in adhering to the idea of a standing army. Mr. N. enlarged considerably on the question before the House.

Mr. McDOWELL had lived long on the frontiers, and he believed that he understood, from personal experience, what was the proper mode of defending them, as well as perhaps any gentleman on that floor. He was against the amendment, because he knew, from repeated experiments, that regular troops were, in this kind of service, altogether useless. The militia of the frontiers, who knew the country, and whose habits of life made them perfectly acquainted with the character of the enemy whom they had to encounter, were the only proper forces to oppose the Indians with success. But why Government should burden itself with a useless expense, or the people with a kind of defence which they disliked, Mr. McD. did not know. Perhaps there was no part of the Union that had behaved so prudently and so pacifically as the citizens on the South-western frontiers. Yet Indian treaties were constantly broken by the savages themselves. Gentlemen who had never been witnesses to the scene, did not feel it, with adequate comprehension or sensibility. A man went to his corn-field, along with his son, who was shot dead by his side. He came home, and found his wife and the rest of his family murdered. Circumstances of this kind, and of which Mr. McD. drew an affecting picture, were too dreadful for human patience to support.

Mr. BOUDINOT thought that the militia could not be kept together for six months, and that it was better to have regular troops.

Mr. AMES replied to Mr. GILES. It was wrong to say that this was part of a system, and that the twenty-five thousand men had been part of it. He saw no such thing. We have one Indian war already, which is enough at a time. Those whom we are now to quarrel with, are three times more numerous than those to the North-west. The Creeks, Cherokees, Choctaws, and Chickasaws, were, as Mr. A. had been informed, fifteen thousand fighting men. He did not think that there were too many Indians on the frontier, any more than too many wild beasts. The one might, by skilful management, be rendered as harmless as the other. Even the success of an Indian war, by extending our frontier, augments the number of our enemies; so that the task is hopeless, and has no end. Distance from the seat of Government would increase, and with it the charges of defence. He was not one of those who wished to exterminate these poor creatures. He recommended a system of restraint on both sides. He could wish for something as strong as the Chinese wall to separate them. When an exasperated militia went out, what were we to expect, but that the first man with a red skin whom they met would be shot? Presently you discover that you have been shooting an Indian of the wrong nation, while, in the mean time, this whole nation rises and attacks you. The Continental troops, as being less exasperated, were less apt to fall into mistakes of this kind. He did not wish the militia to be called out in such numbers as were proposed by the bill when sent up to the Senate. He wished, if possible, for a restraint on both parties. He was for the amendment.

Mr. MURRAY was of the same opinion. It was not once in ten times that, when an Indian was killed by a white man, the murderer could be convicted. As to the standing army being an object of alarm, he ridiculed that idea. But, at any rate, it was possible to limit the operations of this regiment of eleven hundred and forty men to the South-western frontier, if gentlemen were afraid of their being marched up and down the country.

Mr. GILLON said, that there was something in this question, just like that some days since, about the galleys. If you do not want them, they shall not be forced upon you. He could not see their use in South Carolina. It was a body of militia that was wanted. There are no tumults in South Carolina to be repressed by a standing army. The expedition against Spain is knocked up. What occasion, then, can there be for them? He feared that this corps was only a part of the old leaven, the gilding of a bad pill. He liked this proposal better than the others of the same sort, only because, as the numbers are inferior, the evils are less. Mr. G. had no idea of hiring other people to do for us what we can do for ourselves. He had voted against the twenty-five thousand men, and the ten thousand, and he should also vote against the present number.

Mr. MADISON said, that he would not enter at large into this subject, but there was one circumstance in the business which struck him as very strange. It was proposed to raise a new corps, at a bounty of twenty dollars. The present army wanted more than the whole number of this corps to fill up its deficiencies, and yet the proposal for completing them had been rejected.

Thus are we to be at the expense of supporting the skeleton of an army. Was it not better to fill up the old corps, than to put ourselves to the inconvenience of raising a new one?

Mr. McDOWELL rose to correct what had fallen from Mr. AMES, as to the strength of the Indian nations on the South-western frontier. The Choctaws and Chickasaws are, and always have been, friends to the white people, and ready to fight for them. The Creeks and Cherokees do not, at the most, extend to more than seven or eight thousand men.

Mr. CARNES.—The only use that Continental troops can be of is to defend posts; and it has been found, by the experience of several years, that posts do more mischief than service. They are established at a distance of fifteen or twenty miles from each other. The Indian parties slip in between them; and the frontier settlers, depending on the protection of the regulars, are not, as they otherwise would be, upon their guard against the savages. The consequence is, that they are frequently murdered; while the only service performed by the Continentals is, that when the militia pursue the Indians, they are prevented by the former from crossing what is called the line. That is the whole service which they have performed in Georgia. In short, against the Creeks, they are good for nothing. Mr. C. wished that gentlemen would frankly say, once for all, that the Georgians did not deserve protection, and then the State would know what was to be done. He insisted on it, that, in Georgia, there were improper leanings in favor of the Indians. He referred to some persons in office, whom he specified. He believed sincerely that the Senate imagined themselves to be acting for the best; but they could not be such competent judges as persons on the spot. Within the last seven years, there has not been a single instance of an Indian killed by a white man, unless when the Indians themselves began the quarrel. During the last ten or twelve years, there had been stolen from Georgia, horses to the amount of a hundred thousand dollars. These were often the chief property of poor people, who had nothing else to depend on for supporting their families. Gentlemen say that we have one Indian war already. But if you have two hands, both in the fire at once, will you pull out one before the other? The Creeks are a savage and faithless tribe. Some years ago, a treaty was made with them at New York; and this treaty cost, in presents, sixty-one thousand dollars. Well, before the chiefs got home, a fresh set of murders were committed. A set of commissioners were next sent, and this embassy cost perhaps a hundred and fifty thousand dollars more. Gentlemen might talk as they thought fit about Indians; for his own part, he would not give the life of one white man for those of fifty Indians. The militia had been always successful against them, and the regulars had always been beaten; this showed the futility of the present amendment from the Senate. Of the successes of the militia, he gave some striking instances, where they had defeated three or four times their own number. As an evidence of the improper leaning on behalf of the Indians, Mr. C. adverted to what had just happened in Georgia. A gang of savages stole some horses. Lieutenant Hay, with a party of dragoons, pursued them, and fell into an ambuscade, where Mr. Hay and two men were killed. This was the way that the Creeks kept a peace. Soon after, an Indian, being found in the State, was wounded; and in the correspondence read the other day to the House, it was so stated, as if the white people were to blame. It made every drop of blood in his heart boil, to hear what he heard in this city as to the character and conduct of his constituents. As a Representative of Georgia, he *demand*ed effectual aid for that State. If the House did not choose to grant it, he warned them that the Georgians would take measures for themselves. It was needless to speak of economy, after squandering such vast sums as he had mentioned, in the purchase of treaties that were never kept. He was against the amendment of the Senate.

Mr. DAYTON rose to contradict one assertion, which had fallen from the gentleman, viz: that the regulars were always beaten by the Indians. If gentlemen exercised their memories, or attended to historical facts, they would see the contrary. General Sullivan had entered the country of the Six Nations, had defeated them, and destroyed their towns, and since that time they had been looked upon as a subdued people. Mr. D. was himself in the army on that expedition, and a witness to the success of the regulars. He was for the amendment.

The question was put that the House do concur with the Senate in the said amendment, and passed in the negative—yeas 26, nays 42, as follows:

YEAS.—Fisher Ames, David Cobb, Peleg Coffin, Joshua Coit, Jonathan Dayton, George Dent, Thomas Fitzsimons, Dwight Foster, Ezekiel Gilbert, Henry Glenn, James Gordon, William Hindman, Henry Latimer, Amasa Learned, Francis Malbone, William Vans Murray, Theodore Sedgwick, William Smith, Zephaniah Swift, Uriah Tracy, Jonathan Trumbull, John E. Van Allen, Peter Van Gaasbeck, Peleg Wadsworth, Jeremiah Wadsworth, and John Watts.

NAYS.—Theodorus Bailey, Abraham Baldwin, John Beatty, Thomas Blount, Thomas P. Carnes, Thomas Claiborne, Isaac Coles, William J. Dawson, Henry Dearborn, William Findlay, William B. Giles, James Gillespie, Alexander Gillon, Nicholas Gilman, Andrew Gregg, Samuel Griffin, William Barry Grove, Daniel Heister, William Lyman, Nathaniel Macon, James Madison, Joseph McDowell, Alexander Mebane, William Montgomery, Andrew Moore, Joseph Neville, John Nicholas, Alexander D. Orr, Josiah Parker, Francis Preston, Robert Rutherford, Thomas Scott, John Smilie, Jeremiah Smith, Thomas Sprigg, Thomas Tredwell, Philip Van Cortlandt, Abraham Venable, Francis Walker, Benjamin Williams, Richard Winn, and Joseph Winston.

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Ordered, That the further consideration of the said amendments be put off till to-morrow.

SATURDAY, June 7.

Mr. THATCHER moved that such members as had received their pay up to Monday next, and then absented themselves, should be ordered next session to return as much as they had received for the days when absent. The motion was ordered to lie on the table.

MONDAY, June 9.

LEMUEL BENTON (from South Carolina) appeared, produced his credentials, and took his seat in the House; the oath to support the Constitution of the United States being first administered to him by Mr. SPEAKER, according to law.

Mr. BENTON (from South Carolina) informed the SPEAKER, that he had been prevented by indisposition in his family, and a long voyage, from attending his duty sooner in that House. This was the day of adjournment, and he wished to inform the House, that he should decline receiving pay for his travelling expenses, or attendance. He was not willing to qualify himself this day, unless it could be noted on the journals that he had refused any compensation. He took the oath.

A message from the Senate informed the House, that the Senate having completed the Legislative business before them, are now about to adjourn until the first Monday in November next: Whereupon, Mr. SPEAKER adjourned the House until the first Monday in November next.^[51]

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THIRD CONGRESS.—SECOND SESSION.

HELD IN THE CITY OF PHILADELPHIA, NOVEMBER 3, 1794.

PROCEEDINGS IN THE SENATE.

MONDAY, November 3, 1794.

The following Senators appeared, and took their seats:

RALPH IZARD, President *pro tem.*, from South Carolina.

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire.

GEORGE CABOT, from Massachusetts.

OLIVER ELLSWORTH, from Connecticut.

THEODORE FOSTER, from Rhode Island.

MOSES ROBINSON, from Vermont.

RUFUS KING, from New York.

ROBERT MORRIS, from Pennsylvania.

JOHN BROWN, from Kentucky.

BENJAMIN HAWKINS, from North Carolina.

The number assembled not being sufficient to constitute a quorum to do business, the Senate adjourned to 11 o'clock to-morrow morning.

TUESDAY, November 4.

The Senate assembled: present as yesterday. JOHN VINING, from the State of Delaware, attended.

MONDAY, November 10.

The Senate assembled: present as on the 7th; and

JOHN ADAMS, Vice President of the United States and President of the Senate, attended.

ALEXANDER MARTIN, from the State of North Carolina, and JAMES JACKSON, from the State of Georgia, severally attended.

The number assembled not being sufficient to constitute a quorum to do business, the Senate adjourned to 11 o'clock to-morrow morning.

TUESDAY, November 11.

The Senate assembled: present as yesterday; and WILLIAM BRADFORD, from the State of Rhode Island, attended.

MONDAY, November 17.

The Senate assembled: present as on Friday.

The number assembled not being sufficient to form a quorum, the VICE PRESIDENT was requested by the Senators present, to write a letter to each of the absent Senators, stating that a fortnight has already elapsed without the formation of a Senate, and urging their immediate attendance as necessary to enable Congress to commence the business of the session.

The Senate adjourned to 11 o'clock to-morrow morning.

TUESDAY, November 18.

AARON BURR, from New York, appeared to-day, which formed a quorum, and enabled the Senate to proceed to business.

Messages were accordingly exchanged between the two Houses, and a joint committee was appointed to wait on the PRESIDENT OF THE UNITED STATES, to inform him that a quorum of the two Houses is assembled, and are ready to receive any communications that he may be pleased to make to them.

Mr. IZARD, from the joint committee appointed for the purpose, reported that the PRESIDENT would meet the two Houses in the Representatives' Chamber at 12 o'clock to-morrow.

WEDNESDAY, November 19.

JOHN EDWARDS, from Kentucky, this day attended.

The Senate agreeably to appointment attended in the House of Representatives, in order to receive the PRESIDENT'S communications; and, on their return, the PRESIDENT'S Speech was read, as follows:

/\$ Fellow-Citizens of the Senate, and of the House of Representatives: \$/

When we call to mind the gracious indulgence of Heaven, by which the American people became a nation; when we survey the general prosperity of our country, and look forward to the riches, power, and happiness, to which it seems destined; with the deepest regret do I announce to you, that, during your recess, some of the citizens of the United States have been found capable of an insurrection. It is due, however, to the character of our Government, and to its stability, which cannot be shaken by the enemies of order, freely to unfold the course of this event.

During the session of the year one thousand seven hundred and ninety, it was expedient to exercise the Legislative power, granted by the Constitution of the United States, "to lay and collect excises." In a majority of the States, scarcely an objection was heard to this mode of taxation. In some, indeed, alarms were at first conceived, until they were banished by reason and patriotism. In the four western counties of Pennsylvania, a prejudice, fostered and embittered by the artifice of men, who labored for an ascendancy over the will of others, by the guidance of their passions, produced symptoms of riot and violence. It is well known, that Congress did not hesitate to examine the complaints which were presented; and to relieve them, as far as justice dictated, or general convenience would permit. But the impression which this moderation made on the discontented, did not correspond with what it deserved. The arts of delusion were no longer confined to the efforts of designing individuals. The very forbearance to press prosecutions was misinterpreted into a fear of urging the execution of the laws; and associations of men began to denounce threats against the officers employed. From a belief, that, by a more formal concert, their operation might be defeated, certain self-created societies assumed the tone of condemnation. Hence, while the greater part of Pennsylvania itself were conforming themselves to the acts of excise, a few counties were resolved to frustrate them. It was now perceived, that every expectation from the tenderness which had been hitherto pursued was unavailing, and that further delay could only create an opinion of impotency or irresolution in the Government. Legal process was therefore delivered to the Marshal against the rioters and delinquent distillers.

No sooner was he understood to be engaged in this duty, than the vengeance of armed men was aimed at *his* person, and the person and property of the Inspector of the Revenue. They fired upon the Marshal, arrested him, and detained him, for some time as a prisoner. He was obliged, by the jeopardy of his life, to renounce the service of other process, on the west side of the Alleghany Mountain; and a deputation was afterwards sent to him to demand a surrender of that which he *had* served. A numerous body repeatedly attacked the house of the Inspector, seized his papers of office, and finally destroyed by fire his buildings and whatsoever they contained. Both of these officers, from a just regard to their safety, fled to the seat of Government; it being avowed, that the motives to such outrages were to compel the resignation of the Inspector; to withstand by force of arms the authority of the United States; and thereby to extort a repeal of the laws of excise, and an alteration in the conduct of Government.

Upon the testimony of these facts, an Associate Justice of the Supreme Court of the United States notified to me that "in the counties of Washington and Alleghany, in Pennsylvania, laws of the United States were opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the Marshal of that district." On this call, momentous in the extreme, I sought and weighed what might best subdue the crisis. On the one hand, the Judiciary was pronounced to be stripped of its capacity to enforce the laws; crimes, which reached the very

existence of social order, were perpetrated without control; the friends of government were insulted, abused, and overawed into silence, or an apparent acquiescence; and, to yield to the treasonable fury of so small a portion of the United States would be to violate the fundamental principle of our constitution, which enjoins that the will of the majority shall prevail. On the other, to array citizen against citizen, to publish the dishonor of such excesses, to encounter the expense, and other embarrassments, of so distant an expedition, were steps too delicate, too closely interwoven with many affecting considerations, to be lightly adopted. I postponed, therefore, the summoning the militia immediately into the field; but, I required them to be held in readiness, that, if my anxious endeavors to reclaim the deluded, and to convince the malignant of their danger, should be fruitless, military force might be prepared to act, before the season should be too far advanced.

My Proclamation of the 7th of August last was accordingly issued, and accompanied by the appointment of commissioners, who were charged to repair to the scene of insurrection. They were authorized to confer with any bodies of men or individuals. They were instructed to be candid and explicit in stating the sensations which had been excited in the Executive, and his earnest wish to avoid a resort to coercion; to represent, however, that, without submission, coercion *must* be the resort; but to invite them, at the same time, to return to the demeanor of faithful citizens, by such accommodations as lay within the sphere of Executive power. Pardon, too, was tendered to them by the Government of the United States, and that of Pennsylvania, upon no other condition than a satisfactory assurance of obedience to the laws.

Although the report of the commissioners marks their firmness and abilities, and must unite all virtuous men, by showing that the means of conciliation have been exhausted, all of those who had committed or abetted the tumults did not subscribe the mild form which was proposed as the atonement; and the indications of a peaceable temper were neither sufficiently general nor conclusive to recommend or warrant the further suspension of the march of the militia.

Thus, the painful alternative could not be discarded. I ordered the militia to march —after once more admonishing the insurgents, in my Proclamation of the 25th of September last.

It was a task too difficult to ascertain with precision the lowest degree of force competent to the quelling of the insurrection. From a respect, indeed, to economy, and the ease of my fellow-citizens belonging to the militia, it would have gratified me to accomplish such an estimate. My very reluctance to ascribe too much importance to the opposition, had its extent been accurately seen, would have been a decided inducement to the smallest efficient numbers. In this uncertainty, therefore, I put into motion fifteen thousand men, as being an army which, according to all human calculation, would be prompt and adequate in every view, and might, perhaps, by rendering resistance desperate, prevent the effusion of blood. Quotas had been assigned to the States of New Jersey, Pennsylvania, Maryland, and Virginia; the Governor of Pennsylvania having declared, on this occasion, an opinion which justified a requisition to the other States.

Among the discussions which may arise from this aspect of our affairs, and from the documents which will be submitted to Congress, it will not escape their observation, that not only the Inspector of the Revenue, but other officers of the United States in Pennsylvania, have, from their fidelity in the discharge of their functions, sustained material injuries to their property. The obligation and policy of indemnifying them are strong and obvious. It may also merit attention, whether policy will not enlarge this provision to the retribution of other citizens, who, though not under the ties of office, may have suffered damage by their generous exertions for upholding the constitution and the laws. The amount, even if all the injured were included, would not be great; and, on future emergencies, the Government would be amply repaid by the influence of an example, that he who incurs a loss in its defence, shall find a recompense in its liberality.

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While there is cause to lament that occurrences of this nature should have disgraced the name, or interrupted the tranquillity of any part of our community, or should have diverted, to a new application, any portion of the public resources, there are not wanting in real and substantial consolations for the misfortune. It has demonstrated, that our prosperity rests on solid foundations; by furnishing an additional proof, that my fellow-citizens understand the true principles of government and liberty; that they feel their inseparable union; that notwithstanding all the devices which have been used to sway them from their interest and duty, they are now as ready to maintain the authority of the laws against licentious invasions, as they were to defend their rights against usurpation. It has been a spectacle, displaying to the highest advantage the value of Republican government, to behold the most and the least wealthy of our citizens standing in the same ranks, as private soldiers, pre-eminently distinguished by being the army of the constitution; undeterred by a march of three hundred miles over rugged mountains, by the approach of an inclement season, or by any other

discouragement. Nor ought I to omit to acknowledge the efficacious and patriotic co-operation which I have experienced from the Chief Magistrates of the States to which my requisitions have been addressed.

To every description of citizens, indeed, let praise be given. But let them persevere in their affectionate vigilance over that precious depository of American happiness, the Constitution of the United States. Let them cherish it, too, for the sake of those who, from every clime are daily seeking a dwelling in our land. And when, in the calm moments of reflection, they shall have retraced the origin and progress of the insurrection, let them determine whether it has not been fomented by combinations of men, who, careless of consequences, and disregarding the unerring truth that those who rouse cannot always appease a civil convulsion, have disseminated, from an ignorance or perversion of facts, suspicions, jealousies, and accusations, of the whole Government.

The intelligence from the army under the command of General Wayne is a happy presage to our military operations against the hostile Indians north of the Ohio. From the advices which have been forwarded, the advance which he has made must have damped the ardor of the savages, and weakened their obstinacy in waging war against the United States. And yet, even at this late hour, when our power to punish them cannot be questioned, we shall not be unwilling to cement a lasting peace, upon terms of candor, equity, and good neighborhood.

Towards none of the Indian tribes have overtures of friendship been spared. The Creeks, in particular, are covered from encroachment by the interposition of the General Government, and that of Georgia. From a desire, also, to remove the discontents of the Six Nations, a settlement meditated at Presqu'isle, on Lake Erie, has been suspended; and an agent is now endeavoring to rectify any misconception into which they may have fallen. But I cannot refrain from again pressing upon your deliberations the plan which I recommended at the last session, for the improvement of harmony with all the Indians within our limits, by the fixing and conducting of trading houses upon the principles then expressed.

Gentlemen of the House of Representatives:

The time which has elapsed since the commencement of our fiscal measures has developed our pecuniary resources, so as to open the way for a definitive plan for the redemption of the public debt. It is believed that the result is such as to encourage Congress to consummate this work without delay. Nothing can more promote the permanent welfare of the nation, and nothing would be more grateful to our constituents. Indeed, whatsoever is unfinished of our system of public credit, cannot be benefited by procrastination; and, as far as may be practicable, we ought to place that credit on grounds which cannot be disturbed, and to prevent that progressive accumulation of debt, which must ultimately endanger all governments.

An estimate of the necessary appropriations, including the expenditures into which we have been driven by the insurrection, will be submitted to Congress.

G. WASHINGTON.

UNITED STATES, *November 19, 1794.*

Ordered, That MESSRS. KING, ELLSWORTH, and IZARD, be a committee to report the draft of an Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech this day to both Houses of Congress.

THURSDAY, November 20.

Mr. KING, from the committee, reported an Address to the PRESIDENT OF THE UNITED STATES, in reply to his Speech of the 19th to both Houses of Congress, which was read.

Ordered, That to-morrow be assigned to take this report into consideration.

FRIDAY, November 21.

The Senate took into consideration the report of the committee, in reply to the Speech of the PRESIDENT OF THE UNITED STATES to both Houses of Congress at the opening of the session; and it was agreed to consider the report in paragraphs.

On motion of Mr. BURR, seconded by Mr. JACKSON, to expunge these words:

"Our anxiety, arising from the licentious and open resistance to the laws in the western counties of Pennsylvania, has been increased by the proceedings of certain self-created societies, relative to the laws and administration of the Government; proceedings, in our apprehension, founded in political error, calculated, if not intended, to disorganize our Government, and which, by inspiring delusive hopes of support, have been influential in misleading our fellow-citizens in the scene of insurrection:"

It passed in the negative.

On motion to amend the paragraph respecting the army, under the command of General Wayne, to be read as follows:

"The pleasure with which we learn the success of the Western Army under the command of General Wayne, is enhanced by the hope, that their victories will lay the foundation of a just and durable peace with the *Indian* tribes."

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It passed in the negative.

On motion to strike out of the paragraph respecting the Western Army, the words, "General and," it passed in the negative.

And the several paragraphs reported by the committee being agreed to, the report was adopted, as follows:

SIR: We receive with pleasure your Speech to the two Houses of Congress. In it we perceive renewed proofs of that vigilant and paternal concern for the prosperity, honor, and happiness of our country, which has uniformly distinguished your past administration.

Our anxiety arising from the licentious and open resistance to the laws in the western counties of Pennsylvania, has been increased by the proceedings of certain self-created societies, relative to the laws and administration of the Government; proceedings, in our apprehension, founded in political error, calculated, if not intended, to disorganize our Government, and which, by inspiring delusive hopes of support, have been influential in misleading our fellow-citizens in the scene of insurrection.

In a situation so delicate and important, the lenient and persuasive measures which you adopted merit and receive our affectionate approbation. These failing to produce their proper effect, and coercion having become inevitable, we have derived the highest satisfaction from the enlightened patriotism and animating zeal with which the citizens of New Jersey, Pennsylvania, Maryland, and Virginia, have rallied around the standard of Government, in opposition to anarchy and insurrection.

Our warm and cordial acknowledgments are due to you, sir, for the wisdom and decision with which you arrayed the militia, to execute the public will; and to them, for the disinterestedness and alacrity with which they obeyed your summons.

The example is precious to the theory of our Government, and confers the brightest honor upon the patriots who have given it.

We shall readily concur in such farther provisions for the security of internal peace and a due obedience to the laws, as the occasion manifestly requires.

The effectual organization of the militia, and a prudent attention to the fortifications of our ports and harbors, are subjects of great national importance, and together with the other measures you have been pleased to recommend, will receive our deliberate consideration.

The success of the troops under the command of General Wayne cannot fail to produce essential advantages. The pleasure with which we acknowledge the merits of that gallant General and army, is enhanced by the hope that their victories will lay the foundation of a just and durable peace with the Indian tribes.

At a period so momentous in the affairs of nations, the temperate, just, and firm policy that you have pursued, in respect to foreign powers, has been eminently calculated to promote the great and essential interest of our country, and has created the fairest title to the public gratitude and thanks.

JOHN ADAMS,

*Vice President of the United States,
and President of the Senate.*

Ordered, That the committee who prepared the Address wait on the PRESIDENT OF THE UNITED STATES, and desire him to acquaint the Senate at what time and place it will be most convenient for him that it should be presented.

Mr. KING reported, from the committee, that they had waited on the PRESIDENT OF THE UNITED STATES, and that he would receive the Address of the Senate to-morrow at 12 o'clock, at his own house.

SATURDAY, November 22.

The Senate waited on the PRESIDENT OF THE UNITED STATES, and the VICE PRESIDENT, in their name, presented the Address agreed to on the 21st instant.

To which the PRESIDENT OF THE UNITED STATES was pleased to make the following reply:

Gentlemen:

Among the occasions which have been afforded for expressing my sense of the zealous and steadfast co-operation of the Senate, in the maintenance of

Government, none has yet occurred more forcibly demanding my unqualified acknowledgments than the present.

Next to the consciousness of upright intentions, it is the highest pleasure to be approved by the enlightened Representatives of a free nation. With the satisfaction, therefore, which arises from an unalterable attachment to public order, do I learn, that the Senate discountenance those proceedings, which would arrogate the direction of our affairs, without any degree of authority derived from the people.

It has been more than once the lot of our Government to be thrown into new and delicate situations; and of these, the insurrection has not been the least important. Having been compelled at length to lay aside my repugnance to resort to arms, I derive much happiness from being confirmed by your judgment in the necessity of decisive measures, and from the support of my fellow-citizens of the militia, who were the patriotic instruments of that necessity.

With such demonstrations of affection for our constitution; with an adequate organization of the militia; with the establishment of necessary fortifications; with a continuance of those judicious and spirited exertions which have brought victory to our Western Army; with a due attention to public credit and an unsullied honor towards all nations; we may meet, under every assurance of success, our enemies from within and from without.

G. WASHINGTON.

The Senate returned to their own Chamber, and then adjourned.

MONDAY, November 24.

JOHN RUTHERFORD, from New Jersey, attended.

WEDNESDAY, November 26.

JOHN HENRY, from Maryland, and JAMES ROSS, from Pennsylvania, severally attended.

FRIDAY, November 28.

STEPHEN R. BRADLEY, from Vermont, and CALEB STRONG, from Massachusetts, severally attended.

TUESDAY, December 9.

RICHARD POTTS, from Maryland, attended to-day.

THURSDAY, December 11.

FREDERICK FRELINGHUYSEN, from New Jersey, attended.

MONDAY, December 15.

STEPHEN MIX MITCHELL, from Connecticut, attended to-day.

MONDAY, December 29.

HENRY TAZEWELL, appointed a Senator by the State of Virginia, in the place of JOHN TAYLOR, resigned, produced his credentials, which were read, and the VICE PRESIDENT administered to him the oath required by law, and he took his seat in the Senate.

FRIDAY, February 20.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a PRESIDENT *pro tempore*, as the constitution provides, and SAMUEL LIVERMORE was duly elected; who, declining the appointment,

The Senate proceeded to the election of HENRY TAZEWELL to that office.

Ordered, That the Secretary wait on the PRESIDENT OF THE UNITED STATES, and notify him of the election of Mr. TAZEWELL to be PRESIDENT of the Senate *pro tempore*.

SATURDAY, February 28.

HENRY LATIMER, from the State of Delaware, in place of GEORGE READ, resigned, attended, and produced his credentials, which were read; and, the oath prescribed by law being administered, he took his seat in the Senate.

JAMES GUNN, from Georgia, attended.

TUESDAY, March 3.

Mr. BURR laid before the Senate a motion, as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following article be proposed to the Legislatures of the several States, as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the said Legislatures, shall be valid as part of the said constitution, to wit:

"That the term for which the members of the Senate and House of Representatives of the next Congress are or shall be chosen shall expire on the first day of June next following the third day of March, on which it would have expired if this amendment to the constitution had not been adopted."

Ordered, That this motion lie for consideration.

TUESDAY EVENING, March 3.

A message from the House of Representatives informed the Senate that the House, having finished the business of the session, are about to adjourn.

Ordered, That MESSRS. IZARD and MORRIS be a committee, jointly, with such committee as the House of Representatives may appoint on their part, to wait on the PRESIDENT OF THE UNITED STATES, and inform him that Congress is ready to adjourn without day, unless he may have any further communications to make.

Ordered, That the Secretary acquaint the House of Representatives therewith, and desire the appointment of a committee on their part.

A message from the House of Representatives informed the Senate that the House have appointed a joint committee on their part to wait on the PRESIDENT OF THE UNITED STATES, and inform him that Congress is ready to adjourn.

Mr. IZARD reported, from the joint committee, that they had waited on the PRESIDENT OF THE UNITED STATES, who informed them that he had no further communications to make to Congress during this session. Whereupon, it was

Resolved, That the Senate adjourn without day.

EXECUTIVE JOURNAL.

THE TENTH SESSION OF THE SENATE OF THE UNITED STATES, CONVENED ON

MONDAY, JUNE 8, 1795.

MONDAY, June 8, 1795.

Pursuant to a call from the PRESIDENT OF THE UNITED STATES, in a circular addressed to the several Senators, informing each that "certain matters touching the public good required that the Senate should be convened on the above day, at the Senate Chamber, in Philadelphia, then and there to receive and deliberate on such communications as he shall then make to them:" the Senate assembled accordingly.

PRESENT. JOHN ADAMS, Vice President of the United States and President of the Senate.

From New Hampshire.—JOHN LANGDON and SAMUEL LIVERMORE.

From Massachusetts.—CALEB STRONG and GEORGE CABOT.

From Vermont.—MOSES ROBINSON.

From Connecticut.—OLIVER ELLSWORTH and JONATHAN TRUMBULL.

From Rhode Island.—THEODORE FOSTER and WILLIAM BRADFORD.

From New York.—RUFUS KING and ARRON BURR.

From New Jersey.—JOHN RUTHERFORD.

From Pennsylvania.—JAMES ROSS and WILLIAM BINGHAM.

From Delaware.—HENRY LATIMER.

From Maryland.—RICHARD POTTS.

From Virginia.—HENRY TAZEWELL and STEVENS THOMSON MASON.

From Kentucky.—JOHN BROWN and HUMPHREY MARSHALL.

From North Carolina.—ALEXANDER MARTIN and TIMOTHY BLOODWORTH.

From South Carolina.—JACOB READ.

From Georgia.—JAMES JACKSON.

Ordered, That Mr. STRONG and Mr. LANGDON be a committee to wait on the PRESIDENT OF THE UNITED STATES, and notify him that a quorum of the Senate is assembled, and ready to receive any communications he may be pleased to make.

Mr. STRONG reported, from the committee, that they had waited on the PRESIDENT OF THE UNITED STATES, and that he informed them he would make some communications to the Senate immediately.

TUESDAY, June 9.

PIERCE BUTLER, from the State of South Carolina, and FREDERICK FRELINGHUYSEN, from the State of New Jersey, severally attended.

JAMES GUNN, from the State of Georgia, produced his credentials, and, the usual oath being administered, took his seat in the Senate.

FRIDAY, June 12.

JOHN HENRY, from the State of Maryland, produced his credentials, and, the usual oath being administered, he took his seat in the Senate.

SATURDAY, June 13.

ELIJAH PAINE, from the State of Vermont, produced his credentials, and the usual oath being administered, he took his seat in the Senate.

MONDAY, June 15.

JOHN VINING, from the State of Delaware, attended.

The Senate resumed the consideration of the Treaty, communicated by the PRESIDENT OF THE UNITED STATES, with his Message of the 8th instant: and, after progress, the Senate adjourned.

WEDNESDAY, June 17.

The Senate resumed the consideration of the Treaty, communicated with the Message of the PRESIDENT OF THE UNITED STATES, of the 8th instant, and after discussion on the remaining articles, a motion was made and seconded, that it be

"Resolved, (two-thirds of the Senate concurring therein,) That they do consent to, and advise the President of the United States, to ratify the Treaty of Amity, Commerce, and Navigation, between His Britannic Majesty and the United States of America, concluded at London, the 19th day of November, 1794, on condition that there be added to the said Treaty an article whereby it shall be agreed to suspend the operation of so much of the 12th article as respects the trade which his said Majesty thereby consents may be carried on between the United States and his Islands in the West Indies, in the manner, and on the terms and conditions therein specified.

"And the Senate recommend to the President, to proceed, without delay, to further friendly negotiations with His Majesty, on the subject of the said trade, and of the terms and conditions in question."

On motion, it was agreed, that this motion lie for consideration until to-morrow. ^[52]

MONDAY, June 22.

The VICE PRESIDENT laid before the Senate a letter from the Secretary for the Department of State, with a "list of the negroes, to which the correspondence between the Commander-in-chief of the American Army and Sir Guy Carleton relates;" which was read, and, with the document referred to, ordered to lie on the table.

WEDNESDAY, June 24.

Deported Slaves of the Revolution.

A motion was made by Mr. GUNN, seconded by Mr. READ, as follows:

"Whereas it is alleged by divers American citizens, that negroes, and other property, to a considerable amount, were carried away, in contravention of the seventh article of the Treaty of Peace between the United States and His Britannic Majesty:

"Resolved, That the Senate recommend to the President of the United States, to renew, by friendly negotiation with his said Majesty, the claims of the American citizens, to compensation for the negroes and other property, so alleged to have

been carried away; and in case the disagreement that has hitherto existed, relative to the construction in this behalf of the said article, cannot be removed by candid and amicable discussions, that it be proposed, as a measure calculated to cherish and confirm the good understanding and friendship which it is desired may prevail between the two countries, that commissioners be appointed, in the manner directed by the sixth article of the Treaty of Amity, Commerce, and Navigation, lately concluded between the United States and his said Majesty, with authority to ascertain and decide, as well the interpretation of the said seventh article in this respect, as likewise the amount of the losses sustained by the alleged violation of the same.

"But the Senate are of opinion that the negotiation on this subject should be distinct from, and subsequent to that recommended by their act of the 24th instant, respecting the trade and intercourse between the United States and his said Majesty's islands in the West Indies."

And, after debate, it was agreed that this motion lie until to-morrow for consideration.

THURSDAY, June 25.

The motion made by Mr. GUNN, as last recited, and yesterday referred to this day for consideration, was resumed.

On motion to divide this motion, and to agree to all that is contained from the word "*whereas*," to the word "*same*," at the end of the first paragraph of the resolution inclusive, it passed in the affirmative—yeas 27, nays 1, as follows:

YEAS.—MESSRS. Bingham, Bloodworth, Bradford, Brown, Burr, Butler, Cabot, Ellsworth, Foster, Frelinghuysen, Gunn, Jackson, King, Langdon, Latimer, Livermore, Marshall, Martin, Paine, Potts, Read, Robinson, Boss, Rutherford, Strong, Trumbull, and Vining.

Mr. Tazewell voted in the negative.^[53]

The yeas and nays were required by one-fifth of the Senators present.

Those who voted in the affirmative, are—Messrs. Bingham, Bradford, Butler, Cabot, Ellsworth, Foster, Frelinghuysen, Gunn, King, Latimer, Livermore, Paine, Potts, Read, Ross, Rutherford, Strong, Trumbull, and Vining.

These who voted in the negative, are—Messrs. Bloodworth, Brown, Burr, Jackson, Langdon, Marshall, Martin, Mason, Robinson, and Tazewell.

Yeas 19, nays 10. So the question of reconsideration was lost, there not being two-thirds of the Senators present in the affirmative.

On motion, by Mr. RUTHERFORD, for the question on the resolution as amended, to wit:

"Whereas, it is alleged by divers American citizens, that negroes and other property, to a considerable amount, were carried away in contravention of the 7th article of the Treaty of Peace between the United States and His Britannic Majesty:

"*Resolved*, That the Senate recommend to the PRESIDENT OF THE UNITED STATES to renew, by friendly negotiation with his said Majesty, the claims of the American citizens to compensation for the negroes and other property so alleged to have been carried away; and in case the disagreement, that has hitherto existed relative to the construction in this behalf of the said article, cannot be removed by candid and amicable discussions, that it be proposed, as a measure calculated to cherish and confirm the good understanding and friendship which it is desired may prevail between the two countries, that commissioners be appointed in the manner directed by the 6th article of the Treaty of Amity, Commerce, and Navigation lately concluded between the United States and his said Majesty, with authority to ascertain and decide, as well the interpretation of the said 7th article, in this respect, as likewise the amount of the losses sustained by the alleged violation of the same."

It passed in the negative—yeas 14, nays 15, as follows:

YEAS.—MESSRS. Bloodworth, Brown, Butler, Burr, Gunn, Jackson, Langdon, Marshall, Martin, Mason, Paine, Read, Robinson, and Tazewell.

NAYS.—MESSRS. Bingham, Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, King, Latimer, Livermore, Potts, Ross, Rutherford, Strong, Trumbull, and Vining.

FRIDAY, June 26.

Mr. CABOT reported that the PRESIDENT OF THE UNITED STATES had no further communications to make to the Senate, than his hearty wishes that, in a speedy meeting with their friends, they may enjoy every felicity.

On motion,

Ordered, That there be paid by the Secretary of the Senate, out of the moneys appropriated for

the contingent expenses of the Senate, to James Mathers, Doorkeeper, three dollars per day, and to Cornelius Maxwell, assistant Doorkeeper, two dollars per day, as compensation for their respective attendance during this special session of the Senate, over and above their stated allowance.

On motion, the Senate adjourned without day.

Attest:

SAM. A. OTIS, *Secretary.*

THIRD CONGRESS.—SECOND SESSION.

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PROCEEDINGS AND DEBATES

IN

THE HOUSE OF REPRESENTATIVES.

MONDAY, November 3, 1794.

The following members appeared, and took their seats, to wit:

From New Hampshire.—NICHOLAS GILMAN, JEREMIAH SMITH, and PAINE WINGATE.

From Massachusetts.—FISHER AMES, DAVID COBB, HENRY DEARBORN, DWIGHT FOSTER, BENJAMIN GOODHUE, SAMUEL HOLTEN, GEORGE THATCHER, PELEG WADSWORTH, and ARTEMAS WARD.

From Connecticut.—JOSHUA COIT, AMASA LEARNED, ZEPHANIAH SWIFT, URIAH TRACY, and JONATHAN TRUMBULL.

From Vermont.—ISRAEL SMITH.

From New York.—THEODORUS BAILEY, PHILIP VAN CORTLANDT, and JOHN WATTS.

From New Jersey.—JOHN BEATTY and ELIAS BOUDINOT.

From Pennsylvania.—THOMAS HARTLEY, JOHN WILKES KITTERA, FREDERICK A. MUHLENBERG, (Speaker,) and PETER MUHLENBERG.

From Maryland.—GABRIEL CHRISTIE and GEORGE DENT.

From Virginia.—ISAAC COLES, SAMUEL GRIFFIN, JOHN HEATH, JOSEPH NEVILLE, ANTHONY NEW, JOSIAH PARKER, and ROBERT RUTHERFORD.

From Kentucky.—CHRISTOPHER GREENUP.

From North Carolina.—THOMAS BLOUNT, WILLIAM JOHNSTON DAWSON, NATHANIEL MACON, and ALEXANDER MEBANE.

From South Carolina.—WILLIAM SMITH.

From Georgia.—ABRAHAM BALDWIN.

A quorum of the whole number not being present, the House adjourned until to-morrow.

TUESDAY, November 4.

Several other members, to wit: from Rhode Island, FRANCIS MALBONE; from New York, HENRY GLENN, JAMES GORDON, and JOHN E. VAN ALLEN; from New Jersey, JONATHAN DAYTON; from Pennsylvania, THOMAS FITZSIMONS; from Delaware, HENRY LATIMER; from Maryland, WILLIAM VANS MURRAY; from Virginia, GEORGE HANCOCK, RICHARD BLAND LEE, JAMES MADISON, ANDREW MOORE, FRANCIS PRESTON, and FRANCIS WALKER; and from North Carolina, MATTHEW LOCKE, appeared, and took their seats in the House.

And a quorum, consisting of a majority of the whole number, being present,

Ordered, That a message be sent to the Senate, to inform them that a quorum of this House is assembled, and ready to proceed to business; and that the Clerk of this House do go with said message.

WEDNESDAY, November 5.

Several other members, to wit: from New Hampshire, JOHN S. SHERBURNE; from Massachusetts, WILLIAM LYMAN; from Connecticut, JAMES HILLHOUSE; from Vermont, NATHANIEL NILES; from New York, EZEKIEL GILBERT; from Maryland, WILLIAM HINDMAN; from Virginia, THOMAS CLAIBORNE; and from Georgia, THOMAS P. CARNES, appeared, and took their seats in the House.

Notice was received that the Senate had not yet been able to form a quorum.

Upon this, Mr. DAYTON moved that a committee shall be appointed to examine the business left unfinished last session, and report to the House. He saw no reason for losing time by waiting for

the Senate.

Mr. GOODHUE objected to the motion as improper.

Mr. DAYTON challenged the gentleman to point out wherein the impropriety consisted. For two or three weeks the House of Representatives would have full employment, while the Senate, in reality, had none. He was positive as to the legality and expediency of proceeding.

The SPEAKER put the question, and the ayes and noes were equal, each being twenty-five.

The SPEAKER then informed the House that, as a quorum of their number was not present, it would be requisite to adjourn. [Pg 528]

The House rose immediately, after adjourning till to-morrow.

THURSDAY, November 6.

Two other members, to wit: from Massachusetts, PELEG COFFIN, and from Virginia, JOHN NICHOLAS, appeared, and took their seats in the House.

FRIDAY, November 7.

Several other members, to wit: from Pennsylvania, JAMES ARMSTRONG and WILLIAM MONTGOMERY; from Virginia, WILLIAM B. GILES; from North Carolina, JOSEPH WINSTON; and from South Carolina, JOHN HUNTER, appeared, and took their seats in the House.

On motion,

Resolved, That a Standing Committee of Elections be appointed, whose duty it shall be to examine and report upon the certificates of election, or other credentials of the members returned to serve in this House, and to take into their consideration all such matters as shall or may come in question, and be referred to them by the House, touching returns and elections, and to report their proceedings with their opinion thereupon, to the House.

And a committee was appointed of Mr. DAYTON, Mr. HILLHOUSE, Mr. SHERBURNE, Mr. DENT, Mr. LEE, Mr. MACON, and Mr. HUNTER.

Ordered, That the letter from the Governor of Maryland, together with the return of the election of Gabriel Duvall, to serve as one of the members of this House for the said State, in the room of JOHN FRANCIS MERCER, who has resigned his seat, which was laid before the House at the last session, be referred to the said Committee of Elections.

MONDAY, November 10.

Several other members, to wit: from New York, THOMAS TREDWELL; from New Jersey, LAMBERT CADWALADER; from Pennsylvania, JOHN SMILIE; from North Carolina, WILLIAM BARRY GROVE and JOSEPH McDOWELL; and from South Carolina, RICHARD WINN, appeared, and took their seats in the House.

The SPEAKER informed the House that the Senate had not yet been able to make a quorum. Fifteen members only appeared. One more was necessary.

TUESDAY, November 11.

Two other members, to wit: from Massachusetts, SHEARJASHUB BOURNE, and from New York, PETER VAN GAASBECK, appeared, and took their seats in the House.

The SPEAKER informed the House that one Senator was yet wanting to the making of a quorum. [The Senate consists of thirty members, of whom only fifteen have yet (Tuesday) made their appearance; of consequence, a majority is wanting. The VICE PRESIDENT has, it is true, arrived, but he is not, strictly speaking, a Senator. He does not give a vote in questions that come before the Senate, unless the voices on a division are equal.]

The SPEAKER laid before the House a letter from James White, enclosing the credentials of his appointment as a Representative of the territory of the United States, south of the river Ohio, in the Congress of the United States, according to the ordinance of Congress of the thirteenth of July, one thousand seven hundred and eighty-seven; which were read, and ordered to be referred to Mr. BALDWIN, Mr. GILBERT, Mr. WALKER, Mr. SWIFT, and Mr. JEREMIAH SMITH, with instructions to examine the matter thereof, and report the same, with their opinion thereupon, to the House.

WEDNESDAY, November 12.

Another member, to wit, CARTER B. HARRISON, from Virginia, appeared, and took his seat in the House.

THURSDAY, November 13.

Two other members, to wit: ANDREW GREGG and DANIEL HEISTER, from Pennsylvania, appeared, and took their seats in the House.

FRIDAY, November 14.

Several other members, to wit: from Massachusetts, SAMUEL DEXTER; from Virginia, ABRAHAM VENABLE; and from Kentucky, ALEXANDER D. ORR, appeared, and took their seats in the House.

MONDAY, November 17.

Two other members, to wit: from Rhode Island, BENJAMIN BOURNE, and from South Carolina, ANDREW PICKENS, appeared, and took their seats in the House.

Delegate south of the Ohio.

The House resolved itself into a Committee of the whole House on the report of the committee to whom was referred the letter from JAMES WHITE, together with the credentials of his appointment as a Representative of the territory of the United States south of the river Ohio.

Mr. SWIFT objected to complying with the report of the committee. He thought that it could not be carried into execution, because it involved inconsistencies. If the object of the law referred to, was to admit this person to debate, and not to vote, that was unconstitutional. He was, by that law, to be a member of Congress; but the House of Representatives are not Congress, and, therefore, this person may equally vote in the House of Representatives and in the Senate; while, at the same time, he may interrupt the PRESIDENT consenting to a bill, by giving his advice. The constitution has made no provision for such a member as this person is intended to be. If we can admit a delegate to Congress or a member of the House of Representatives, we may with equal propriety admit a stranger from any quarter of the world. We may as well admit the gallery, or a foreign Minister, as this person from the territory south-west of the Ohio. At this rate, we may very soon overturn the constitution. If this person has any proper title to a seat, it must be in the Senate; it could not be in the House of Representatives, who were not delegates. The Senate, perhaps, might be called such. His election was nearer the mode of theirs, than that of this House.

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Mr. SMITH (of South Carolina) had no difficulty in declaring that the gentleman was fully qualified to take a seat in that House, by the terms of an express compact with the people. He was convinced that the Representatives have a right to admit those whom they regard as lawfully entitled to a seat in the House, for the purpose of debating. They may admit the Secretary of State, if they consider it as expedient. If this gentleman had applied to the Senate, that body also were authorized to admit him, if they thought it lawful. Under the old constitution, he would have been a member *sui generis*. He does not claim a right of voting, but of speaking only; and when the affairs of the South-western Territory were agitated in the Senate, he had a right, in his (Mr. S.'s) judgment, to speak and debate in that House also. Mr. S. wished that there had been previously settled another part of this business, viz: by whom the delegate was to be paid for his attendance. It may be a future question, also, whether he is to be dismissed when the galleries are cleared?

Mr. GILES was not prepared to speak on the subject. On the score of expediency, his present opinion was, that the delegate from the south-west of the Ohio should be admitted. He had no objection to the motion of the member from Maryland, (Mr. MURRAY,) for the committee rising, but he would never consent to it for the sake of consulting the Senate. He would agree to it, for the sake of further deliberation among themselves. If the House chose to consult the *gallery*—a resource for information that he should never wish to see adopted—they had a right to consult it, or to ask advice from any other quarter, notwithstanding the assertion of the gentleman from Connecticut.

Mr. DEXTER said, he thought the obstacle should be got over by a formal act of the Legislature. He was clear that the House had a right to consult or admit to the privilege of debating, any individual whom they thought proper. They might, for instance, admit an advocate to plead; in a particular case; but that was entirely a different matter from allowing him to give a vote on the question before the House. Mr. D. declared that he would vote against the report, as it now stands, not because he thought the gentleman from the South-western Territory unentitled to a seat, but because he regarded an act of the whole Legislature as a requisite for his introduction.

It was now moved that the committee should rise, and report the resolution of the select committee.

Mr. W. SMITH differed from Mr. DEXTER. He thought the House of Representatives was, in itself, perfectly competent to settle the point. He was determined that they ought not to consult the Senate upon the matter. It would be extremely improper to let the Senate interfere. He again adverted to his former position, that the House may, if it sees proper, introduce the Secretary of State to a privilege of being consulted, or any other person who may be thought suitable. But he would never submit to yield the privileges of the House to the Executive. They ought to decide their elections on their own authority, and on no occasion send to inquire of the Senate if such an amendment ought to be admitted. Mr. S. considered the gentleman (Mr. WHITE) as expressly within the present constitution. He trusted that the committee would not rise, under any such idea as consulting the Senate; but, if they at present rise, that it would be merely for the sake of obtaining further information.

Mr. MURRAY.—If we could have foreseen this case, I am sure that we should have had a joint committee of privileges from both Houses, as judges. The situation of the gentleman refers to both, and therefore the Senate ought to be consulted on this head. Perhaps he is entitled to a seat in both Houses.

Mr. McDOWELL objected, that an act of the Legislature would never, practically, answer the purpose. The session would be next to ending, before such a law would be passed. In the mean time, the interest of the people south-west of the Ohio is agitated in a question, and their delegate is condemned to silence. The members generally admit, in substance, that he ought to be received into this House. He wished, therefore, that they would take a vote on the resolution of the select committee. He would object altogether to the proposal of the member from Maryland, for an act of the Legislature, or any consultation with, the Senate. Mr. McD. was for admitting the member to his seat.

Mr. BOUDINOT observed, that it was universally agreed that the old law for accepting such a member as a delegate of Congress, cannot be executed in its full sense. The gentleman ought, in his opinion, to go where members elected by Legislatures went, that is to say, to the Senate. There was no pretence for his admission among the Representatives of the people. If he had any right, it must be in the other House. He thought this a very important question, and that it deserved more consideration than it had yet received. Mr. B. was not prepared to vote; but, if he was forced to give his voice at present, he should be for remitting the gentleman to the Senate. He thought that there should be an act of the whole Legislature. He should vote for the committee rising.

Mr. DAYTON said, that he should vote against the motion of the Maryland member, for the rising of the committee. He was against the object of this motion. He agreed entirely with the report of the select committee for receiving the south-western member immediately, as he had a right to a seat, founded on an original compact, which gave it to him. He objected to any concurrence of the Senate being asked. As to consulting persons out of doors, the House had a right to call Heads of Departments to give their opinions on any particular subject, if they thought proper. Mr. D. mentioned some cases of this nature, where such an expedient had been used.

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Mr. GILES mentioned one reason against the committee rising, which was, that the House had no other business before it. He then read an amendment to the resolution of the select committee, as a middle course, that would embrace the ideas of all parties.

Mr. DEXTER repeated some of his former reasons for preferring an act of the Legislature.

The question was called for, and put by the Chairman, Shall the committee now rise, and report progress? It was decided in the negative—yeas 38, nays 39.

The question was then put on the resolution, as given by the committee. Mr. GILES again proposed his amendment. This was, that after the word "debating," in the resolution, there should be added, "upon any question touching the rights and interests of people in the territory of the United States south-west of the Ohio." The object was to narrow the power of the delegate.

Mr. SMILIE was for his being admitted to deliberate on every subject, or none at all.

Mr. GILES declared that he was very well pleased with the resolution, as it originally stood. He had only suggested this amendment that he might get the resolution through the House. He therefore withdrew his motion.

Mr. BALDWIN did not see that the question was of much importance. When a member was permitted to speak, but forbidden to vote, his situation was, no doubt, infinitely higher than that of strangers in the gallery, that of an advocate allowed to plead at the bar of the House, or that of a printer who came only to take notes; but still it was extremely short of the situation of a member of Congress. This would be more especially the case, if his right of debating was restricted to the affairs of the North-west and South-west Territory. Mr. B. could see nothing in the new constitution that made an exclusion of the delegate from the south-west of the Ohio. This privilege had been solemnly promised to those people, upon three different occasions. When they belonged to the State of South Carolina, they sent a Representative, Mr. SEVIER, to Congress; and they separated into a new State, under the promise of this privilege. But now, we have made a discovery, that these laws cannot be put into execution. It is a great pity that we had not made this discovery sooner. Mr. B. rejected all idea of referring this matter to the Senate. When the latter had any question of that kind, that concerned themselves, they would, no doubt, judge for themselves, and that just as properly as the House of Representatives. As to the pay of this gentleman, that might be an after question. He was clear that there at present existed no law which could make out that. The House may hereafter, if they see fit, pass a law respecting it. But, in the mean time, Mr. B. was satisfied that these people had a claim for a delegate, which could not be got rid of by the House.

Mr. SWIFT thought that it would be better to erect these people into a new State, and then the privilege would be of some real use to them. He was still of opinion that the constitution admits of no such delegate as this person is intended to be. He is a new kind of character, unknown to it. This person is *sui generis*. If the constitution knows any thing about him, then take him; if not, reject him. As to taking advice from the gallery, Mr. S. seemed to think he had been misunderstood. To admit a person within the bar for the purpose of consulting him, was a quite different thing from permitting the gallery, like this person, to come and take a permanent seat among the members, for the purpose of regularly debating. Mr. S. never meant to debar the House from taking information wherever they could find it.

Mr. MURRAY was concerned that he found himself obliged to vote against the resolution of the Committee of the Whole. He still hoped that the gentleman would have a seat, but that the Senate would first be consulted.

Mr. WINGATE moved an amendment to take the resolution, by adopting these words, "to a seat in

Congress, as a delegate to Congress."

Mr. MADISON said, that the resolution, as passed by the select committee, was so properly expressed, that he did not believe it could admit of any amendment or alteration whatever.

The Committee of the whole House then divided on the resolution, when there appeared a very large majority in favor of reporting it as it first stood, and consequently for admitting Mr. WHITE as a delegate. The committee then rose.

TUESDAY, November 18.

Another member, to wit, THEODORE SEDGWICK, from Massachusetts, appeared, and took his seat in the House.

Delegate south of the Ohio.

The House proceeded to consider the report of the committee on the letter from JAMES WHITE, enclosing the credentials of his appointment as a Representative of the territory of the United States south of the river Ohio; to which the Committee of the whole House reported no amendment. Whereupon, the said report being again read at the Clerk's table, was, on the question put thereupon, agreed to by the House, as follows:

"That, by the ordinance for the government of the territory of the United States north-west of the river Ohio, section nine, it is provided, "that, so soon as there shall be five thousand free male inhabitants of full age in the district, upon giving proof thereof to the Governor, they shall receive authority to elect Representatives to represent them in a General Assembly;" and by the 12th section of the Ordinance, "as soon as a Legislature shall be formed in the District, the Council and House, assembled in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating but not of voting, during this temporary government." Full effect is given to this Ordinance by act of Congress, August 7, 1789.

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"That, by the Deed of Cession of the territory south of the river Ohio, to the United States, in the fourth article, it is also provided 'that the inhabitants of the said territory shall enjoy all the privileges, benefits, and advantages, set forth in the Ordinance of the late Congress for the government of the Western Territory; that is to say, Congress shall assume the government of the said territory, which they shall execute in a manner similar to that which they support in the territory west of the Ohio, and shall never bar or deprive them of any privilege which the people in the territory west of the Ohio enjoy.'

"The cession, on these conditions, was accepted by act of Congress, on the 2d of April, 1790.

"By an act passed the 26th of May, 1790, for the government of the territory of the United States south of the river Ohio, it is enacted, 'that the inhabitants shall enjoy all the privileges, benefits, and advantages, set forth in the Ordinance of the late Congress for the government of the territory of the United States north-west of the river Ohio. And the government of the said territory south of the river Ohio, shall be similar to that which is now exercised in the territory north-west of the river Ohio; except so far as is otherwise provided in the conditions expressed in an act of Congress of the present session, entitled 'An act to accept a cession of the claim of the State of North Carolina to a certain district of Western Territory.' The committee are of opinion that James White has been duly elected as delegate from the territory of the United States south of the Ohio, on the terms of the foregoing acts; they therefore submit the following resolution:

"*Resolved*, that James White be admitted to a seat in this House as a delegate from the territory of the United States south of the river Ohio, with a right of debating but not of voting."

Mr. MADISON said, that in new cases there often arose a difficulty by applying old names to new things. The proper definition of Mr. WHITE is to be found in the laws and rules of the constitution. He is not a member of Congress, therefore, and so cannot be directed to take an oath, unless he chooses to do it voluntarily.

Mr. MURRAY moved that Mr. WHITE should be required to take the oath.

Mr. W. SMITH observed, that the constitution only required members and the Clerk to take the oath. The gentleman was not a member. It does not even appear for what number of years he is elected. In fact he is no more than an envoy to Congress. Instead of being called delegate to Congress, had he been plainly called an envoy, the difficulty would have vanished. He is not a Representative from, but an officer deputed by the people of the Western Territory. It is very improper to call on this gentleman to take such an oath, any more than any civil officer in the State of Pennsylvania. Mr. S. did not consider him as coming even within the Post Office law, (viz: for franking letters.) He is not entitled to pay, unless a law shall be passed for that end.

Mr. GILES agreed with the gentleman who spoke last as to the impropriety of demanding an oath.

Mr. LYMAN was for it.

Mr. DAYTON was against the oath. Call him what you will, a member, a delegate, or, if you please, a *nondescript*. It would be wrong to accept his oath, even if he should offer it. He is not a member. He cannot vote, which is the essential part. It is said that he can argue, and by that means influence the votes of the House. But so also a printer may be said to argue and influence, when he comes to this House, takes notes, and prints them in the newspapers.

Mr. BOUDINOT.—As the House had set out on a wrong principle, it was natural that, in their subsequent progress they should wander further and further from the point. But, as the House had now given their decision, he acquiesced in it. It was, however, a strange kind of thing to have a gentleman here arguing, who was not bound by an oath. He never could reconcile it.

Several other members spoke.

The House divided on the question, "Shall the delegate take an oath as a member?" Ayes 32, noes 42—majority against the motion, 10.

Ordered, That a committee be appointed to bring in a bill extending the privilege of franking to JAMES WHITE, the delegate from the South-western Territory, and making provision for his compensation; and that Mr. WILLIAM SMITH, Mr. THATCHER, and Mr. MACON, be the said committee.

WEDNESDAY, November 19.

Another member, to wit, THOMAS SCOTT, from Pennsylvania, appeared, and took his seat in the House.

Ordered, That a message be sent to the Senate to inform them that this House is now ready to attend them in receiving the communication from the PRESIDENT OF THE UNITED STATES, agreeably to his notification to both Houses yesterday; and that the Clerk of this House do go with the said message.

The Senate attended and took seats in the House; when, both Houses being assembled, the PRESIDENT OF THE UNITED STATES came into the Representatives' Chamber, and delivered his Address to them. (For which see Proceedings of the Senate.)

The PRESIDENT OF THE UNITED STATES then withdrew and the two Houses separated.

Ordered, that the Speech of the PRESIDENT OF THE UNITED STATES to both Houses be committed to a Committee of the whole House to-morrow.

THURSDAY, November 20.

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Another member, to wit, WILLIAM FINDLAY, from Pennsylvania, appeared, and took his seat in the House.

MONDAY, November 24.

Answer to the President's Speech.^[54]

Mr. NICHOLAS then rose in defence of Mr. MADISON's amendment. He thought the House should not bow so much to the Executive as to approve of his proceedings without knowing what they are. Gentlemen say that they do not mean an implicit approbation. Why, then, hazard words that infer it? He would go as far in thanking the PRESIDENT as any person with propriety could go.

Mr. SEDGWICK insisted that the amendment of the member from Connecticut (Mr. HILLHOUSE) was preferable to the other. The PRESIDENT has said that his policy in regard to foreign nations is founded on justice. We approve of that. He recites his motives. They are also approved. Where, then, is the danger of expressing a general approbation? Would it be proper to give an approbation that cannot be appropriate, and that has no definite meaning? Mr. S. was far from designing to approve, explicitly or implicitly, what the House were not acquainted with. He only intended to convey a general sentiment of approbation; and he saw nothing more than this in the amendment of the gentleman from Connecticut.

Mr. HILLHOUSE never designed indiscriminate approbation; nor had he any secret meaning couched under the words of his amendment. When he had any thing to say to the House, he came honestly and told them in plain words what he would be at. He meant to express his applause of pacific and equitable measures. As to the question so often referred to, (the embassy of Mr. Jay,) he solemnly declared that it never was in his mind to express any thing about it. It would come before another body.

Mr. MADISON imagined that, in his motion as now worded, every person might see substantial approbation.

Mr. AMES.—Jealousy may become habitual as well as confidence. Nothing but a habit of jealousy could have found any thing of a secret in this verbal distinction of *your* policy instead of *a* policy. The distinction was trifling, but, if there must be one, he preferred the amendment of Mr. HILLHOUSE. His reasons for this preference were so minute that they, perhaps, had little more value than what his imagination chose to give them. In the mean time, nobody will suppose that we do not approve of the policy of the PRESIDENT in preferring pacific measures, because the system of peace is now preferred all over the Continent of America.

Mr. DAYTON rose to make a reply to "remarks so illiberal."

Mr. AMES here rose again and said that the gentleman certainly could not mean him.

I mean *that* gentleman, Mr. SPEAKER, said Mr. DAYTON, pointing to Mr. AMES. He has accused me of "habits of jealousy." To this charge Mr. D. rejoined with some warmth. He again declared that he never would pledge himself to approve of the mission of Mr. Jay, till he should learn what were that gentleman's instructions. He meant to draw this line of distinction, to give approbation of general principles, but not of particular measures. The former he considered as implied in the amendment of Mr. MADISON, the latter in that of Mr. HILLHOUSE.

Mr. VANS MURRAY considered the dispute as resting on the words *a* policy and *your* policy. He would not give explicit approbation to particular measures, but he approved the general principles on which the PRESIDENT preferred a pacific system.

Mr. GILES.—It is admitted on all sides of the House, that we approve the general principles, but will not pledge ourselves to approve the particular means. It is best, then, to adopt the least equivocal words. Mr. G. allowed that there was but little difference, yet he should vote for the amendment of Mr. MADISON as it stood.

Mr. DEXTER, in opposition to the sentiments of the gentleman who had last sat down, would vote for "*your* policy," instead of "*a* policy." The latter made the sentence an abstract proposition. The words "*your* policy," made it a personal application. The omission of the word *your* tended to an implication of censure. If an abstract proposition was the whole meaning intended to be expressed, that meaning might as well be put into any other place as into an Address to the PRESIDENT. He did not see the use of it. Praise (said Mr. D.) is the only reward which a person receives in a Republican Government; or at least, it is the greatest reward; and if withheld where due, the effect must be pernicious. Here it would be of more particular impropriety to withhold praise, when all our constituents approve the pacific policy of the PRESIDENT. It would have been a matter of little consequence at first, whether "*a* policy" or "*your* policy" had been adopted, for every reader would have understood it as an approbation of the PRESIDENT. But now, after such a debate, if we scruple at the word *your*, all the world will conclude that we mean an implied censure.

Mr. BOUDINOT said that he adopted the word *your* as unequivocal. He had no meaning but what was open and candid. By adopting the amendment the House would make that language explicit, which was at present, at least in some degree, ambiguous. [Pg 533]

Mr. TRACY pronounced an elegant panegyric on the character and conduct of the PRESIDENT OF THE UNITED STATES, whom no man admired more sincerely than he did, though he could not speak thus from the honor of enjoying a personal acquaintance. He recommended to Mr. MADISON rather to withdraw his motion of amendment altogether than bring it forward at such an expense of the good temper of the House. The present session had commenced with good auspices, and much cordiality, and he would be extremely sorry to disturb its tranquillity.

Mr. MADISON said that he felt sensibly the force of the remarks made by the gentleman who was last up. In consequence of these remarks, he should be happy to withdraw his amendment. This was accordingly done.

It was then proposed that the Committee of the whole House should rise, and report the draft of the Address as originally given in by the special committee, with the additional amendment that had been proposed by Mr. DAYTON, and adopted.

Mr. FITZSIMONS then rose and said, that it would seem somewhat incongruous for the House to present an Address to the PRESIDENT which omitted all notice of so very important an article in his Speech as that referring to the self-created societies. Mr. F. then read an amendment, which gave rise to a very interesting debate. The amendment was in these words:

"As part of this subject, we cannot withhold our reprobation of the self-created societies, which have risen up in some parts of the Union, misrepresenting the conduct of the Government, and disturbing the operation of the laws, and which, by deceiving and inflaming the ignorant and the weak, may naturally be supposed to have stimulated and urged the insurrection."

These are "institutions, not strictly unlawful, yet not less fatal to good order and true liberty; and reprehensible in the degree that our system of government approaches to perfect political freedom."

Mr. GILES stated at large his sentiments as to this expression in the Speech of the PRESIDENT about self-created societies. The tone of that passage in the Speech had made a great deal of noise without doors, and it was likely to produce a considerable agitation within doors. [Here a motion was made for the rising of the committee.] Mr. G. did not wish to press himself upon the attention of the committee, but if they were disposed to hear him, he was prepared to proceed.

Mr. SEDGWICK objected to the rising of the committee. The House had been often entertained and informed by the ingenuity of that gentleman, who was now prepared to address them.

Mr. W. SMITH considered it as opposite to the practice of the House for a member to move that a committee should rise, at the very time when gentlemen had declared themselves ready to deliver their sentiments.

[It was repeatedly inquired from the Chair, by whom this motion was made. No answer was given and it seemed to be the unanimous wish of the House that Mr. GILES should proceed, which he did.] Mr. G. began by declaring that, when he saw, or thought he saw, the House of Representatives about to erect itself into an office of censorship, he could not sit silent. He did

not rise with the hope of making proselytes, but he trusted that the fiat of no person in America should ever be taken for truth, implicitly, and without evidence.

Mr. GILES next entered into an encomium of some length on the public services and personal character of the PRESIDENT. He vindicated himself from any want of respect or esteem towards him. He then entered into an examination of the propriety of the expression employed by the PRESIDENT, with regard to self-created societies. Mr. G. said, that there was not an individual in America, who might not come under the charge of being a member of some one or other self-created society. Associations of this kind, religious, political, and philosophical, were to be found in every quarter of the Continent. The Baptists and Methodists, for example, might be termed self-created societies. The people called the Friends, were of the same kind. Every pulpit in the United States might be included in this vote of censure, since, from every one of them, upon occasion, instructions had been delivered, not only for the eternal welfare, but likewise for the temporal happiness of the people. There had been other societies in Pennsylvania for several purposes. The venerable Franklin had been at the head of one, entitled a society for political information. They had criminated the conduct of the Governor of this State and of the Governors of other States, yet they were not prosecuted or disturbed. There was, if he mistook not, once a society in this State, for the purpose of opposing or subverting the existing constitution. They also were unmolested. If the House are to censure the Democratic societies, they might do the same by the Cincinnati Society. It is out of the way of the Legislature to attempt checking or restraining public opinion. If the self-created societies act contrary to law, they are unprotected, and let the law pursue them. That a man is a member of one of these societies will not protect him from an accusation for treason, if the charge is well founded. If the charge is not well founded, if the societies, in their proceedings, keep within the verge of the law, Mr. G. would be glad to learn what was to be the sequel? If the House undertake to censure particular classes of men, who can tell where they will stop? Perhaps it may be advisable to commence moral philosophers, and compose a new system of ethics for the citizens of America. In that case, there would be many other subjects for censure, as well as the self-created societies. Land-jobbing, for example, has been in various instances brought to such a pass that it might be defined swindling on a broad scale. Paper money, also, would be a subject of very tolerable fertility for the censure of a moralist. Mr. G. proceeded to enumerate other particulars on this head, and again insisted on the sufficiency of the existing laws for the punishment of every existing abuse. He observed, that gentlemen were sent to this House, not for the purpose of passing indiscriminate votes of censure, but to legislate only. By adopting the amendment of Mr. FITZSIMONS, the House would only produce recrimination on the part of the societies, and raise them into much more importance than they possibly could have acquired if they had not been distinguished by a vote of censure from that House. Gentlemen were interfering with a delicate right, and they would be much wiser to let the Democratic societies alone. Did the House imagine that their censure, like the wand of a magician, would lay a spell on these people? It would be quite the contrary, and the recrimination of the societies would develop the propriety of having meddled with them at all. One thing ought never to be forgotten, that if these people acted wrong, the law was open to punish them; and if they did not, they would care very little for a vote of that House. Why all this particular deviation from the common line of business to pass random votes of censure? The American mind was too enlightened to bear the interposition of this House, to assist either in their contemplations or conclusions on this subject. Members are not sent here to deal out applauses or censures in this way. Mr. G. rejected all aiming at a restraint on the opinions of private persons. As to the societies themselves, Mr. G. personally had nothing to do with them, nor was he acquainted with any of the persons concerned in their original organization.

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Mr. LYMAN hoped that the member from Pennsylvania would, upon reflection, withdraw his amendment. Mr. L. considered it to be as improper to pass a vote of censure, as it would be to pass a vote of approbation. He did not wish to give printers an opportunity of publishing debates that had better be suppressed. Besides, where will this business of censorship end? It would be much better not to meddle with the Democratic societies at all. Some of them were perfectly sensible that they had gone too far. He should, therefore, move that this committee do now rise, and that the Chairman report the Address as it now stands.

Mr. THATCHER hoped that his colleague would not insist on taking that question just now, before other gentlemen had an opportunity of delivering their sentiments.

Mr. LYMAN, in reply, said that gentlemen were at liberty, in discussing his motion, to tell their minds as to the self-created societies.

Mr. SEDGWICK requested that Mr. LYMAN would take this motion out of the way. Mr. L. withdrew it.

Mr. W. SMITH then rose, and entered at large into the subject. He said, that if the committee withheld an expression of their sentiments in regard to the societies pointed out by the PRESIDENT, their silence would be an avowed desertion of the Executive. He had no scruple to declare that the conduct of these people had tended to blow up the insurrection. Adverting to Mr. GILES, he thought the assertion of that gentleman too broad, when he spoke of not meddling with the opinions of other than political societies.

He considered the dissemination of improper sentiments as a suitable object for the public reprobation of that House. Suppose an agricultural society were to establish itself, and under that title to disseminate opinions subversive of good order; the difference of a name should not make Mr. S. think them exempted from becoming objects of justice. Would any man say that the sole object of self-created societies has been the publication of political doctrines? The whole of their proceedings has been a chain of censures on the conduct of Government. If we do not support the PRESIDENT, the silence of the House will be interpreted into an implied disapprobation

of that part of his Speech. He will be left in a dilemma. It will be said that he has committed himself.

Mr. S. declared that he was a friend to the freedom of the press; but would any one compare a regular town-meeting where deliberations were cool and unruffled, to these societies, to the nocturnal meetings of individuals, after they have dined, where they shut their doors, pass votes in secret, and admit no members into their societies, but those of their own choosing? Mr. S., by way of illustration, observed, that this House had never done much business after dinner. In objection to this amendment it had been stated, that the self-created societies would acquire importance from a vote of censure passed on them. They were, for his part, welcome to the whole importance that such a vote could give them. He complained, in strong terms, of the calumnies and slanders which they had propagated against Government. Every gentleman who thought that these clubs had done mischief, was by this amendment called upon to avow his opinion. This was the whole. Mr. S. begged the House to take notice, and he repeated his words once or twice, that he did not mean to go into the constitution of these societies, or to say that they were illegal. The question before the House was not whether these societies were illegal or not, but whether they have been mischievous in their consequences.

Mr. McDOWELL was of opinion that the term self-created societies, was too indefinite. He professed the highest respect for the character of the PRESIDENT; but he did not think that the proposed vote of censure would be any eligible proof of it. The House of Representatives were assembled not to volunteer in passing votes of reprobation on societies, or individuals, but to legislate. He wished that gentlemen, instead of losing their time on such frivolous and inflammatory amendments, would proceed to the proper business of the House. The gentleman from South Carolina seemed to be well acquainted with Democratic societies. It was very true that they had published resolutions reprobating the assumption business, and the system of funding; but the rest of the people, as well as Democratic societies, had very generally censured the assumption and the funding transactions. He thought that some laws had been passed which answered no good purpose, nor indeed any purpose, but that of irritating the public. The present amendment he considered as destructive not only to the intercourse of domestic society, but that it involved a prospect of throwing restraint upon the conduct of gentlemen in the House of Representatives. With the gentleman from Virginia, (Mr. GILES,) he was satisfied that the amendment, if adopted, would have no weight whatever with the citizens of the United States; as they were too enlightened to accept of opinions from their Representatives.

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Mr. TRACY had imagined that no man would have the hardihood to come forward in that House and vindicate these societies. He quoted from the remarks of Mr. McDOWELL, the words, "your wanton laws, begotten in darkness, first raised insurrection;" and likewise some other words about the enormous expense of millions for the Western expedition. Mr. T., after reading these expressions from a memorandum, which he held in his hand, declared his surprise, that a gentleman, whom he knew to possess the candor and good sense of the member from North Carolina, could suffer such language to escape him. He was certain that the gentleman, if he had not been somewhat in a hurry, never would have permitted those words to pass from his lips.

Quitting this topic, Mr. T. said, that he would, for his own part, be disposed to let these societies alone, and leave them to the chastisement of their own consciences. If they were to say, "Gentlemen, you, as tyrants, make laws, and slaves obey them," I would answer, said Mr. T., "It is very rash. Think again before you say this again. We believe that, from inadvertency, some things have escaped from Democratic societies, which they had not well weighed, and which had a bad effect on weak and ignorant people in the western counties of Pennsylvania. You have seen the bad effects of your temerity. Take care before you publish any such thing again." Mr. T. said, this is all the length which we mean to go, and can any body object to this? The Democratic societies form but a very small portion of the people of America. Where is the harm in saying that one-hundredth, or, I believe I might say, not more than one-thousandth part of the citizens of the United States have been mistaken, and that they have been imprudent in printing certain indiscreet resolutions? Mr. T. declared that if the PRESIDENT had not spoke of the matter, he should have been willing to let it alone, because whenever a subject of that kind was touched, there were certain gentlemen in that House who shook their backs, like a sore-backed horse, and cried out, The Liberties of the people! Mr. T. wished only that the House, if their opinion of these societies corresponded with that of the PRESIDENT, should declare that they had such an opinion. This was quite different from attempting to legislate on the subject. Has not the Legislature done so before? Is there any impropriety in paying this mark of respect to a man to whom all America owes such indelible obligations? He thought that this declaration from the House of Representatives would tend to discourage Democratic societies, by uniting all men of sense against them. Mr. T. said, that perhaps the member who spoke last might be connected with some of these societies, of which he entertained so favorable an impression.

Mr. McDOWELL said, that he wanted the House to avoid quarrels, and to mind their proper business of legislation. He declared that he was not a member of any such society. He did not know that he had ever been in the company of any person who was a member of any of them. He was even, he declared upon his honor, ignorant whether there were, or ever had been, any such societies in North Carolina. He adverted to the simile of the sore-backed horse, and said that he believed his back to have been rubbed harder in the last war, than that of the gentleman. He imagined that these societies had done both good and harm, and again declared, that he could not consent to a vote of indiscriminate reprobation.

Mr. DAYTON was heartily for the amendment. He observed that he wanted no evidence to satisfy him, as to the gentleman not being a member of any of these societies. If he had been connected

with them, he would have known their principles better than he seems to do. Mr. D. said that many persons in New Jersey, who had been the most violent against the excise law were equally so against the insurgents; and though their opinion of the law itself was unaltered, which they made no scruple of openly declaring, yet they did not, on that account, hesitate about marching against the insurgents. They did not suppose that one obnoxious statute was any reason for overturning the Federal Constitution. The murmurs against the excise law in New Jersey had been converted into universal silence, because no man would venture to express his discontent, at the hazard of being suspected of being a friend to the insurgents. That the Democratic societies had produced the most mischievous effects in the western counties there could be no question. Letters had been received from officers in the army, who were the most respectable characters, and who, from authentic information, had affirmed the fact. It had been stated that these people would recriminate upon the House, and it had even been hinted that their recriminations might affect the PRESIDENT. *That man*, said Mr. D., is above their censure. He believed that if their censures had any effect at all, it would be to do the PRESIDENT honor.

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Mr. NICHOLAS.—When we see an attempt made in this House to reprobate whole societies, on account of the conduct of individuals, it may truly be suspected that some of the members of this House have sore backs. The PRESIDENT has been apprised of the absurdity of making this a Legislative business. Here Mr. N. read a passage from the PRESIDENT's Speech, to show, that the notice taken of self-created societies was not intended for a topic of discussion in that House. The passage was expressly addressed to every description of citizens:

"And when in the calm moments of reflection, they shall have retraced the origin and progress of the insurrection, let them determine, whether it has been fomented by combinations of men, who, careless of consequences," &c.

Was this an address to the two Houses? Did this passage show that the PRESIDENT wanted them to intermeddle? Were they called upon to give an opinion? Where could be the pretence for any thing of this sort? The House have made acts. The Democratic societies reprobate them, and then the House reprobate the Democratic societies. When you first cut a man's throat, and thereafter call him a rascal, do you suppose that your accusation will affect the man's reputation? The House, by passing this vote of censure, would make themselves a party, and lose a title to unsuspected confidence. Mr. N. declared, that, for his own part, he never had any concern with these societies, nor ever to his knowledge had spent an hour with any person who was a member of them. He rather, if any thing, despised them. He had always thought them the very worst advocates for the cause which they espoused; but he had come two hundred miles to legislate, and not to reprobate private societies. He was not paid by his constituents for doing business of that sort. The PRESIDENT knew the business of the House better than to call for any such votes of censure. It was wrong to condemn societies for particular acts. That there never should be a Democratical society in America, said Mr. N., I would give my most hearty consent; but I cannot agree to persecution for the sake of opinions. With respect either to the propriety or the power of suppressing them, Mr. N. was in both cases equally of opinion that it was much better to let them alone. They must stand or fall by the general sentiments of the people of America. Is it possible that these societies can exist, for any length of time, when they are of no real use to the country? No. But this amendment will make the people at large imagine that they are of consequence.

Mr. DAYTON said, that these societies had produced the Western insurrection, and, therefore, the committee were just as well entitled to institute an inquiry in this case, as formerly regarding the failure of the expedition of General St. Clair.

The committee now rose, and reported progress, and had leave to sit again.

TUESDAY, November 25.

Another member, to wit, JAMES GILLESPIE, from North Carolina, appeared, and took his seat in the House.

The President's Speech.

The House again went into Committee of the Whole on the Address of the PRESIDENT and the amendment of Mr. FITZSIMONS, Mr. COBB in the chair.

Mr. MURRAY said, that he did not altogether like the wording of the amendment now before the House. He had hoped that some modification of it would have been prepared by some of its friends; but as none was offered, and there was a call for the question, he would vote for it rather than against it. He said, that he had not been personally attacked by any of the tribunals in question, and no further injured by their machinations than as he was a citizen of a free Republic in whose prosperity he felt the closest possible union, and in whose calamities he of course felt great sympathy. Among the various sources of the late calamity, the PRESIDENT had traced and designated certain self-created societies, who had arrogated the management of public opinions and affairs, and whom he had declared to have been, in his opinion, instrumental in fomenting the late insurrection. Mr. M. confessed that he had feared, last winter, lest the disorganizing spirit which had gone abroad in the shape of resolutions from these societies, would have produced the effect ascribed to them by the PRESIDENT. The conduct of the Democratic clubs, or those of them with which he had most acquaintance, appeared to him to have been instrumental to an event which threatened destruction to legitimate government. If we believe this to be the case, Mr. M. knew no motive, duty, or policy, which ought to restrain us at this period from saying that we believe it, and from lamenting it. Our declaration will rather hold out a caution to

the thoughtless, than inflict legal penalties upon their follies. It will present to our fellow-citizens a memorable example of one source of error and political misfortune, by showing them the danger, which has already cost above twelve hundred thousand dollars. He could not see any evil that was to result from an expression of the opinion of the House, by the proposed amendment. It had not the quality of law; for, if a law were proposed for the abolition of these societies, he would oppose it. This amendment to the Address would operate as an advice. It curtails not the right of a free press, which Mr. M. held to be the luminary of the public mind. It would tend to excite a judicious and salutary inquiry among many respecting the just and true limits within which a virtuous and enlightened well-wisher to our country would think it safe to exercise this right. Of the inutility and danger of such societies in this country, he had little doubt. The scene of their birthplace was well adapted to the wholesome display of their powers. In France, where a despotism, impregnable to public opinion, had reigned—where no channel opened a sympathy by representation with the great body of the nation—those societies were admirably adapted to break down and subvert the old bulwark of habitual authority. But in America the case was widely different. Look at the immense body of public functionaries, who in this country are elected immediately by the people, or by their electors, in a constitutional mode, and say whether they are not adequate as functionaries to the public purposes of the country. Including every description of Legislators, Councils, Governors, Courts, Jurors, and Sheriffs, there are above twelve thousand. Of these, more than eleven hundred are actual Legislators, besides the hundred in this House, and those above stairs. These all act in the States, counties, townships, and hundreds, in separate but relative circles, so as to preclude a partial attention to any one scene, to the exclusion of another. The whole country is full of well-constituted organs of the people's will. Many of these Legislatures are in session twice a year, and all of them annually. We might be confused by their immense number, were they not so admirably dispersed over the Continent, and did they not move under the guidance of the laws, with the harmony of the spheres. It would not be easy to organize the nation into a more multifarious shape.

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The case maintained by Mr. DAYTON yesterday appeared to be strong. He said that we had inquired into the defeat of St. Clair's army, and so we might inquire into the causes of the insurrection. To point it out to a people so enlightened, will be to prevent it in future. If the House agree in opinion with the PRESIDENT, they will speak their opinion, and do their duty. This declaration goes to the constituent body, through the Executive; and, while it gratifies their inquiries in a point of so much solicitude, it erects a warning beacon. It shows to them the stormy breakers which lately threatened the public peace with shipwreck, and invites them to adhere to pilots of their own choosing, and to charts with which they are acquainted.

If the PRESIDENT had not thought some of the societies instrumental in producing the late calamity, they would not have attracted his notice, nor that of the House. It is because they are believed to have assisted and fomented the insurrection, that our constituents ought to be warned against them; and that another necessity for exerting their patriotism may be saved to those brave men who are at present encountering every difficulty in the West. These societies are not attended to, because, however offensive some of their proceedings and doctrines may have been, yet the rights of the press ought not to be freely handled.

Mr. FITZSIMONS had no violent predilection for any performance of his own. He had, therefore, to prevent so much disputing, prepared to withdraw his motion, provided the committee be willing that he should do so, and, in the room of this motion, he would read another, for which he was indebted to a gentleman at his right hand, (Mr. B. BOURNE.)

The committee consented. The former motion was withdrawn, and the other was read. This was an echo of that part of the speech of the PRESIDENT which mentions self-created societies.

Mr. CHRISTIE then rose. He was sorry to differ from his worthy colleague (Mr. MURRAY) on the question then before the committee; and he was doubly sorry to hear that gentleman labor so strenuously to saddle a public odium on some of the best citizens of the State which he represented. Mr. C. should not have risen on the present occasion, although he thought it an important one, had it not been to endeavor to rescue from public censure a society of gentlemen, who were described in the present amendment before the committee, as objects of public opprobrium. Mr. C. alluded to the Republican Society of the town of Baltimore. If the present amendment took place, that society would be involved in general and undeserved censure. He would, therefore, inform the House of what description of men the Republican Society of Baltimore consisted; and then the committee would be the best judges whether they ought to be rewarded in the manner in which the present amendment proposes. They are a society of gentlemen associated together for the purpose of diffusing political knowledge throughout the State of Maryland, and to instruct their Representatives in Congress, and the Legislature of the State, in any point that they think necessary, and not for the purpose of sowing dissension among the citizens of America, or of cultivating dislike to the Union, or to the laws. This society consists of men whose characters are superior to any censure that might be thrown against them, by the mover of the amendment. But when Congress are about to cast an odium on a particular society, the members of which have every respect for that body, and have always inculcated obedience to the laws of the United States, Mr. C. left it to the committee to determine whether, if they were themselves in the place of the Baltimore Society, they would not feel their sensibility materially wounded? Was not this returning good for evil? He again reminded the committee that the Republican Society at Baltimore was composed of a band of patriots, not the fair-weather patriots of the present day, but the patriots of seventy-five, the men who were not afraid to rally around the American standard, when that station was almost concluded to be a forlorn hope. They were men who, with their persons and properties, had assisted to drive from the soil of America the

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present lawless disturbers of the world. Are these the men, asked Mr. C., who ought to have all this mass of Congressional odium cast upon them? I trust not, sir. I trust, that if particular gentlemen are illiberal enough to censure them, yet that this House will never agree to such iniquitous measures. What was the conduct of this society when the first news of the late insurrection reached them? Did they not, in the most pointed manner, discountenance any such proceeding? Did they not refuse to correspond with any society that aided, or in any manner abetted, the insurrection? They did more. They offered their personal services to go and help to crush this commotion in the bud. Mr. C. subjoined that he would venture to say, and at the same time he spoke within bounds, that nine-tenths of this society actually took up their muskets and marched into the field for the above laudable purpose, and that numbers of them still continue there, and are the friends of peace and order, and not the disorganizers that the present amendment would make them. Mr. C. appealed to the candor of the committee to say, whether the Baltimore self-created Republican Society were the description of men whom the PRESIDENT, in his Speech, meant to describe. He was sure it was not. Therefore, why involve in this indiscriminate censure men who have deserved so well of their country? men who, instead of having odium cast upon them, merit every praise which the Federal Government can bestow. For these, and some other reasons, Mr. C. declared that he should vote against the amendment, and he trusted that he should vote in the majority.

Mr. MURRAY rose to explain. He did not mean this society. It was the Philadelphia and Pittsburg societies. Mr. M. was acquainted with this society, and had the greatest respect for them. As for the members of the other societies, he was for gibbeting their principles only.

Mr. RUTHERFORD.—This alarm is owing to an overgrown moneyed system, with which the people are not entirely satisfied. But the moneyholders need not be afraid. The people will pay the public debt. Then why disturb the tranquillity of the people? The PRESIDENT, in his Speech, points only at combinations over the mountains. As to the character of the PRESIDENT himself, to praise him was like holding up a rush candle to let us see the sun. I have known that man, said Mr. R., for these forty years. I have had the honor of serving under him in the last war, and of frequently executing his wise and noble orders. The member declared that this amendment could answer no purpose but that of disturbing the public peace. He himself represented as respectable a district as any in Virginia, and he had as good opportunities as any gentleman in that House to know the temper of Americans. They were firmly attached to the present Government, and the holders of paper need not be so much afraid of Democratic societies, for the people, to preserve the tranquillity, were determined to discharge the public debt, no matter how it was contracted, and, therefore, it would be much better not to harass the public mind with amendments like that on the table.

Mr. GILES said, that he had an amendment to propose that would, he hoped, meet with the approbation of a certain description of gentlemen in that committee. His amendment was to strike out the words "self-created societies," from the amendment of Mr. FITZSIMONS, and insert "the Democratic societies of Philadelphia, New York, and Pittsburg." Gentlemen could then have some specific object at which they could say that their vote of censure was levelled; for the general expression of self-created, comprehended every society of any kind in the Union. For his own part, he was very far from wanting to censure any set of men for their political opinions.

Mr. PARKER seconded the motion for striking out, but he would not consent to the insertion proposed by Mr. GILES.

Mr. SEDGWICK thought that the amendment stands better as it is at present.

Mr. VENABLE said, that there was a paper on that table (he referred to the letter from Mr. HAMILTON to the PRESIDENT) which showed that the combinations in the western counties began their existence at the very same time with the Excise law itself. It was, therefore, entirely improper to ascribe them to Democratic societies. Should Government, said Mr. V., come forward and show their imbecility by censuring what we cannot punish? The people have a right to think and a right to speak. I am not afraid to speak my sentiments. I am not afraid of being called a disorganizer. I am, as much as any gentleman in this committee, a friend to regular government.

Mr. DEXTER believed that such societies were, in themselves, wrong, but he was still not for making laws against them. He had, however, numerous objections to their conduct. One of these was, that they erected themselves into a model for the rest of their fellow-citizens to copy. The great principle of Republicanism was, that the minority should submit to the will of the majority. But these people have elevated themselves into tyrants. Such societies are proper in a country where government is despotic, but it is improper that such societies should exist in a free country like the United States, and hence, Mr. D. was a friend to the amendment proposed by Mr. FITZSIMONS. It had been said, that it was unusual to give opinions of this kind, but, in reality, the House were in the practice of expressing their sentiments on matters of that sort, in such addresses as the one now before them. Mr. D. was decidedly against the amendment of the amendment proposed by Mr. GILES.

Mr. NICHOLAS.—Gentlemen have brought us into a discussion, and then say we must decide as they please, in deference to the PRESIDENT. This is the real ground and foundation of their arguments. But who started this question? If the gentlemen have brought themselves into a difficulty with regard to the PRESIDENT, by their participation in proposing votes of censure which they cannot carry through, they have only to blame themselves. Is it expected, said Mr. N., that I am to abandon my independence for the sake of the PRESIDENT? He never intended that we should take any such notice of his reference to these societies; but if the popularity of the PRESIDENT has, in the present case, been committed, let those who have hatched this thing, and who have brought it forward, answer for the consequences. This whole question turns upon a matter of

fact, which ought to be proved, viz: Have the Democratic societies been one of the principal causes of the Western insurrection? This is a matter of fact, or otherwise, and it depends upon direct evidence. But how do gentlemen handle this question? They digress into abstract propositions, a thing never heard of before, where a matter of fact was to be proved. I say, where direct proof is wanted, we see gentlemen standing on the floor for half an hour together, without attempting to advance a single fact in support of their assertions; yet this is the only admissible kind of evidence that the societies are from their nature unfriendly to the Federal Government.

Mr. N. then adverted to a remark which had been made, that libels were daily prosecuted in this country, from which it was inferred that calumnious attacks on Government were the just objects of reprehension. Mr. N. said, that the comparison was not fair, because in a case of libel, the parties accused have a proper opportunity to defend themselves. Have these people here (the Democratic societies) any such opportunity? It has been alleged, as a crime against them, that they have never once published any approbation of any measure of Government. Mr. N. argued that this arose from the very nature of their institution, which was to watch the errors of the Legislature and Executive, and point out to the public what they considered to be mistakes. Faults were the only kind of facts which they were in quest of. Here Mr. N. drew a material distinction. If these societies had censured every proceeding of Government, there would have been the greatest reason for taking some measures. But what was the case? As to an immense number of the proceedings of the Executive and Legislature, they had taken no notice whatever.

Mr. SEDGWICK thought that the PRESIDENT would have been defective in his duty, had he omitted to mention what he religiously believed to be true, viz: that the Democratic societies had in a great measure originated the late disturbances. It was the indispensable duty of the PRESIDENT to speak as he had spoken. The present amendment (of Mr. FITZSIMONS) would have a tendency to plunge these societies into contempt, and to sink them still farther into abhorrence and detestation. He pronounced them to be illicit combinations. One gentleman (Mr. NICHOLAS) tells you, that he despises them most heartily. Another (Mr. LYMAN) says that they begin to repent. Will the American people perversely propose to shoulder and bolster up these despised and repenting societies, which are now tumbling into dust and contempt? Their conduct differed as far from a fair and honorable investigation, as Christ and Belial. They were men prowling in the dark. God is my judge, said Mr. S., that I would not wish to check a fair discussion.

One gentleman (Mr. McDOWELL) had told the committee, that the Assumption and Funding transactions were a cause of public discontent. It has been the trick of these people to make this assertion. They have said that the Funding System is a mass of favoritism, for the purpose of erecting an oppressive aristocracy, and a paper nobility. There is not a man among them, who is able to write, and who does not know that these assertions are false. As to the assumption of the debts of individual States, it has been said that this measure was undertaken for the purpose of making up a large debt. There was no such thing. Before the adoption of the new constitution, of which Mr. S. considered the Funding and Assumption Systems to be essential preliminaries, the credit and commerce of America were declining or gone. The States were disagreeing at home, and the American name was disgraced abroad. It was not to be supposed that every one of the measures of the new Government could please every body. Among the rest, excise was objected to in both Houses of Congress; but at last the good sense of the people acquiesced. At this crisis, a foreign agent (*Genet*) landed at Charleston. On his way to this city, he was attended by the hosannas of all the disaffected. He did the utmost mischief that was in his power; and in consequence of his efforts, Democratic societies sprung up. Mr. S. here gave a particular account of some proceedings of a society in Virginia, of more than usual boldness. He quoted some of their expressions relative to a very illustrious character, the PRESIDENT, and added that perhaps the individuals who composed this society were in themselves too despicable to deserve any notice in this place. He did not know whether they were or not. [Mr. S. was here interrupted by a member from Virginia, and an explanation ensued.]

Mr. McDOWELL rose to make an apology for some words which had escaped him the day before. He did not expect to have been so smartly handled. He had been forcibly struck at the time, and had spoken from a momentary impulse. In substance, however, he adhered to all his former allegations. He still persisted in believing that the excise laws were shapen in darkness. He apologized for some part of his heat, from having seen and suffered so much by despotic government during the last war in which this gentleman supported the character of a brave and able officer.

Mr. HILLHOUSE approved of the amendment; as proposed by Mr. FITZSIMONS. Constituents made no scruple to tell Representatives of their faults, and he saw no reason why Representatives might not tell constituents of theirs? The resolutions of Democratic societies printed in newspapers, had spirited up the people in the Western counties to resistance. They had weakly fancied that the American nation would not stand by their constitution and their PRESIDENT. But for the publication of these resolutions, there would have been no insurrection. This was a piece of information which the people of the United States had a right to know. It was the duty of that House to let them know it. The PRESIDENT had done his duty. Mr. H. did not consider the amendment of Mr. FITZSIMONS as an indiscriminate censure levelled at these societies; he thought it only a suitable answer to a part of the PRESIDENT'S Speech.

Mr. PARKER concluded this long debate by the following remarks. He did not think that Democratic societies were so far to blame as had been imagined. He suspected that the PRESIDENT himself, for whose character and services he felt as much respect and gratitude as any man in America, had been misinformed on this point. It would be absurd to say, that the Western disturbances originated from the publications of Democratic societies, if it could be proved to the satisfaction

of the committee, that such disturbances had begun long before any of the associations alluded to had a being. To prove this position, Mr. P. desired that the Clerk might read a passage from the letter on that affair, written by Mr. Hamilton, and which has already been published in all the newspapers. The Clerk accordingly read a part of the letter, from which Mr. P. inferred that his inference was incontestable, and he then stated the absurdity of making the Democratic publications the origin of a discontent, which existed before them. He was satisfied that the PRESIDENT did not wish this thing echoed; and that he would entirely disapprove of the proposed persecution. Mr. P. said, that he had the honor of being an honorary member of a Democratic society. Personally he knew nothing of the gentlemen, but he understood that they were respectable characters; and that they were friends to good order and the Federal Government, there could be no question, for when the Embargo was laid last spring, and some vessels had been attempting to get off, these vigilant citizens armed and embodied themselves, and prevented the execution of the design. With all his respect for the PRESIDENT, he was not to give up his opinions for the sake of any man. He was convinced that all this violent declamation and irritation in the House would do a great deal of mischief, and would have an effect exactly the reverse of what was designed by the amendment as it first stood. A gentleman (Mr. DEXTER) had spoken of town meetings, as the proper vehicles for the communication of political ideas, and had drawn a comparison between these and Democratic societies. Mr. P. requested that it might be noticed, that in the Southern States there neither were nor could be such things as town meetings, because the population was too thin and too widely scattered. They were therefore to make the best of it which they could, and meet and deliberate, no matter where, whenever they found a convenient opportunity. Mr. P. expressed, in strong terms the aversion that his constituents would feel to this species of censorship. He concluded with these words: "They love your Government much, but they love their independence more."

The question was then called for on striking out the word "self-created" from the new amendment of Mr. FITZSIMONS. For the amendment of Mr. GILES, ayes 47, noes 45. This amendment was therefore adopted.

Mr. GILES then proposed an amendment, after the words "combination of men," by adding, "in the four Western counties of Pennsylvania."

Mr. HARTLEY said, that the gentleman should have added, "and a county in Virginia." This amendment of Mr. GILES was rejected.

The committee now rose, and reported the amendments to the House.

WEDNESDAY, November 26.

[The committee having risen, and the question having been taken in the House, the yeas and nays on the motion to reinstate the obnoxious words, were:]

YEAS.—Fisher Ames, James Armstrong, John Beatty, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Lambert Cadwalader, David Cobb, Peleg Coffin, Joshua Coit, William J. Dawson, Jonathan Dayton, Samuel Baxter, Thomas Fitzsimons, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glenn, Benjamin Goodhue, James Gordon, Samuel Griffin, William Barry Grove, Thomas Hartley, James Hillhouse, William Hindman, Samuel Holten, John Wilkes Kittera, Henry Latimer, Amasa Learned, Richard Bland Lee, Francis Malbone, William Vans Murray, Thomas Scott, Theodore Sedgwick, John S. Sherburne, Jeremiah Smith, William Smith, Zephaniah Swift, George Thatcher, Uriah Tracy, Jonathan Trumbull, John E. Van Allen, Peter Van Gaasbeck, Peleg Wadsworth, Artemas Ward, John Watts, and Paine Wingate.

NAYS.—Theodorus Bailey, Abraham Baldwin, Thomas Blount, Thomas P. Carnes, Gabriel Christie, Thomas Claiborne, Isaac Coles, Henry Dearborn, George Dent, Gabriel Duvall, William Findlay, William B. Giles, James Gillespie, Christopher Greenup, Andrew Gregg, George Hancock, Carter B. Harrison, John Heath, Daniel Heister, John Hunter, Matthew Locke, William Lyman, Nathaniel Macon, James Madison, Joseph McDowell, Alexander Mebane, William Montgomery, Andrew Moore, Peter Muhlenberg, Joseph Neville, Anthony New, John Nicholas, Nathaniel Niles, Alexander D. Orr, Josiah Parker, Andrew Pickens, Francis Preston, Robert Rutherford, John Smilie, Israel Smith, Thomas Tredwell, Philip Van Cortlandt, Abraham Venable, Francis Walker, and Joseph Winston.

And then the main question being put, that the House do agree to the said clause, amended to read as followeth:

"In tracing the origin and progress of the insurrection, we can entertain no doubt that certain self-created societies and combinations of men in the four Western counties of Pennsylvania, and parts adjacent, careless of consequences, and disregarding the truth, by disseminating suspicions, jealousies, and accusations of the Government, have had all the agency you ascribe to them, in fomenting this daring outrage against social order and the authority of the laws:"

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It passed in the negative, nineteen members only rising in the affirmative.

FRIDAY, November 28.

Answer to the Address.

The Answer, as amended, was then read throughout at the Clerk's table as follows:

SIR: The House of Representatives, calling to mind the blessings enjoyed by the people of the United States, and especially the happiness of living under constitutions and laws which rest on their authority alone, could not learn, with other emotions than those you have expressed, that any part of our fellow-citizens should have shown themselves capable of an insurrection. And we learn, with the greatest concern, that any misrepresentations whatever, of the Government and its proceedings, either by individuals or combinations of men, should have been made, and so far credited as to foment the flagrant outrage which has been committed on the laws. We feel, with you, the deepest regret at so painful an occurrence in the annals of our country. As men regardful of the tender interests of humanity, we look with grief at scenes which might have stained our land with civil blood. As lovers of public order, we lament that it has suffered so flagrant a violation: as zealous friends of Republican Government, we deplore every occasion which, in the hands of its enemies, may be turned into a calumny against it.

This aspect of the crisis, however, is happily not the only one which it presents. There is another, which yields all the consolations which you have drawn from it. It has demonstrated to the candid world, as well as to the American people themselves, that the great body of them, every where, are equally attached to the luminous and vital principle of our constitution, which enjoins that the will of the majority shall prevail; that they understand the indissoluble union between true liberty and regular government; that they feel their duties no less than they are watchful over their rights; that they will be as ready, at all times, to crush licentiousness, as they have been to defeat usurpation: in a word, that they are capable of carrying into execution that noble plan of self-government which they have chosen as the guarantee of their own happiness, and the asylum for that of all, from every clime, who may wish to unite their destiny with ours.

These are the just inferences flowing from the promptitude with which the summons to the standard of the laws has been obeyed; and from the sentiments which have been witnessed, in every description of citizens, in every quarter of the Union. The spectacle, therefore, when viewed in its true light, may well be affirmed to display, in equal lustre, the virtues of the American character, and the value of Republican Government. All must particularly acknowledge and applaud the patriotism of that portion of citizens who have freely sacrificed every thing less dear than the love of their country, to the meritorious task of defending its happiness.

In the part which you have yourself borne through this delicate and distressing period, we trace the additional proofs it has afforded of your solicitude for the public good. Your laudable and successful endeavors to render lenity in executing the laws conducive to their real energy, and to convert tumult into order, without the effusion of blood, form a particular title to the confidence and praise of your constituents. In all that may be found necessary, on our part, to complete this benevolent purpose, and to secure the ministers and friends of the laws against the remains of danger, our due co-operation will be afforded.

The other subjects which you have recommended, or communicated, and of which several are peculiarly interesting, will all receive the attention which they demand. We are deeply impressed with the importance of an effectual organization of the militia. We rejoice at the intelligence of the advance and success of the army under the command of General Wayne, whether we regard it as a proof of the perseverance, prowess, and superiority of our troops, or as a happy presage to our military operations against the hostile Indians, and as a probable prelude to the establishment of a lasting peace, upon terms of candor, equity, and good neighborhood. We receive it with the greater pleasure, as it increases the probability of sooner restoring a part of the public resources to the desirable object of reducing the public debt.

We shall, on this, as on all occasions, be disposed to adopt any measure which may advance the safety and prosperity of our country. In nothing can we more cordially unite with you, than in imploring the Supreme Ruler of Nations to multiply His blessings on these United States; to guard our free and happy constitution against every machination and danger; and to make it the best source of public happiness, by verifying its character of being the best safeguard of human rights.

Resolved, That Mr. SPEAKER, attended by the House, do present the said address; and that Mr. MADISON, Mr. SEDGWICK, and Mr. SCOTT, be a committee to wait on the PRESIDENT, to know when and where it will be convenient for him to receive the same.

Mr. GILES, from the committee appointed, presented a bill to regulate the pay of the non-commissioned officers, musicians, and privates, of the militia of the United States, when called into actual service, and for other purposes; which was read twice and committed.

The SPEAKER laid before the House a letter from the Treasurer of the United States, accompanying

his account of receipts and expenditures of public moneys, from the 1st of April to the 30th of June, 1794; also, his account of payments and receipts for the War Department, from the 1st of July to the 30th of September, 1794, inclusive; which were read, and ordered to lie on the table.

Mr. MADISON, from the committee appointed to wait on the PRESIDENT OF THE UNITED STATES, to know when and where it will be convenient for him to receive the Address of this House, in answer to his Speech to both Houses of Congress, reported that the committee had waited on the PRESIDENT, who signified to them that it would be convenient to him to receive the said Address at twelve o'clock to-morrow, at his own house.

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SATURDAY, November 29.

The SPEAKER, attended by the House, then withdrew to the house of the PRESIDENT OF THE UNITED STATES, and there presented to him the Address of this House, in answer to his Speech to both Houses of Congress; to which the PRESIDENT made the following reply:

Gentlemen: I anticipated, with confidence, the concurrence of the House of Representatives in the regret produced by the insurrection. Every effort ought to be used to discountenance what has contributed to foment it; and thus discourage a repetition of like attempts. For, notwithstanding the consolations which may be drawn from the issue of this event, it is far better that the artful approaches to such a situation of things should be checked by the vigilant and duly admonished patriotism of our fellow-citizens, than that the evil should increase until it becomes necessary to crush it by the strength of their arms.

I am happy that the part which I have myself borne on this occasion receives the approbation of your House. For the discharge of a constitutional duty, it is a sufficient reward to me to be assured that you will unite in consummating what remains to be done.

I feel, also, great satisfaction in learning that the other subjects which I have communicated or recommended, will meet with due attention; that you are deeply impressed with the importance of an effectual organization of the militia; and that the advance and success of the army under the command of General Wayne is regarded by you, no less than myself, as a proof of the perseverance, prowess, and superiority of our troops. G. WASHINGTON.

TUESDAY, December 2.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, stating his intention of resigning his office on the last day of January next, and which he now communicates, in order that an opportunity may be given, previous to that event, to institute any further proceedings which may be contemplated, if any there be, in consequence of the inquiry during the last session, into the state of the Treasury Department; which was read, and ordered to lie on the table.^[55]

THURSDAY, December 4.

Thanks to General Wayne.

Mr. W. SMITH wished to make his promised motion, which he prefaced by observing that he had varied it at the request of several gentlemen. In the original motion, he had particularly noticed the diligence of the General in disciplining his army to the nature of the service in which they were engaged, and his fortitude and perseverance in encountering the difficulties which opposed his march through a wilderness.

Though he and many others were ready to acknowledge in the fullest manner the merits of the General in those important particulars, yet as they were not matters of general notoriety, and as unanimity on an occasion like the present was extremely desirable, he had now confined the motion to the brilliant action of the 20th August.

Mr. SMITH concluded with saying, that as he had no doubt the services of the army had made the same impression on the House as they had on him, he trusted the motion he was about to make would be honored with a unanimous vote. He then moved the three resolutions, as follow:

Resolved, That the thanks of this House be given to Major General Wayne for the good conduct and bravery displayed by him in the action of the 20th August last with the Indians.

Resolved, unanimously, That the thanks of this House be given to the brave officers and soldiers of the legion under the orders of Major General Wayne, for their patience, fortitude, and bravery.

Resolved, That the thanks of this House be given to Major General Scott, and to the gallant mounted volunteers from the State of Kentucky, who have served their country in the field during the late campaign, under the orders of Major General Wayne, for their zeal, bravery, and good conduct.

Mr. GILES foresaw many bad consequences that might ensue from the practice of giving opinions of men. One part of the House might be for a vote of thanks, and the other against it. He should vote for the proposition, but wished that some mode might be adopted for expressing the general

opinion of the House against the practice.

Mr. KITTERA was for restoring the clause respecting the vigilance of General Wayne in attending to the discipline of his troops.

Mr. HILLHOUSE hoped that the resolutions would not be adopted. He should go farther than the gentleman from Virginia (Mr. GILES) and vote against them. The House in their answer to the PRESIDENT, had expressed their approbation, and that was enough. It was not the business of that House, but of the Executive, to express such things. Mr. H. had voted most cordially for that part of the Address respecting the Western army. The Answer to the Speech of the PRESIDENT would always afford a good opportunity of conveying these kind of matters. It would immediately become necessary to give thanks in every case; and not to give them will be regarded as an implied censure. He trusted that the gentleman would withdraw his motion, and that the House in this way would get rid of it. He had, and he repeated it again, a high sense of the merit of the officers and soldiers of the army under General Wayne, but he had said so already in the Address to the PRESIDENT. It had been urged, as a precedent for this measure, that it was usual to thank the Speaker. This was a mere ceremony. He wished that it had never come into practice, but since it had been so, he should always agree to the vote of thanks.

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Mr. MURRAY thought that we might trust that the House would always have too much prudence to abuse their thanks, by giving them improperly. By way of precedent Mr. M. read a vote of the State of Virginia, thanking Governor Lee for his conduct in the Western insurrection.

Mr. NICHOLAS approved highly of the conduct of the troops, but it was only an act of duty. If we send soldiers against the Indians, it is supposed that they will stand to their posts, otherwise the Government cannot be supported even for a month.

Mr. HILLHOUSE saw no business which the House had with the proceedings in the State of Virginia. It had been hinted that the army under General Wayne might feel disagreeably, if the resolution should be rejected. With that Mr. H. had no business. He acted on principles without regarding the feelings of individuals.

Mr. W. SMITH agreed with gentlemen that the principal object of the House was to legislate; but it did not follow that they were to be confined merely to legislation. Every Legislative body exercised the right of opinion in cases where no act was to follow. This House has frequently exercised it: the answers to the PRESIDENT'S Speech; the answer to the King of the French on his acceptance of the Constitution of ninety-one; the opinion of the House on the merits of that constitution; the vote respecting Benjamin Franklin; the vote of last session in reply to a letter from the Committee of Public Safety of France; the votes of thanks to the Speakers, were precedents on the journals which refuted a contrary doctrine. It had been said that the latter case was a mere matter of form. Mr. S. thought differently, and if ever he was in that House when a vote of thanks should be proposed to a Speaker who had no claim to it, he should feel it his duty to oppose it. Gentlemen apprehended that this practice might lead to innumerable difficulties hereafter. But every House would exercise its judgment and discretion. Members would not be so rash as to propose the thanks of the House where serious opposition was expected, nor would the thanks be voted unless well merited. He was unwilling as any member to make the thanks of the House too cheap; but all must confess that if ever there was an occasion where they were properly called for, this was one. To deny the right or expediency of the practice was in fact to strip the House of one of its most agreeable functions, that of expressing its gratitude.

It had been advanced as an objection, that the two Houses might differ; one might vote thanks and the other censure, in the same case; but that might happen in other cases where the propriety of expressing an opinion was admitted; in answering the PRESIDENT'S Speech in the State Legislatures, where thanks were frequently voted, the two branches might differ; that was never deemed an objection to the practice; each House expressed its individual opinion.

Mr. SMITH said, if the House had been sitting in September last when the account arrived of this victory, would the members have then felt as coldly as they now do? No: he was convinced that in the moment of joy and gratitude, they would have unanimously voted thanks to the army without the least hesitation; but they have since had time to cool, and the impression is worn away.

Gentlemen should consider the hard services of that army; how badly paid they were; the nature of the country they were in; and then determine whether the brilliant action of the 20th August is to go unrewarded? To appreciate truly the merits of that army in obtaining so signal a victory, let the House reflect on the consequences of a defeat: the army disbanded and broken up; the frontiers exposed to the ferocious savages; the combination of the tribes more cemented and formidable; an expensive, long, and bloody war. What is now our prospect? The frontiers protected; the combination of the tribes dissolved, and peace with them all a probable event.

Before, therefore, the motion which he had made could be got rid of, it was incumbent on the gentlemen on the other side to show, either that it was improper in any case whatever to pass a vote of thanks, or that this was not a case entitled to them; to do the first they must establish, in the face of precedents innumerable, a doctrine destructive of one of the most amiable privileges of the House; to do the last, they must express a sentiment which would, he was persuaded, be repugnant to the sentiments of all their constituents, for throughout the United States there was but one opinion on this subject, and that was in unison with the motion. Having made the motion after due deliberation, he certainly should not withdraw it; but would submit it to the good sense of the House.

Mr. COIT moved the previous question. He thought the practice of dangerous consequence. It

might produce much uncomfortable proceeding in that House. He was seconded by a number of members.

Mr. PARKER felt the highest esteem for the services of the Western army. He was intimate both with General Wayne and General Scott; but he disapproved of the practice upon principle. It was wrong in Mr. MURRAY to quote the proceedings in the Legislature of Virginia, where the Governor was in authority a mere cipher, because the two cases did not apply. The Federal Government was on a quite different footing, a mixture of monarchy, of aristocracy, and of democracy. The PRESIDENT represented the monarchical part. It was his business to give thanks, if requisite. If he himself was an officer in that army, Mr. P. said that he should be satisfied by the first thanks, those in the answer to the PRESIDENT. He would be hurt by the second as unconstitutional. What if, in the mean time, General Wayne and his army may have committed some error that requires an inquiry, and the House are to go into it with this vote of thanks staring them in their face! It had been said by Mr. SMITH, that if we had been sitting in September, when this news arrived, a vote of thanks would have been passed immediately and unanimously. I believe no such thing (said Mr. P.) We should have recommended such a step to the PRESIDENT.

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Mr. GILES said, that if there ever could have been any doubt as to the impropriety of the resolution, that was now removed, (alluding to the speech of Mr. PARKER.) He thought that the gentleman (Mr. COIT) who moved the previous question had acted from the best motives. Two gentlemen (Mr. GILES referred to Mr. SEDGWICK and Mr. AMES) had recommended an appeal to *feeling*. We are sent here to reason. A gentleman (Mr. SEDGWICK) says that he has feelings which he cannot express. Let him strive to express them. It is not expected that a member is to express all that he may feel on every subject.

Mr. MURRAY said he thought the present resolution proper, unexceptionable, and as the fate of this question would have an effect on the motion for thanks to the militia, which he brought forward yesterday, he hoped it would succeed, and that its mover (Mr. SMITH, of South Carolina) would not withdraw it. Gentlemen who are against the vote have talked of precedent. If example would serve their feelings with a stimulus, he would take the liberty of calling their attention to a page he had in his hand, in which they would find that some of our constituents have got the start of us, for the House of Delegates of Virginia had very properly considered the conduct of their Governor (Mr. LEE) in a light which merited their thanks for his acceptance of the command of his fellow-citizens against the insurgents. Mr. M. read the vote from a newspaper, which was a unanimous one. He said he considered this circumstance as extremely auspicious to both votes.

He said he had no objection to consider the practice as founded in principles which would bear examination. He thought it more necessary in the administration of our Government—the great basis of which was public opinion—than in that of any other which he had read or heard of. Here our theories have made a bold appeal to the reason and feelings of our fellow-citizens. Neither titles, nor hereditary honors, nor crosses, nor ribbons, nor stars, nor garters, are permitted or enduring. Neither would they be accepted here were they offered. We had but two ways, as far as his knowledge then served him, of rewarding or acknowledging great displays of public virtue. One way is by pay in money; the other by thanks expressed by vote, or presented and perpetuated in some memorial, as in a medal. The first is unequal; as the fortunes of men differ, so would such reward not be equally valuable to all its objects; and were it practicable to apportion this reward agreeably to the fortunes of men, there is a something ill-assorted in it with the idea of honorable ambition; nor did he think there was any good man who had a spark of what is called sentiment in his bosom, who would not say the reward was not only lame for want of uniformity, but defective in point of taste in its species. He believed much in the sense of duty as a motive to good and reasonable services, and that an enlightened mind would feel the close alliance between interest and duty; but he held reward to be essential, politically considered, to the practice of great virtue, taking men as you find them. Not that money can be an adequate reward; it was therefore that he wished to see a style of acknowledgment derived both from the genius of the Government and congenial with the passions which work on the side of virtue—a mode as far removed from mere avarice as it was nearly associated to the movements of the most elevated minds. He readily yielded his belief that the gentlemen who were unwilling to adopt the practice fully admitted the merits to which they did not think it expedient to give a vote of thanks; but the precedent, founded expressly on the principle, that in no case of the greatest events are we to give thanks to the agents in them, will absolutely strip the Government of the only power its constitution admits of conferring deserved distinction. He thought that public gratitude was a great fund, which if judiciously and delicately economized, might be rendered a source of great and good actions. It is an honor both to the nation that can feel and express it, and to those who receive it. He did not think it ought to be lightly drawn on, and hoped a line which it was more easy to conceive than draw, would be adopted by the House to save the Legislature from those perilous occasions which would lessen its value, and that no member would ever move a vote of thanks but upon the happening of some event so strikingly great and useful as to carry but one opinion. The two events designated at present (for he saw both votes were to have one fate) were great, highly interesting, and carried but one opinion. The army under General Wayne had gained a brilliant victory. It was, he believed, the first great victory that had attended the arms of the United States since the adoption of the constitution. That army merited the thanks of their country, and we may say so. They had not only gained victory and fame, but had earned them in a solitude where the voice of fame could not be heard; in a profound wilderness, where neither the soothing of just ambition can reach them, nor the smiles of social and civilized life can comfort them after their severe labors.

The militia, both officers and men, in "quelling the insurrection," had displayed the wisdom and

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virtue which the constitution had anticipated; had eminently deserved the most public testimony to their good conduct. Shall we, as we certainly feel this to be true, be deterred from expressing what we feel, because the folly of a future moment may possibly betray us into an undue multiplication of thanks, or because we may be harassed by a fatiguing succession of calls upon our gratitude? There could be little fear that great events would crowd too fast upon our feelings, and take up our time by applause, and he believed his constituents would readily admit the importance of two such events as some excuse for the time we consume in celebrating them.

In favor of the principle, we are supported by the example of the old Congress, by the practice of all nations, and by the known character of human nature in all cases and everywhere. The ancients and the moderns, by a variety of inventions and of policy, analogous to our object, endeavored to enlist all the passions in the public service. The old Congress understood the springs that work in great events, and though there was in the glorious revolution which they guided, an ardor in the public mind that needed little aid, they did not disdain an appeal to the just pride and ambition of the individual; that the motives to public virtue might be multiplied, they in many instances took care that great events and services should be attended by some small but inestimable memorial.

Mr. AMES.—The apprehensions of the House have been attempted to be alarmed, as if they were pushed to adopt hastily and unguardedly some dangerous new principle. The practice of all public bodies, without exception, has been to express their approbation of distinguished public services. Instead of establishing a new principle, the attempt is now made to induce us to depart from an old one. Nay, the objection taken altogether is still more inconsistent and singular, for it is urged, the answer of the House to the PRESIDENT'S Speech has already expressed our approbation of the conduct of General Wayne and his army. It is, say they, superfluous to express it again. The argument opposed to the vote of thanks stands thus: It is a dangerous new principle, without a precedent, and without any just authority from the constitution, to thank the army; for, the objectors add, we have in the answer to the Speech expressed all that is contained in the motion. It is unusual to quote precedent, and our own recent conduct, to prove a motion unprecedented, and to prove a measure new and dangerous because it has been adopted without question or apprehension heretofore.

It is simply a question of mere propriety; and is it a novelty, is it any thing to alarm the caution of the House, that such questions are always to be decided by feeling? What but the sense of propriety induces me to perform to others the nameless and arbitrary duties, and to receive from others the rights which the civilities and refinements of life have erected into laws? In cases of a more serious kind, is not sentiment the only prompt and enlightened guide of our conduct? If I receive a favor, what but the sentiment of gratitude ought to direct me in my acknowledgments? Shall I go to my benefactor and say, Sir, I act coolly and carefully; I will examine all the circumstances of this transaction, and if upon the whole I find some cause of gratitude, I will thank you. Is this gratitude or insult? The man who affects to hold his feelings, and his best feelings back for this cold-blooded process of reasoning, has none. He deceives himself, and attempts to deceive others, if he pretends to reason up or to reason down the impressions which actions worthy of gratitude and admiration make upon his heart. Was it necessary to wait for the joy and exultation which the news of the victory of General Wayne instantly inspired, till we could proceed with all due phlegm and caution to analyze it? The gentleman from Virginia (Mr. NICHOLAS) has not even yet received the impressions which are so natural and so nearly universal; for he has insisted that the army has only done its duty, and therefore it is improper to express our thanks. Indeed, it has done its duty, but in a manner the most splendid, the most worthy of admiration and thanks. That gentleman has also expressed his doubts of the very important nature of the victory, and one would suppose it was thought by many a very trivial advantage that is gained. It is such an one, however, as has humbled a victorious foe; as has avenged the slaughter of two armies; as gives us the reasonable prospect of a speedy peace. Can we desire any thing more ardently than a termination of the Indian war?

A soldier, of all men, looks to this kind of recompense for his services; and surely, to look to the approbation and applause of his country is one means of keeping alive the sentiments of citizenship, which ought not to be suffered to expire even in a camp. Shall we make it an excuse for refusing to pass this vote, that we establish the principle of thanking nobody? Is not this, as a principle, as novel, as improper, as that which alarms our opponents? And shall we establish it as a principle against the known practice of other assemblies and of this, and against the intrinsic propriety of the case, merely because we think our discretion will not be firm enough in future to prevent the abuse of the practice? Scarcely any abuse could have a worse influence than the refusal to adopt this vote, because, should the negative prevail, what would the army believe? Would they not say, a vote of thanks has been rejected? It is said we have not done much, and what we have done is merely our duty, for which we receive wages?

The debate has taken such a turn, that I confess I could have wished the motion had not been made. For the most awkward and ridiculous thing in the world is to express our gratitude lothly. But at least it offers to those who fear that votes of thanks will be too frequent, some security against their apprehensions. Would any man risk the feelings and character of his friend by an attempt to force a vote of thanks by a bare majority through the House? No, an ingenuous mind will shrink from this gross reward. If there is any force in the precedent it is feared we are now making, it will operate more to deter from than to invite the repetition.

Mr. DEARBORN was in favor of the original motion. In addition to some remarks relative to the Republicanism of the idea of the Representatives of the people thanking the armies of the people for their prowess and victories, he compared the argument against the resolutions on the score of

abuse to a miser's excusing himself from the practice of charity, lest he should bestow it on unworthy objects.

Mr. RUTHERFORD was opposed to the previous question. He hoped the resolution of thanks would pass without a dissenting voice.

The previous question was now called for, by five members, viz: "Shall the main question to agree to the said resolution, be now put?" And

On the previous question, "Shall the said main question be now put?" it was resolved in the affirmative—yeas 52, nays 36.

And then the main question being put, that the House do agree to the said resolution, it was

Resolved, unanimously, That the thanks of this House be given to the brave officers and soldiers of the legion under the orders of Major General Wayne, for their patience, fortitude, and bravery.

Resolved, unanimously, That the thanks of this House be given to Major General Scott, and to the gallant mounted volunteers from the State of Kentucky, who have served their country in the field, during the late campaign, under the orders of Major General Wayne, for their zeal, bravery, and good conduct.

Resolved, That the PRESIDENT OF THE UNITED STATES be requested to transmit the foregoing resolutions; and that Mr. WILLIAM SMITH and Mr. MURRAY be appointed a committee to wait on the PRESIDENT therewith.

On motion of Mr. MURRAY,

Resolved, unanimously, That the thanks of this House be given to the gallant officers and privates of the militia of the States of New Jersey, Pennsylvania, Maryland, and Virginia, who, on the late call of the PRESIDENT, rallied round the standard of the laws, and, in the prompt and severe services which they encountered, bore the most illustrious testimony to the value of the constitution, and the blessings of internal peace and order; and that the PRESIDENT be requested to communicate the above vote of thanks in such manner as he may judge most acceptable to the patriotic citizens who are its objects.

Ordered, That Mr. WILLIAM SMITH and Mr. MURRAY be appointed a committee to wait on the PRESIDENT with the foregoing resolution.

TUESDAY, December 9.

The Mint.

The House then took up the motion of Mr. COIT, relative to the Mint. The letter of Mr. Rittenhouse, referred to yesterday, was again read.

Mr. BOUDINOT drew the attention of the House for some time, by a series of the most interesting observations. He went to the Bank of the United States to inquire for cents. He was told that there were none to be had, because the Bank could not get them from the Mint. He then went to the Mint, where he was informed that cents were not coined faster because the officers of the Mint did not know where to get them vented! He said that this Mint cost twenty-four thousand dollars per annum, and every cent coined there cost the public several cents, though he could not exactly tell how many. In New Jersey far more cents had been coined in a few months than had ever been coined altogether at the Mint of the United States, and this had been done at one-fortieth part of the expense which the Mint of the United States has cost.

Several other members adverted to the prodigious inconvenience which is felt all over the Union for want of copper coin; and it appeared to excite some curiosity, on what foundation the officers of the Mint said that they could not get their cents vented. It was remarked by Mr. W. SMITH that, except as to Philadelphia, the Mint is of little or no use whatever. The cents given out never go farther than the city.

A committee of three members were appointed to examine and report on the state of the Mint, and what means may be used to render the institution more beneficial to the United States.

WEDNESDAY, December 10.

An engrossed bill making appropriations for the support of Government, for the year one thousand seven hundred and ninety-five, was read the third time, and passed.

MONDAY, December 15.

Two other members, to wit: from Virginia, JOHN PAGE; and from North Carolina, BENJAMIN WILLIAMS, appeared, and took their seats in the House.

TUESDAY, December 16.

Pennsylvania Insurgents.

It was then moved and seconded that the House should go into a committee, on the report of the select committee, on that part of the PRESIDENT'S Speech which recommended compensation to the

sufferers by the insurgents in the Western counties. The House accordingly went into a committee, Mr. COBB in the chair, and the report was read.

In the clause for making compensation to officers of Government, and other citizens, Mr. NICHOLAS was for striking out the three last words, and restricting indemnification to the officers of Government, as the additional words would make room for a set of claims which never could be satisfied or put to an end. It is now ascertained that the majority of the people of the four western counties have always been in favor of Government; but, since it is so, they ought to have suppressed the insurrection, and saved the expense of sending an army into that country. But as they did not do so, Mr. N. did not see what claim they had for compensation any more than the sufferers in the war with Britain.

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Mr. FINDLAY thought that sound policy required an indemnification to the sufferers.

Mr. HILLHOUSE was in favor of the report of the committee as it stood. The whole affair was but a trifle. He understood that the damages done by the rioters did not altogether exceed twenty thousand dollars; and that three-fourths of this sum was for losses sustained by officers of the revenue. The rest of the account was for persons who had fought in defence of the officers or who had lodged and protected them. He observed that the whole of the select committee were of one mind upon the subject, and agreed in considering the other citizens as equally entitled to indemnification with the officers themselves.

Mr. NICHOLAS was still against the resolutions as originally worded. He did not see any proof of extraordinary attachment on the part of the claimants, nor any peculiar call on the justice of the House in this particular case.

Mr. W. SMITH said, that one man had his whole property burned for having, at the hazard of his life, assisted in attempting to defend the house of the Inspector General. A second received the same treatment for having lodged an excise officer; and a third, because he had antecedently been one himself, though he had quitted his employment before the riots began. Mr. S. urged that these were certainly peculiar and pressing cases, and that it would be highly impolitic not to protect such people.

Mr. GILBERT hoped that there would be no discrimination, but that all the sufferers would be alike reimbursed.

Mr. BOUDINOT proposed a kind of compromise between the original resolution and the amendment by Mr. NICHOLAS. He proposed that the clause should read thus: "officers of the revenue, and other citizens aiding and assisting them." He was willing to indemnify persons who had actually suffered in defence of Government, but not other persons who might accidentally have been injured by the rioters.

Mr. DAYTON was of opinion that some restriction of this sort was necessary. Citizens were in duty bound to support Government, but the latter was not in all cases bound to indemnify their losses. Let any person go through any part of the country wherever British soldiers had marched, and he would find thousands and tens of thousands of people whose property had been utterly destroyed by the wanton barbarity of these troops. Go to another part of the country and you will find people who suffered very considerably by the American soldiers, when Government did not give them an ounce of bread for pounds that they should have had. It was not possible to make satisfaction to all these people.

Mr. SEDGWICK said it was extremely disagreeable to attempt detaining the committee with this subject, to which they discovered such general inattention, that he did not know if it had ever been equalled in any popular assembly before. He again adverted to an argument which he had used on a former day, viz: that when a private person, at the risk of his property and his life, comes forward to support the execution of the laws, his service was much more meritorious, and demonstrated a much greater degree of patriotism than that of a revenue officer who was paid for his share of the business. He inferred that the sufferers by the Western rioters should all be equally indemnified.

Mr. HILLHOUSE repeated some of his former reasons for wishing to discharge the whole claims. He was therefore against the qualified amendment of Mr. BOUDINOT.

Mr. SWIFT was against the amendment of Mr. BOUDINOT, because he was against giving, at present, any thing at all. He would suffer the persons who have sustained injury from these rioters and trespassers to prosecute them at law. If they cannot get any retribution in that way, then, and not sooner, you may begin to consider upon the propriety of giving any compensation; but till the parties aggrieved have done their utmost in that way, he would have no steps whatever taken of the nature proposed. It had been alleged that the House might advance money in the mean time to the sufferers, and leave them to their actions against the rioters. But if you pay a man for his damages, what security is there that he will follow up his suit; or, is it not evident that such previous compensation will greatly damp his ardor? Mr. S. said, that if previous notice were given of Government being ready to pay the damages, in case they could not be recovered before a court of law, there certainly never would be found a jury to bring a verdict against a private person. For this reason Mr. S. was entirely against the resolution at this time. What he might do hereafter, he would not say. There was only one case wherein he could be induced to advance money. If any of these persons could prove that they had been reduced by the rioters to such poverty that they were unable to prosecute their claims in a court of law, it might then perhaps be expedient to advance for them the expenses of the suit. But the interposition of the House at this period would affect the claims very greatly, and thus confer on the rioters themselves a favor which Mr. S. was very unwilling to bestow, as he would wish them prosecuted to the utmost.

Before the meeting of next Congress, it might be ascertained what could be made of these prosecutions, and then, and not till then, Mr. S. would think it proper to enter on the discussion suggested by the report of the select committee.

Mr. DEXTER drew a distinction between persons suffering by an open enemy, whose approaches they could not avoid, and those who suffer voluntarily. The claim for compensation was complete, and we should do the parties injustice if they did not receive full satisfaction.

Mr. BOUDINOT withdrew his amendment, under the idea that the particular cases would hereafter come before the House. The question therefore reverted to its former shape, shall the words "and other citizens" be struck out.

Mr. DAYTON, in opposition to Mr. DEXTER, considered the Government of the United States as more justly bound to make reparation to the people who suffered by the robberies and conflagrations perpetrated by British soldiers than to compensate the sufferers in the four Western counties; for those whose houses were burned, and whose property was destroyed by the British, had no quarter to which they could look for relief except to their own Government. The people to the Westward, on the contrary, had it in their power to prosecute the rioters, who were well able to pay them. Mr. DEXTER had said that the losses of the persons ruined by the British were upon record. Perhaps, said Mr. DAYTON, they will always be on record; but nobody supposes that we shall ever indemnify these losses. He thought it prudent for the present to restrict relief to the officers of Government alone.

The question was about to be put, on the amendment proposed by Mr. NICHOLAS to the first resolution in the report of the select committee, when Mr. SCOTT rose. He said, that if there had been a proposal devised to weaken the hands of Government in the four Western counties, there was no one thing which could have effected that point so completely as the striking out of these three words, "and other citizens." If gentlemen would only reflect for a moment, he would ask them how they thought it possible that any civil officer, after the adoption of such an amendment, would ever be able to raise a posse in that part of the country? Who would hereafter venture to defend the life of an excise officer, when the world has been told, that individuals do it at their own hazard, and cannot look to Government for any compensation? Who will hereafter admit an excise officer into his house, if that house may, with impunity, be burned about his ears? As soon as this amendment has gone abroad, every body, instead of assisting the officers of the revenue, will strive to keep out of their way, and have nothing to do with them. If there never had been any thing said about making a compensation to other citizens, perhaps there might have been little harm, or at least there would have been much less harm by forbearing to give them relief. But when the subject has been fairly brought forward by the PRESIDENT in his Speech, and when it had been debated at full length in this House, when so much notice had been attracted, and so many hopes have been thrown out, to give, in the face of all this, a direct negative, would be the most impolitic step that could possibly be thought of.

The committee then agreed to reject the amendment, and divided on the first resolution as it originally stood in the report of the select committee—yeas 46, nays 37.

The second resolution was then put for enabling the PRESIDENT to draw the sum of — dollars for the relief of the sufferers—yeas 41, nays 37.

Mr. SMITH then said, that seventeen thousand dollars had been mentioned in the committee as sufficient to pay the whole damages. He proposed to fill up the blank with eight or ten thousand dollars, on account, till they should see what was to be the final amount of the claims.

Mr. HILLHOUSE and Mr. KITTERA both objected to this proposal. The committee rose. The Chairman reported that the committee had agreed to the report of the select committee without any amendment. The House were about to take up the report, when Mr. SEDGWICK said, that he was really concerned at thinking that there could have been any division at all about such a thing. He still hoped that a measure might be adopted which would produce unanimity on the subject, and would have a much better effect than such a division.

The bill appropriating one million one hundred and twenty-two thousand five hundred and sixty-nine dollars and one cent for the expenses of the militia in the Western expedition, was read a first and second time, and referred to a Committee of the Whole to-morrow.

WEDNESDAY, December 17.

Pennsylvania Insurgents.

The House resumed the consideration of the report of the select committee on that part of the PRESIDENT'S Speech respecting compensation to the sufferers by insurgents in the Western counties in Pennsylvania. When the first of the two resolutions in the report was read, Mr. SWIFT objected to the granting of immediate indemnification, on much the same ground as he adopted yesterday in the Committee of the Whole. He inquired how a person, with a compensation from that House in his pocket, could appear in a Court of Justice to prosecute a rioter for damages, when the Judge, the jurors, and every one in Court knew he had been indemnified? He enlarged, at some length, on the great pity that it would be to let those rioters and rebels escape so; and, after they had cost Government above a million of dollars, that they should not be obliged to pay these sixteen or twenty thousand.

Mr. LYMAN hoped that the House would give the money, and have done with the business.

Mr. NICHOLAS.—The more he considered this question, he was the more convinced that the House are involving themselves in embarrassment. Are you not told (said he, alluding to what had been urged by Mr. SWIFT) that, by paying these claims in the first instance, you are cutting the sinews of civil process? In any future commotion of this kind a person who has lodged an exciseman may have his house burnt from private spite against him, and not because he interfered in favor of a revenue officer. Then you are bound, by this precedent, to indemnify him; and how can you distinguish what was the real motive to that outrage? He believed it impossible ever to bring Government to such a state of perfection as that all losses suffered in defence of it should be indemnified at its charge. Where is the difference between this case and that of indemnifying the losses at sea by the British? Yet that proposal was rejected. Where is the gentleman who will say that he believes people will put themselves to the trouble of prosecuting, when they know that the money, if recovered, must go into your pockets again? Let us put the case, that a jury in the Western counties, where these points must be tried, shall find any of these people entitled to less than what you have bestowed upon them? Can you then recover the money back again? It is said that this resolution embraces but a few instances, and these of the most meritorious kind; but, in reality, it includes all citizens who have suffered. What will this comprehend, or, rather, what will it not comprehend? He supposed that the design was that the commissioners appointed by the PRESIDENT for that effect should be sent into the Western counties to ascertain the damages. Mr. N. concluded by declaring that nothing which he had heard could induce him to go to the extent proposed; and, by giving money at present, the prosecutions would all come to nothing.

Mr. MURRAY hoped the first resolution would succeed. He really thought that the reasoning of the gentleman from Virginia (Mr. NICHOLAS) would extend to the exclusion of General Neville.

Mr. MADISON remarked, that great respect was due to this proposition, both on account of the interesting occasion that produced it, and of the quarter from whence it came. But the more he revolved the subject in his mind, the more he was convinced that great circumspection was requisite, and that the House, for many reasons, ought to take as much time in deliberating upon what they ought to do as the nature of the subject will admit. He recommended the proposal of some gentlemen to let the affair lie over to next session.

It is no doubt proper to encourage a spirit for suppressing insurrections, and this measure is certainly calculated to promote that spirit. But, in his judgment, Mr. M. feared that it would likewise encourage insurrections. A great body of people were commonly engaged in such disturbances who were not worth hanging, and to whom an established Government usually held out an amnesty. By this means great multitudes came in, and received pardon before the operations of chastisement began. The mob, therefore, would in this case reason thus: As a crowd, we have a good chance to escape the gallows. Let us then plunder as fast as possible, because Government will disburse the loss, and we shall not be forced to disgorge our booty. Mr. M. thought that speculations of this kind might be entertained by future insurgents, if the House were instantly to vote a complete indemnification to the sufferers. Mr. M. held the highest respect for the arguments and feelings of gentlemen who espoused the other side of the question. What he himself had just now suggested, he did not regard as decisive considerations, but yet as considerations of weight. His own impression was to let the matter lie over till the next session, and then those who had done their best in prosecuting would come forward to that House to claim compensation under the most auspicious circumstances, and all which they shall have recovered will be saved to the State.

Mr. BOUDINOT differed in some degree from the gentleman who spoke last. He was for doing something at present, though not so much as was implied in the first resolution. He recapitulated the danger that would arise from slackening the efforts of people to prosecute the rioters. He entirely dissented from the principle laid down by some gentlemen, that Government was in all cases bound to indemnify the losses sustained by its citizens from foreign or domestic outrage. In the war with Britain there were great numbers of people who chose rather to fight it out to the last, and permit their houses to be burnt by the British troops, than accept of terms which they might have obtained. Mr. B. again proposed the amendment which he laid yesterday before the committee, viz: that after the words "and other citizens," there should be inserted, "personally aiding and assisting them." This he thought sufficient in the mean time.

Mr. HEATH declared himself against the resolution as unsound policy. He feared that it may be an encouragement to future mischief. When an officer of the revenue finds that he is to be so easily paid—to be paid a double value for the burning of his house—will not this slacken his ardor in defence of it? Who has not heard of the rebellion of *Shays*, where a great deal of property was destroyed? People there began at the right end of the business. Lawsuits were commenced against the rebels, and damages were recovered. Pray, would it not be a proper bar to the recovery of damages in a court of law to say Government has paid you? Will not these people who suffered by the Tories in the last war come next, with open mouths, and demand indemnity? We shall next have those citizens who lately suffered by the pirates of Britain hastening to demand compensation. Mr. H. considered this as the most important question which had come before Congress during the present session. He concluded by saying that he would bear his testimony against this resolution.

Mr. CARNES was of the same opinion. Mr. MURRAY had said that it would be impossible to find a jury in the Western counties who would give honest damages against the rioters, because almost every body was on their side, and there would be no possibility of finding a jury who would pass an equitable verdict, unless recourse was had to the odious and execrable practice of packing juries. This remedy was worse than the disease; and from this Mr. MURRAY inferred the futility of compelling the sufferers to wait for the result of hopeless prosecutions, and the propriety of

immediately paying the damages. Mr. CARNES asked the gentleman whether his knowledge as a lawyer did not inform him that an upright jury might be selected without having recourse to the infamous expedient of packing? When a jury were chosen, the prosecutors would be at liberty to except against them; and if they were either men of bad characters, or in any shape connected with the rioters, these exceptions would be admitted, and this process would go on till a respectable jury could be chosen. This was quite distinct from any thing like packing. He considered this explanation as a satisfactory answer to the arguments advanced by the member from Maryland; and he entertained a better opinion than that gentleman seemed to possess of the jurymen in the Western counties. Mr. C. foresaw many bad consequences that might possibly flow from this alacrity in discharging damages. What if there should be a collusive insurrection between two parties, and then, instead of twenty thousand dollars, we shall have to discharge a bill of perhaps an hundred thousand, or twice that sum? He considered it as good a plea in bar of prosecutions to say, Government has paid you. But if we are so fond of indemnifying people who suffer losses, the House may begin by satisfying the settlers in the back part of Georgia, where the Creeks within the last ten months only have done mischief to the extent of five or six hundred thousand dollars. He should be glad to hear the House disposed to indemnify these people, but it was what he did not expect. He could not see why these sufferers were not as much entitled to compensation as the others in the four Western counties. As to the Creeks, the State of Georgia was neither at war nor peace with them. Peace it was called, but in the mean time the savages were committing incessant murders. Reverting to the question before the House, Mr. C. said, that it would be most impolitic to proceed at present in the payment of these losses; and he was convinced that the PRESIDENT himself, when he made the reference in his Speech, did not intend that the thing should be acted on immediately. Mr. C. hoped that there would be a delay for the present session. The best way to ascertain the real extent of the damages was to leave the matter to the decision of a jury. When juries have determined this point, then, if the rebels cannot pay, give satisfaction to the sufferers in terms of the verdicts. The member from Maryland had said, that damages could not be accurately specified by a jury. Yes. If you pay nothing at present, but, if you pay at present, the action is barred. Mr. C. had not entirely formed his opinion on the question of compensation, but he was satisfied that it was better to make a delay.

Mr. DEXTER, in reply to the supposition that this compensation would encourage future insurrections, gave it as his opinion that it would be the means of preventing them. An insurgent would say to himself, "I might escape from the prosecution of my neighbor, but, when the United States assist him, I cannot stand against both." Mr. D. conceived that the meaning of the resolution had been mistaken, and he placed the question in a light entirely new and unnoticed by any former speaker. Gentlemen had spoken as if the resolution went to the immediate and complete discharge of the whole damages, and upon this many arguments had been founded. This idea was an entire mistake, for the first resolution went only to ascertain the real extent of the damages, and did not pledge the House to pay the total amount of them. He considered this as a very material distinction, and which, in a great measure, obviated many arguments on the opposite side of the question. Mr. D. did not think, with the member from Georgia, that the same rule applied to the south-western settlers of that State and to parties in the present resolution. The people on the frontiers have "placed themselves in a place of danger knowingly." The Creeks were an open enemy, but the insurgents were an unexpected one. Mr. D. proceeded at great length to make a distinction between the two cases, and concluded by saying that the second resolution, which, as well as the first, he hoped would pass, went only to a temporary relief.

Mr. HARTLEY also placed a part of the question in quite a different light from any former gentleman. Since he had been a member of that House he had found occasion to read a good deal of law, and, from that knowledge of law, he had, yesterday, in the committee, informed the House that neither General Neville nor any body else could obtain damages against the rioters in a civil action. All the arguments, therefore, which had been advanced as to whether equitable damages could be recovered before a jury, proceeded upon an error, because no civil process whatever would lie in the case. If the House were disposed to doubt his own opinion, Mr. H. could now give them that of the first law officer in Pennsylvania. Since yesterday Mr. H. had consulted that gentleman, who gave it as his express opinion that the greater crime absorbs the lesser; that a case of this kind is only a criminal action, and that no penal damages can be recovered. The crime is liable to a capital punishment; he did not mean to death; but to such a degree of punishment as the offence should be found to deserve. Mr. H. added, that if people had known that they were to be indemnified for their losses by the United States, a much greater number would have stood by the law than did so. It was not the fear of personal danger which prevented people from resisting the insurgents; it was apprehension of having their barns burned down in the night time.

Mr. DEXTER interrupted Mr. HARTLEY to inquire whether, by the laws of this State, the property of an insurgent is forfeited for his crime? Mr. HARTLEY replied that it was not. Mr. DEXTER then remarked, that it was very absurd to say to a man, "You are an insurgent; you have committed a great deal of mischief, but you are so very deep an offender that I cannot recover damages." Mr. HARTLEY rose again to give some further explanation, when the SPEAKER announced that he had something to communicate to the House. Mr. HARTLEY sat down, and the SPEAKER said, that he had received from the PRESIDENT some important and confidential communications, which it was requisite to read in the House this day. It did not appear that they would decide on the first resolution at present, and there was not now more time left before the common hour of rising than would be necessary for reading the communications from the PRESIDENT. The debate was instantly deferred, and the galleries cleared.

WILLIAM IRVINE, from Pennsylvania, appeared, and took his seat in the House.

Pennsylvania Insurgents.

The House resumed the consideration of the resolutions reported on Wednesday last, from the Committee of the whole House, on the report of the committee to whom was referred that part of the Speech of the PRESIDENT OF THE UNITED STATES which relates to the policy of indemnifying the sufferers by the depredations of the insurgents in the Western counties of Pennsylvania. Whereupon,

The first resolution being under consideration, in the following words, to wit:

"*Resolved*, That the President of the United States be requested to cause an ascertainment to be made of the losses sustained by the officers of Government and other citizens, in their property, (in consequence of their exertions in support of the laws,) by the insurgents in the Western counties of Pennsylvania."

The amendment of Mr. BOUDINOT, on which the House had been debating on Wednesday, was read. It was for the insertion, after the words "and other citizens," of the following addition: "personally aiding and assisting them."

Mr. HARTLEY then rose, and spoke as follows: I have no great encouragement to speak, when I find that my expressions and language have been totally mistaken, both by gentlemen in this House and by the person who frequently reports the debates. On Tuesday, I had ventured to say, that I thought no great reliance could be had upon the individuals injured obtaining satisfaction by personal actions against the insurgents; that I imagined the civil remedy was merged in the offence of arson against the State, or perhaps a higher offence; that, from the state of things, we could not promise ourselves that the sufferers would be compensated by civil suits.

On Wednesday, I mentioned to the House, that, though there had been much discussion, yet, as I considered part of the House to labor under what I held to be a mistake with respect to the *lex loci*, or law of the State, which we were obliged to take into view, I held it my duty to observe, that, the day before, I had said that I thought the smaller offence, that is, the civil injury, had been merged in the greater against society; that the offence, so far as related to the State, would be arson, which had been a capital offence, punishable with death, that the punishment had been mitigated by the alteration of the penal code, but still it was a felony. I noticed that I had formerly read law a good deal with considerable attention, but since I had been in Congress, I had not been able to bestow much time upon it. I said that formerly certain principles or maxims had made impression upon my mind; that, among others, was the one under consideration, that, in arson, the injury to the individual was merged in that against society, or, at least, must give way to the other; and public justice must be done in the first place. I mentioned that I had consulted one of the first law officers of the State, which is true, and he agreed with me in opinion. Indeed, he added, that no reliance should be had upon the personal remedy, but that compensation ought to be made to the sufferers.

I have no reason to change my former opinion. Really, when I consider the conduct of the commissioners to those who made their submissions, I should imagine it was the intention of the parties that there was to be an oblivion as well of the civil as the criminal offences to those who submitted; and, as the Legislature has the power to construe the agreement, it becomes her rather to do it with magnanimity than otherwise.

Your officers, and those aiding and assisting them, ought to be protected and supported. I will now say, as I did the other day, that the fear of having their houses or barns burned, terrified many a man in the Western country from joining the standard of the law, and forced him to temporize with rebellion. When the officers know that they are to be protected in their persons and property—when the *posse comitatus* are informed that they are to be regarded in like manner—we may expect energy in the execution of the laws. The law of Pennsylvania is defective, or at least doubtful; and, if the present punishment for arson continues, the Legislature of that State will, I dare say, point out a decided remedy for the party injured against the offender. It becomes the honor and justice of the Legislature to protect and support the officers, and those aiding them. I shall, therefore, vote for the amendment.

Mr. VENABLE differed entirely from the gentleman who spoke last. He understood that pardons extended only to the offences against Government. It would, for that reason, be no hardship against the people who had received pardons to prosecute them for civil damages; and, by the statement of the member himself, actions would lie where no public prosecutions had been made.

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Mr. SWIFT was of opinion that the member from Pennsylvania (Mr. HARTLEY) was most certainly mistaken in point of law, when he imagined that the pardon granted by the commissioners extended, or might be construed to a remission of civil offences. He did not believe it to be in the power of Government to pardon these rioters and trespassers to that length. He did not expect that the gentleman from Pennsylvania would have stood up in the House to recommend an unqualified pardon. When a million of dollars had been expended, were the House to give them fifteen or twenty thousand dollars more? He did not come there prepared to hear of a premium for insurrection. He rejected all idea of so much tenderness for rioters and rebels.

Mr. BOUDINOT rejected all idea of the rioters being exempted from civil suits. There was but one exception, where they were executed for their crimes. He had no other view of the matter, but as

a question of policy—whether it was expedient, or the contrary, to prosecute these people. He believed that, before the new constitution, the law stood as the member from Pennsylvania represented it. But all this was much from the purpose. By far the greater number of the rioters have accepted the amnesty. Nobody imagines them exempted from prosecution. To prevent any misconception of this nature, the commissioners, in the terms of pardon which they held out, expressly warned the people that they were to be liable to civil actions for the damages committed. It was needless, then, to embarrass the question with more difficulties than naturally belonged to it. He was satisfied that this was a mere question of policy, whether it was better to pay off these people at once, or let them first try the effects of civil actions.

Mr. DAYTON rose and asked, "Who shall decide, when doctors disagree?" Who shall declare what is the law, when the learned gentlemen of the bar are so directly opposed to each other? The House (Mr. D. observed) had, by some means, imperceptibly, and, he thought, unnecessarily, been drawn into the discussion of a common law question. Law had been aptly compared to a bottomless pit, and the sooner, therefore, that they extricated themselves from it, the better. Very fortunately, (he said,) there existed no necessity for determining, in the present cases, upon any intricate point of law, as the proposals of amnesty, in their very terms, as well as in their nature, left each individual trespasser liable to suits at law on the part of the friends of good order, for the damages sustained by the one and done by the other. Mr. D. was for allowing those prosecutions to go forward, and was well informed, not only that there was far more than sufficient of the property of the insurgents to make compensation, but that it was probable they would agree together, and make up the whole among themselves, rather than be vexed by lawsuits. He could not agree with those gentlemen who expressed a wish to vote for the whole amount of damages, immediately to be paid from the Treasury. He did not believe with them, that such a measure would promote the dignity, or manifest the justice, of the Government. This would be to enter into an improper compromise with guilt. It would be to make peace with sedition, in a way that might tend to encourage rather than, to discourage it in future. We were obligated, upon principle and precedent, to ensure indemnity to those officers of Government, who, in consequence of a prompt and steady discharge of their duty, had suffered in their property from the resentment of the insurgents. But he wished not to do more, until the result of actions at law could be ascertained. Although the Government may offer a pardon for offences against the public, yet nothing was more clear than that the general amnesty did not, and could not, exempt the seditious offenders from answering to private persons for injuries done to them in their property.

Mr. HARTLEY rose to explain. The gentleman from Connecticut (Mr. SWIFT) had mistaken his meaning. He was going on, when

Mr. DAYTON rose, and declared that he had never put any such construction on the words of the gentleman, who certainly must have misapprehended him.

I did not mean you, sir, (said Mr. HARTLEY,) I said the gentleman from *Connecticut*. You made a mistake of the same kind with me last session.

The amendment of Mr. BOUDINOT was, on a division, lost—only twenty-six gentlemen rising when the question was called for.

The question on the first resolution was then called for; when it was moved to take the previous question, that is to say, "Shall the main question be now put?"

Mr. FITZSIMONS rose. He thought that this discussion comprehended a principle of the most important nature. He trusted that it would not be got rid of in this way. He was not of opinion with those gentlemen who were disposed to waive the question just now, under the notion that they should have an opportunity of voting for it at another time. He believed that the true design of moving the previous question was to lay it aside altogether. This expedient should not answer the end; for, if he had only one other gentleman in the House to second him, he would stand by the matter until he obtained an explicit answer.

Mr. McDOWELL vindicated the propriety of taking the previous question.

Mr. SEDGWICK said, that when the British carried on a most unjust war against this country, the Ministry who began it were in time turned out. Their successors had always reprobated the war, but, after the peace, they, notwithstanding, had expended several millions to support the loyalists. While the British had acted with so much liberality, did it become Americans to stick at the paltry sum of seventeen thousand dollars? The House had wrangled so long about this matter, that the very wages which they received for the time spent in this discussion would about have discharged the whole sum in dispute. When a wild, unprincipled, mad attempt had been made to destroy this noble constitution, were the Representatives of this people to make it a doubt whether those who saved it from, perhaps, destruction, were to be indemnified? Mr. S. declared that he felt more unpleasant sensations than he remembered ever to have experienced since he became a member of this House. Gentlemen might argue and argue about this drop in the bucket compared with the ocean. They might go into metaphysical deductions about whether the men who saved this constitution were, some of them, to be reduced to beggary and misery, as the price of having done so. He would bring up the question again and again, until he had the sense of the House again. Mr. S. repeated the following argument, which he, on a former day, had pressed. He asked whether persons who, from the pure, conscious dignity of the republican character, stepped forward to support the Government, did not deserve better of it than excise officers, who were bound to and paid for their services? He was even of opinion that the conduct of the private soldiers in this case was more meritorious than that of the officers. He might be mistaken, but his opinion was so. From this language it is not to be inferred that Mr. S.

undervalued the exertions of the officers of the army, or of the excise. He only meant that the less interest or emolument which an individual has at stake in the success of an affair, the greater is his merit in performing it. He asked what better time there was than the present for settling the amount of these claims?

Mr. HEATH was for the previous question. He thought the resolution unseasonable at this time. However little the gentleman chose to think of seventeen thousand dollars, they might grow into a precedent for seventeen hundred thousand dollars.

Mr. BOUDINOT thought that the seventeen thousand dollars were not the whole of the damages that might be claimed. When commissioners were sent to the Westward, the demand might rise to seventy thousand. Numerous other requisitions might start up. He was for taking the previous question.

Mr. DEXTER regretted his necessity to differ from a gentleman (Mr. BOUDINOT) for whose opinions he was in the habit of entertaining the highest respect. He was against the previous question, because he disliked obliquity. Whether he was against or for the first resolution in the report of the select committee, he would give the resolution itself a fair meeting. He then inquired what better time there could be for learning the number and extent of the losses than the present? He again explained, as on Wednesday, that the House appeared to mistake the extent of the resolution, which did not imply any complete indemnification, nor even assure any relief at all. The whole amounted only to the taking of measures for obtaining information. He would not have voted for it, if he had thought that it promised complete indemnification. He thought that no future time could be so proper as the present for deciding.

Mr. SWIFT, Mr. KITTERA, and Mr. GILBERT, also spoke.

Mr. HILLHOUSE went on the same ground with Mr. DEXTER. He was one of the committee who drew up the resolutions. They never understood that the resolution implied an assurance of complete indemnity to the sufferers.

The previous question was called for by five members, to wit: "Shall the main question, to agree to the said resolution, be now put?"

And on the previous question, "Shall the said main question be now put?" it was resolved in the affirmative—yeas 52, nays 31, as follows:

YEAS.—Fisher Ames, James Armstrong, John Beatty, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Lambert Cadwalader, David Cobb, Peleg Coffin, Jonathan Dayton, Henry Dearborn, Samuel Dexter, Gabriel Duvall, William Findlay, Thomas Fitzsimons, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glenn, Benjamin Goodhue, James Gordon, Andrew Gregg, Samuel Griffin, William Barry Grove, Thomas Hartley, Daniel Heister, James Hillhouse, William Hindman, Samuel Holten, John Wilkes Kittera, Henry Latimer, Amasa Learned, William Lyman, Francis Malbone, William Montgomery, Peter Muhlenberg, Alexander D. Orr, John Page, Josiah Parker, Andrew Pickens, Thomas Scott, Theodore Sedgwick, William Smith, George Thatcher, Uriah Tracy, Jonathan Trumbull, Philip Van Cortlandt, Peter Van Gaasbeck, Peleg Wadsworth, John Watts, Benjamin Williams, and Richard Winn.

NAYS.—Theodorus Bailey, Thomas Blount, Thomas P. Carnes, Gabriel Christie, Joshua Coit, George Dent, William B. Giles, James Gillespie, George Hancock, Carter B. Harrison, John Heath, John Hunter, Richard Bland Lee, Matthew Locke, James Madison, Joseph McDowell, Alexander Mebane, Andrew Moore, Anthony New, John Nichols, Nathaniel Niles, Robert Rutherford, John S. Sherburne, Jeremiah Smith, Israel Smith, Zephaniah Swift, Thomas Tredwell, Abraham Venable, Francis Walker, Paine Wingate, and Joseph Winston.

Mr. GILBERT then moved a resolution, the substance of which was understood to be to ascertain whether the losses in the Western counties were incurred in defence of Government, and how far the sufferers were capable to carry on the lawsuits themselves against the rioters.

Mr. GILES, was against the amendment, the resolution itself, and the whole mode of conducting the business. He had listened to many long speeches, and been surprised that no gentleman had made the observation which he was now going to submit to the House.

[The noise had by this time become so intense, that the SPEAKER rose and reminded the members of a rule that there must be no private conversation while a member addresses the Chair.]

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Mr. G. then proceeded to declare that he disliked the form rather than the substance of the resolution. If people in the Western counties had suffered injuries, why should not they, as well as every other class of citizens, come to the bar of that House and petition? An inquest was, he imagined, intended, which would unite all the back country in one common interest against the Treasury of the United States. The mode proposed by the report of the select committee was the most exceptionable of all that could have been devised. It was said that this was only an affair of seventeen thousand dollars. What evidence have we that the demand will stop there? Sir, there is none. The mode is, besides, totally wrong. Let persons who have suffered come here in the usual manner. It is said that a gentleman has had his house burned. Let him come here and tell us so. Mr. G. entirely scouted the idea advanced by Mr. DEXTER, that we might inquire into the extent of the losses, without a design to discharge them. If you do not mean to indemnify, why inquire at all? He did not object to relieving the sufferers, but, to erect a board of inquest, under Presidential direction, was what he never would consent to. He again repeated, that he did not

mean to dissent from the principle, but from this most exceptionable of all modes for putting it into practice. Let people lay memorials of their losses before the House, which would then see distinctly what it was doing, and examine the evidence on which the claim was founded. He wondered that none of all the speakers in the debate had adverted to this distinction.

Mr. HILLHOUSE differed in every particular from the gentleman who spoke last. If petitioners come from the Westward, they are referred to a select committee. They bring all the evidence which they can muster to swell their bill. The committee have no counter-evidence, as we in this House almost never hear more than one of the parties. It is much better to send persons to the spot who can examine the subject on both sides, which we cannot possibly do, and who will be responsible to this House for their conduct. The whole arguments and ideas of Mr. H. were in direct contradiction to every thing advanced by Mr. GILES. He (Mr. H.) was satisfied that, before we undertook to pay the losses of the Western people, it was better, in the first place, to know the extent of them. The resolution amounted to nothing more than the ascertaining of this loss, and Mr. H. could see many good reasons for deferring the payment of a bill until he knew the sum to which it amounted. He could also see reasons why the mode recommended in the resolution was much preferable to that of bringing people so far to the House. Commissioners going to the spot could make themselves perfectly masters of the subject; whereas, if the parties come here, the matter will be decided on *ex parte* evidence, as it always is.

Mr. BOUDINOT considered the resolution as too loosely worded. A gentleman who had been on the expedition, and who had heard or read the report, observed to him (Mr. B.) that he himself came within the resolution, as he had suffered considerably in his business by his absence.

Mr. HILLHOUSE explained, that the resolution extended only to actual destruction. The committee never meant to compensate people for the loss which they had suffered by being banished. He was ready, if the House liked it better, to insert in the first resolution the words "property actually destroyed." This would prevent the misapprehension of the gentleman mentioned by Mr. BOUDINOT.

The House divided on the amendment of Mr. GILBERT—ayes 39, noes 33.

Mr. HILLHOUSE then moved to strike out the word "in" from the first resolution, and put into its place, "by the actual destruction of" their property.

Mr. MADISON apprehended that this amendment left the resolution as bad as it was before, if not worse. A person in the Western counties had his horse stolen by the insurgents. But this did not imply the actual destruction or annihilation of the horse. The amendment meant either too much or too little. It certainly could be no improvement on the resolution.

After some further discussion, the amendment was agreed to.

And the main question being put, that the House do agree to the said resolution, amended to read as follows:

Resolved, That the President of the United States be requested to cause an ascertainment to be made of the losses sustained by the officers of Government, and other citizens, by the actual destruction of their property (in consequence of their exertions in support of the laws) by insurgents in the Western counties of Pennsylvania; together with a report of the particular condition of the respective sufferers, in relation to their ability to prosecute their several claims, and recover, at law, satisfaction from the insurgent aggressors."

It was resolved in the affirmative.

The second resolution on the subject of indemnification was then taken up in the House.

Mr. BOUDINOT moved the following amendatory addition:

"To aid such of the sufferers as, in his (the President's) opinion, stand in need of immediate assistance, to be accounted for by them in such manner as may hereafter be directed by law."

The amendment was carried, forty-four gentlemen rising.

The resolution, as amended, is as follows:

Resolved, That the President be authorized to draw out of the Treasury of the United States the sum of — dollars, to be applied by him to aid such of the said sufferers as, in his opinion, stand in need of immediate assistance, to be accounted for by them in such manner as may hereafter be directed by law."

Ordered, That a bill or bills be brought in pursuant to the said resolutions; and that Mr. HILLHOUSE, Mr. FINDLAY, Mr. LYMAN, Mr. WATTS, and Mr. WILLIAM SMITH, do prepare and bring in the same. [Pg 555]

FRIDAY, December 26.

Two other members, to wit: JEREMIAH WADSWORTH, from Connecticut; and SAMUEL SMITH, from Maryland, appeared, and took their seats in the House.

Naturalization Bill.

The House again resolved itself into a Committee of the whole House, on the bill to amend the

act, entitled "An act to establish a uniform rule of naturalization."

Mr. GILES proposed to amend the intended test of a citizen, by adding, after "two witnesses giving evidence as to his moral character," these words: "attached to a Republican form of Government." He thought this test proper, to prevent those poisonous communications from Europe, of which gentlemen were so much afraid.

Mr. DEXTER preferred saying, "attached to the Constitution of the United States."

To this amendment Mr. GILES had little or no objection.

Mr. BOUDINOT did not see the use of either amendment. It was only giving unnecessary trouble. The oath which the person himself must take, was sufficient for expressing his fidelity to the Government of this country.

Mr. NICHOLAS considered both the amendment, and the clause to which it was annexed, as unnecessary; and even if in themselves proper, they were misplaced. He thought both equally superfluous. They should have been inserted in the oath of allegiance of the man himself.

Mr. DAYTON hoped that the whole clause would be rejected. He should be against it, unless the nature of the evidence was referred to a Court of Justice. He foresaw many difficulties arising to poor men in attempting to get two such witnesses. It might suit extremely well with merchants and men of large capital, who had, he supposed, been alluded to the other day, under the title of meritorious emigrants. He was not so anxious for them as for useful laboring people, who, as he thought, would be more likely to do good. This class, however, had never, it was likely, troubled their heads about forms of Government. He further objected to the amendment of the gentleman from Virginia, that the word Republican was entirely equivocal. This title was assumed by many Governments in Europe, which were upon principles entirely different from ours. Some of them, such as Poland, had been Aristocracies of the most hideous form.

Mr. DEXTER hoped that the amendment of Mr. GILES would not pass, [Mr. GILES had, as before noticed, consented to withdraw it;] not so much for the sake of the principle, as of the language in which it was expressed. The word Republican implied so much, that nobody could tell where to limit it. Why use so hackneyed a word? Many call themselves Republicans, who, by this word, mean pulling down every establishment: they were mere Anarchists.

Mr. HILLHOUSE was equally against the clause and amendment. Mr. DEXTER and Mr. GILES previously declared themselves extremely doubtful whether they should even vote for the clause, when amended in their own way.

Mr. GILES felt himself extremely surprised to hear it asserted on the floor of Congress, that the words "Republican form of Government" meant any thing or nothing. He read a passage from the constitution, whereby a Republican form of Government is guaranteed to each of the United States composing the Union. He should, therefore, have imagined that the words were well understood from one end of the Continent to the other. He did not expect such criticism. He was not sure if he should vote for the clause at all; but if he did so, he should wish the best to be made of it. He then altered his amendment to these words: "attached to the principles of the Government of the United States."

Mr. DAYTON.—With all the ambition of that gentleman (Mr. GILES) to be called a Democrat, both he and Mr. D. would more properly be called Republicans. He again vindicated his assertion as to the equivocal meaning of the word. A Venetian or Genoese might come to this country, and take the oath as proposed, and then excuse himself by saying, "it was the Republican form of my own country which I had in view." One of the best writers on the British Constitution had called that also a Republic.

Mr. MADISON was of opinion that the word was well enough understood to signify a free Representative Government, deriving its authority from the people, and calculated for their benefit; and thus far the amendment of his colleague was sufficiently proper. Mr. M. doubted whether he himself should, however, vote for the clause, thus amended. It would, perhaps, be very difficult for many citizens to find two reputable witnesses, who could swear to the purity of their principles for three years back. Many useful and virtuous members of the community may be thrown into the greatest difficulties, by such a procedure. In three years time, a person may have shifted his residence from one end of the Continent to the other. How then was he to find evidence of his behavior during such a length of time? But he objected to both amendments on a different ground. It was hard to make a man swear that he preferred the Constitution of the United States, or to give any general opinion, because he may, in his own private judgment, think Monarchy or Aristocracy better, and yet be honestly determined to support this Government as he finds it.

Mr. HILLHOUSE then proposed as an amendment, to insert, that "evidence should be produced to the satisfaction of the Court."

Mr. DEXTER mentioned the abuses that have happened in the present form of admitting citizens. He did not comprehend the argument of Mr. DAYTON, that it would be more easy for a rich than for a poor man to get evidences to swear to his having resided in the country. If he had not, the fact was of a notorious nature. It would likewise be as easy for a poor man, as for a rich one, to get an attestation of his character. The point of residence was, in itself, but little. A man may have resided here for a long time, and defrauded the citizens, which would be no recommendation.

Several other gentlemen spoke. The resolution finally passed.

The second resolution produced a long conversation, in the course of which Mr. MURRAY declared

that he was quite indifferent if not fifty emigrants came into this Continent in a year's time. It would be unjust to hinder them, but impolitic to encourage them. He was afraid that, coming from a quarter of the world so full of disorder and corruption, they might contaminate the purity and simplicity of the American character.

The committee now rose, and had leave to sit again.

MONDAY, December 29.

Naturalization Bill.

The House again resolved itself into a Committee of the whole House, on the bill to amend the act entitled, "An act to establish a uniform rule of naturalization."

The motion before the committee, made by Mr. VENABLE, when they broke off the last discussion, had been to strike the word "moral" out of this amendment: "good moral character." These three words, altogether, were an addition of what was to be attested by the witnesses for a candidate to admission as a citizen.

Mr. DEXTER opened the debate on the amendment of Mr. VENABLE to the amendment by saying, that he wished to hear the reasons for it.

Mr. NICHOLAS said, that he did not make the motion, but his colleague, who had made it, thought that the insertion of the word "moral" gave too strict an air to the sentence. This word might be hereafter implied to mean something relative to religious opinions.

Mr. SEDGWICK remarked, that if no better reason than that advanced by Mr. NICHOLAS could be given for striking out the word "moral," he could not agree to it. Moral is opposed to immoral, but has no particular reference whatever to religion, or whether a man believes any thing or nothing. It has no reference to religious opinions. We can every where tell, by the common voice of the world, whether a man is moral or not in his life, without difficulty. In some States of the Union, adultery is not punishable by law, yet it is every where said to be an immoral action. It is too nice to make a distinction between a good character and a good moral character. The word good itself is very equivocal in its meaning. It signifies any thing, every thing, or nothing. A good companion is one thing; a good man, as applied to wealth, conveys a different sense; and so on.

Mr. B. BOURNE considered the amendment itself and the motion of Mr. VENABLE to strike out the word "moral," as equally useless.

Mr. MURRAY hoped that the word would not be struck out. This would be the greatest slander ever cast upon the American character. It would excite the surprise of foreign nations.

Mr. VENABLE had thought the wording of the phrase too strict; but rather than have any further dispute, he withdrew his motion for striking out the word "moral."

The clause was then read as amended.

Mr. GILBERT thought that the term of residence, before admitting aliens, ought to be very much longer than mentioned in the bill. The Chairman informed him that the term in the bill was left blank.

Mr. SEDGWICK agreed to the idea of Mr. GILBERT. He wished that a method could be found of permitting aliens to possess and transmit property, without, at the same time, giving them a right to vote. He did not know if the constitution authorized such a thing.

After some further conversation, the clause passed. The third resolution in the report was then read; which was, that if an American citizen chose to expatriate himself, he should not be allowed to enter into the list of citizens again without a special act of Congress, and of the State from which he had gone.

Mr. MADISON did not think that Congress, by the constitution, had any authority to readmit American citizens at all. It was only granted to them to admit aliens.

Mr. SEDGWICK was very willing, for his part, that citizens who had once expatriated themselves should never be readmitted again.

The committee, on two successive motions to that effect, from Mr. Madison and Mr. GILES, rose. The Chairman reported progress, and asked leave to sit again, which was granted.

WEDNESDAY, December 31.

LEMUEL BENTON, from South Carolina, appeared, and took his seat in the House.

THURSDAY, January 1, 1795.

Naturalization Bill.

The House proceeded to consider the amendments reported yesterday from the Committee of the whole House, to the bill to amend the act entitled, "An act to establish a uniform rule of naturalization."

The House went through the report of the committee, and agreed to the amendments.

Mr. GILES then rose to make his promised motion as to the exclusion of any foreign emigrant from citizenship who had borne a title of nobility in Europe till he had formally renounced it. He proceeded to observe that, agreeably to the spirit of the constitution, we ought to have the strongest possible evidence that people of this description have renounced all pretence to a right of this nature, before we admit them into the bosom of society. Moderation had been recommended. He requested gentlemen to observe that he conducted his motion on the strictest principles of moderation. He had, in a former part of this bill, voted for some clauses which were intended to guard the Government against any disturbance from the people called Jacobins, when their principles should run to a dangerous and seditious extreme. The same spirit of candor and moderation which had induced him to vote for a precaution against the attempts of the one party, now led him to propose a precaution against the prejudices of the aristocrats, which were, upon the whole, more hostile to the spirit of the American constitution than those of their antagonists. He also requested gentlemen to observe that his present motion went not to the invasion of any positive right. It left the individual exactly where it found him, unless he aspired to be an American citizen. Otherwise, he might retain his titles undisturbed as long as he pleased. But if he wanted any promotion of a civil nature in this country, he must rise to it by conforming exactly to the rules laid down by the constitution itself. That code had declared no titled character admissible to any civil rank. It was not to be supposed that people born and nurtured in the lap of aristocracy would heartily renounce their titles, and become all at once sincere Republicans. It was, therefore, highly improper that such people should be admitted. If we are allowed to anticipate probabilities, it seems highly probable that we shall soon have a great number of this kind of persons here. A revolution is now going onward, to which there is nothing similar in history. A large portion of Europe has already declared against titles, and where the innovations are to stop, no man can presume to guess. There is at present no law in the United States by which a foreigner can be hindered from voting at elections, or even from coming into this House; and if a great number of these fugitive nobility come over, they may soon acquire considerable influence. The tone of thinking may insensibly change in the course of a few years, and no person can say how far such a matter may spread. After these, and other prefatory remarks, Mr. G. read a resolution, which was in effect as follows:

"And in case any alien applying for admission to citizenship of the United States, shall have borne any title or order of nobility in any Kingdom or State from whence he may come, he must renounce all pretensions to his title before the court in which such application shall be made; and this renunciation must be registered in the said court."

Mr. G. observed, that previous to the late revolution, the French nobility were, by the lowest calculation, rated at twenty thousand; and as we may conclude on France being successful, a great proportion of these people may be finally expected here.

Mr. DEXTER declared that he was not very anxious against the resolution. He, however, opposed it. He imagined that, by the same mode of reasoning, we might hinder his Holiness the Pope from coming into this country. He entered at some length into the ridicule of certain tenets in the Roman Catholic religion, and said that priestcraft had done more mischief than aristocracy.

Mr. MADISON said that the question was not perhaps so important as some gentlemen supposed; nor of so little consequence as others seem to think it. It is very probable that the spirit of Republicanism will pervade a great part of Europe. It is hard to guess what numbers of titled characters may, by such an event, be thrown out of that part of the world. What can be more reasonable than that when crowds of them come here, they should be forced to renounce every thing contrary to the spirit of the constitution. He did not approve the ridicule attempted to be thrown out on the Roman Catholics. In their religion there was nothing inconsistent with the purest republicanism. In Switzerland, about one-half of the Cantons were of the Roman Catholic persuasion. Some of the most democratical Cantons were so; Cantons where every man gave his vote for a representative. Americans had no right to ridicule Catholics. They had, many of them, proved good citizens during the Revolution. As to hereditary titles, they were proscribed by the constitution. He would not wish to have a citizen, who refused such an oath.

Mr. PAGE was for the motion of his colleague. It did not become that House to be afraid of introducing democratical principles. Titles only gave a particular class of men a right to be insolent, and another class a pretence to be mean and cringing. The principle will come in by degrees, and produce mischievous effects here as well as elsewhere. If such men do come here, nothing can be more grateful to a Republican than to see them renounce their titles. This does not amount to any demand of making them renounce their principles. If they do not aspire to be citizens, they may assume as many titles as they think fit. Equality is the basis of good order and society, whereas titles turn every thing wrong. Mr. P. said that a scavenger was as necessary to the health of a city as any one of its magistrates. It was proper, therefore, not to lose sight of equality, and to prevent, as far as possible, any opportunities of being insolent. He did not want to see a duke come here and contest an election for Congress with a citizen.

Mr. SEDGWICK was really at a loss to see what end this motion could answer. He agreed with the arguments of Mr. GILES. But the point in view was explicitly provided for already. By taking an oath of citizenship, the individual not only renounces but solemnly abjures nobility. The title is destroyed when the allegiance is broken by his oath being taken to this Government. This abjuration has destroyed all connection with the old Government. Why then provide for it a second time?

Mr. GILES said, that by admitting a thing to have been once done, it was admitted that it might be done again. If it had been right to do it once, there could be no harm in repeating it. The member

then quoted Mr. DEXTER, who rose and declared that the gentleman had misunderstood him. He spoke for some time, and when he sat down—

Mr. GILES declared himself incapable of comprehending whether Mr. DEXTER was for his motion or against it. He therefore proceeded to reply to Mr. SEDGWICK, whose chief argument had been that the thing was provided for already. He did not suppose that this gentleman would allege the matter to be explicitly provided for. It only could be so by implication; which was a very bad way of making a law, because it gave room for endless disputes. If the thing is in itself right, why refuse to vote directly for it? Why leave it only to be implied? He wished to let foreigners know expressly the ground upon which they stood. Why not tell them at once, and in plain English, you must renounce your titles before you can have the privileges of an American citizen? Mr. G. pressed home this idea more than once. He meant no act of inhospitality to these emigrants. He would deprive them of no right, nor do any thing unkind to them. But he was entitled, by the spirit of the constitution, to withhold this right from them till they renounced all hereditary titles. This was no incivility. He concluded by declaring that he would, if supported, call for the yeas and nays on this question. A number of members rose to support this proposal.

Mr. NICHOLAS had no objection to the motion, but that it did not go far enough. The emigrants ought to be obliged to swear not only that they abjured all titles hitherto received, but that they would never accept of any in future. He believed that this would hurt their feelings, and, sympathizing with them, he would not urge a proposal that might add to their distress, but should vote for the motion as it stood.

Mr. SCOTT was sorry that so much time had been spent on the motion. We are not by the constitution authorized to make titles; and he apprehended that if it was unlawful to manufacture a commodity at home, it was unlawful to import it from abroad. On this account he was for the resolution. If once we allow the thing to be manufactured at all, he had no doubt but titles would be as prevalent here as in Britain. He should think it very odd to see a man sitting opposite to him in that House, with a star and garter on his breast. The emigrant was as welcome to wear them as to wear his hat. Only let him wear them out of doors.

Mr. TRACY thought that more time had been spent upon the subject than it was worth. He mentioned the proceedings of the French Convention, who, some time before they cut off the head of the Duke of Orleans, debated four days upon what name they should give him, and at last called him *Egalité*. He feared that calling for the yeas and nays thus early would look like party, as if intended to cast an odium on gentlemen who should vote against the motion.

Mr. DEXTER would vote for the resolution, if the gentleman would agree to an amendment; which was, that he renounced all possession of slaves.

Mr. THATCHER moved as a second amendment, "and that he never will possess them."

The words of Mr. DEXTER's amendment were nearly these: "And also, in case any such alien shall hold any person in slavery, he shall renounce it, and declare that he holds all men free and equal."

Mr. GILES said, that he should begin to think his motion of very peculiar importance, if such extraordinary resources were adopted to disappoint it. He was sorry to see slavery made a jest of in that House. He understood this to be intended as a hint against members from the Southern States. It had no proper connection with the subject before the House. He had therefore no scruple in voting against it. It was calculated to injure the property of gentlemen. As to slavery, he lamented and detested it; but, from the existing state of the country, it was impossible at present to help it. He himself owned slaves. He regretted that he did so, and if any member could point out a way in which he could be properly freed from that situation, he should rejoice in it. The thing was reducing as fast as could prudently be done. He believed that slavery was infinitely more deprecated in countries where it actually existed, and consequently where its evils were known, than in other countries where it was only an object of conversation. Gentlemen had objected to calling for the yeas and nays. Have not the public a right to know the sentiments of the House on every question? Was it any unusual thing to call for the yeas and nays? Or was there any use for it but that the sentiments of every member might be known?

Mr. MADISON mentioned regulations adopted in Virginia for gradually reducing the number of slaves. None were allowed to be imported into the State. The operation of reducing the number of slaves was going on as quickly as possible. The mention of such a thing in the House had in the mean time a very bad effect on that species of property, otherwise he did not know but what he should have voted for the amendment of Mr. DEXTER. It had a dangerous tendency on the minds of these unfortunate people.

Mr. NICHOLAS said, that Mr. DEXTER had more than on one occasion hinted his opinion that possessors of slaves were unfit to hold any Legislative trust in a Republican Government. He was solicitous that before Mr. D. spoke on a subject, he would make himself in some degree acquainted with it. He ought to acquire some information as to the state of the country, otherwise his opinion would fall into contempt with those who knew it. Mr. N. said, that gentlemen who possessed a thousand slaves in Virginia had no more influence on their neighbor who had not one than that neighbor had on them.

Mr. DEXTER complained of the attempt to take the yeas and nays, as a design to hold up certain people to public odium. He would withdraw his amendment if the gentleman would withdraw his motion.

Mr. SEDGWICK rose in some warmth. He said that there was no design in calling for the yeas and

nays but to fix a stigma upon gentlemen in that House as friends to a nobility, when they were no such thing, and to raise a popular odium against them. To propose an abolition of slavery in this country would be the height of madness. Here the slaves are, and here they must remain.

A question of adjournment was now carried by 43 against 29. So the motion of Mr. GILES stands over till to-morrow.

FRIDAY, January 2.

Naturalization Bill.

The House resumed the consideration of the amendments reported on Wednesday last from the Committee of the whole House to the bill to amend the act entitled "An act to establish a uniform rule of naturalization." Whereupon,

The amendment moved yesterday to the said bill being under consideration, in the words following, to wit:

"And in case any such alien applying for admission to become a citizen of the United States, shall have borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, in addition to the requisites of this, and the before recited act, he shall make an express renunciation of his title, or order of nobility, in the Court to which his application shall be made, before he shall be entitled to such admission; which renunciation shall be recorded in the said Court."

A motion was made and seconded to amend the said amendment, by adding to the end thereof the words following, to wit:

"And, also, in case such alien shall, at the time of his application, hold any person in slavery, he shall in the same manner renounce all right and claim to hold such person in slavery."

On the question that the House do agree to the said amendment to the amendment,

Mr. BOURNE said he was against both amendments. He saw no use either for the one or the other. He recapitulated the numerous checks which the constitution had framed against nobility getting into it. He, therefore, with all these checks, could see no danger from it. So much for the expediency of the proposal. He next considered it in a different point of view. A foreigner comes, perhaps with a title, which he has derived from a long train of ancestors, and, with a very pardonable infirmity, he is fond, he is perhaps proud, of his badge of nobility. Is it polite, is it generous, to force him to renounce it? If it is an hereditary title, he can renounce only for himself. His children shall inherit the right. Mr. B. wished both amendments withdrawn.

Mr. RUTHERFORD said, the people of America had an exceeding aversion to the bubble of nobility. He had so much confidence in the wisdom, good sense, and public spirit, of the gentlemen in this House, that he was sure the amendment would be carried by a very great majority. He was equally certain that the amendment of the other gentleman (Mr. DEXTER) would be rejected. It went to wound the feelings and alienate the affections of six or eight States in the Union. He was against the yeas and nays. He wished for a silent vote.

Mr. McDOWELL.—When the gentleman from Massachusetts first brought forward the motion on the table, Mr. McD. could not think he was sincere, from the idea which he had formed of the candor and good sense of that gentleman. But, much to his surprise, Mr. D. persisted in supporting the propriety of his motion, which is not only an indirect attack on the State Governments, but even on the constitution of the United States, and on the members of this House who represent the Southern States. This amendment not only tends to irritate the minds of members, but of thousands of the good citizens in the Southern States, as it affects the property which they have acquired by their industry. Thus it cools their affections towards the Government, as they will find that one part of the Government is about to operate on their property in an indirect way. The gentleman dare not come directly forward, and tell the House, that men who possess slaves are unfit for holding an office under a Republican Government. Mr. McD. recalled to the mind of the House the conduct of the people that compose the Southern States, during the late war, and their struggle for American Independence. He then bade the House review the behavior of their Representatives, under the present Government, and say whether they do not partake more of the Republican spirit than the members from the Eastern States. The latter, also, no doubt had members who did honor to the States which they represented, and to the United States. He thought the amendment of Mr. DEXTER partook more of monarchical or despotic principles than any thing which he had seen for some time. What right had the House to say to a particular class of people, you shall not have that kind of property which other people have? This was the language of the motion, and he considered it as highly unjust. Mr. McD. wished the gentleman to consider what might be the consequence of his motion, at this time, when the West Indies are transformed into an immense scene of slaughter. When thousands of people had been massacred, and thousands had fled for refuge to this country, when the proprietors of slaves in this country could only keep them in peace with the utmost difficulty, was this a time for such inflammatory motions? He was amazed that a gentleman of whom he had so high an opinion, could, for a moment, embrace an idea which was, in all points of view, so extremely improper and dangerous.

Mr. DEXTER chiefly excused his motion because the other gentlemen had been for taking the yeas

and nays. The tenor of his argument seemed to be this: You want to hold us up to the public as aristocrats. I, as a retaliation, will hold you up to the same public as dealers in slaves. Mr. D., however, did not wish to irritate. He, for that reason, withdrew his motion, under the hope that the yeas and nays would not be taken.

Mr. GILES said, that no person could be more anxious than himself to conciliate. But he could not submit to purchase conciliation by sacrificing his opinion, or betraying his duty. He should, on that account, stand by his amendment. It had been said that he called for the yeas and nays for the purpose of holding up to popular detestation a certain party in that House. Such an idea had never entered into his mind. He then commenced a vindication of the propriety of his amendment against the observations of Mr. BOURNE, who had, among other things, alleged that it had no proper relation to the spirit of the Naturalization Bill. After defending it, on this quarter, Mr. G. proceeded to answer something that had been alleged yesterday against his amendment. This was that it had been calculated to hold up an idea to the world, that there was a party in that House in favor of Aristocracy. If there is no such party, a general vote for the amendment will prove that this report is without foundation. In reality there is no connection between the amendment and any such scheme. The idea must have been in the head of the member himself. It is not the amendment, but the use which the gentleman makes of it, that can have any tendency that way. Mr. G. never could have thought of such a way of holding up a party. As to the amendment of Mr. DEXTER, he, Mr. G., held property sacred, and never could have consented to prohibit the emigrant nobility from having slaves any more than other people. But as for titles of nobility, they were quite a different thing. They were but a name, and people were not obliged even to give them up, unless they wanted to become American citizens. As the call of yeas and nays had given such uncommon uneasiness, he, for his own part, should give it up. He was careless how the vote was taken. The other gentlemen who supported his call might act for themselves.

Mr. LEE said, he hoped that to-day the question would have been taken without further debate; he had no disposition to say any thing more on it, and should have remained silent if his colleague (Mr. GILES) had not made some strictures on the observations which fell from him on the preceding day.

Mr. L. always thought the Eastern and Southern States were well situated to unite on terms of the greatest reciprocal benefit. That, for the good of his own country, he valued such a union above all things. He knew, in particular, that it was highly important to the interests of the people whom he represented, to conciliate the cordial and affectionate esteem of their Eastern brethren. That this was not only important to his constituents, but to the whole State, and all the Southern country; as on it must materially depend the preservation of our Union, which Mr. L. feared was more necessary to our safety and prosperity than to theirs. Mr. L. said, he never saw any reason to suspect the Eastern people of anti-Republican principles; that there was no just ground to accuse them of such principles in any manner. Mr. L. had always thought that the Southern country had no right to claim a superiority over their Eastern brethren in Republican virtue. Mr. L. always lamented that his country was not, in some points, so fortunately situated as the Eastern States; but still, he rejoiced to find just ideas of liberty, and a proper respect to the rights of men, animating all the citizens of it; and in public virtue they had a right to rank with their brethren to the North and East of them. Mr. L. thought that his colleague's strongest argument was the corrupting relation which existed in Europe between noblemen and their dependants. Mr. L. feared that this argument might too readily be extended to the situation of this country, and conclusions very disparaging to their Republican virtue drawn from it, from which he had felt it his duty to vindicate them.

Mr. L. believed that the people throughout America were all animated by an equal zeal for the liberty and happiness of their country. As a person, therefore, anxious to preserve our harmony and union, he always felt pain at any question, which was, in any degree, calculated to excite suspicions of each other, and produce enmity, when concord was so much the interest of all. This proposition had, to his mind, a very denunciating aspect; and, as such, he felt it his duty to discountenance it, and every thing of the same sort, without presuming to ascertain or question the motives or designs of the mover. Mr. L. could not help viewing the motion as capable of guarding us from no one danger, but as well fitted to produce unnecessary alarm and irritation.

Mr. L. was indifferent how the question was decided; but, being a friend to harmony and union, he could by no means countenance by his vote any thing that might be construed to denounce a most respectable and patriotic part of this House.

Mr. HILLHOUSE observed, that when the amendment was first introduced, he considered it as altogether harmless and unnecessary; but, being friendly to what appeared to be the object of the mover, that is, keeping out privileged orders from among us, he was inclined to vote for it. Yet, upon more mature reflection, he was of opinion that if the provision contained in the amendment had any effect at all, it would be a directly contrary one from what was intended, and would indirectly establish the principle that privileged orders might be introduced and exist among us, a principle which he wholly rejected and reprobated; and, as he did not doubt that the views of the gentleman who moved the amendment were similar to his own on that subject, he hoped that, upon further consideration, he (Mr. GILES) would withdraw it. It was his opinion that the ground upon which foreigners should be admitted to a share in the administration of our Government ought to be narrowed in every possible way, and if the gentleman would so modify the amendment as wholly to exclude that class of foreigners, or any other, from ever becoming citizens, so far as to elect or to be elected to any office, he would most heartily join in giving his vote for it. In those nations where privileged orders are admitted, the benefits and advantages

arising from it have been considered as merely local, so that, if a nobleman removes from one nation to another, he is not considered as carrying with him the privileges of his order; as, for instance, if a nobleman from any other nation removes to England, where an hereditary nobility is established by law, and even becomes naturalized, he is not a peer of England; he is no more than a private subject, and can claim nothing on account of his former rank. The Convention who formed our constitution undoubtedly viewed the subject in that light, or they would have been equally anxious to have provided against the importation as of the creation of nobility; but, passing this amendment will, as far as the influence of a law and the opinion of Congress can go, be putting a different and wrong construction upon the constitution, and will be admitting that there may be some other mode of introducing a privileged order or a nobility among us, than the one guarded against in the constitution; for, if a law is passed requiring a person, before he shall be admitted to a certain privilege, to renounce some other privilege, it is clearly admitting that such person does or may possess such privilege, otherwise the law is futile, requiring a person to renounce what he does not or cannot possess.

Mr. J. WADSWORTH rose next. He had been up four times before, but, other gentlemen always rising along with him, he had sat down again. Mr. W. said, that a rage against nobility and privileged orders now pervades the whole world. He really did not see the use of this amendment. It put him in mind of an old law which, within his memory, had been in use. When a man had shot himself, his neighbors were not contented with the certainty of his being dead in this world, and damned in the next, but, besides all this, they drove a stake through his body. Mr. W. regarded nobility as in a similar situation with such a man, for nobility appeared to him in the certain road to instant destruction; and this amendment of Mr. GILES, he thought, was like driving in the stake. The latter practice had been laid aside, and he thought that the amendment deserved the same fate. He reminded the House that the time had been when America was very much indebted to nobility, and very glad to see them fight her battles. We might now be taxed with ingratitude on that head, for some of those identical French noblemen, who, during the late war, had rendered us essential service, were now in this country in a state of beggary, subsisting on the charity of their friends. Others of the same noblemen were in dungeons, and some again had got their heads chopped off. He was warranted to say that many of those noblemen, when here, during the war, and long before a French revolution had been talked of, were, in their hearts, as good Republicans as any Americans whatever. We had seen, some time ago, a party spirit rising in the United States. He had observed that the thing was dying away, but the present amendment would afford a new theme. The newspapers are extremely numerous, and he doubted not that the writers in them would embrace so notable an opportunity for exercising their talents. As to the notion that there was a danger of nobility being introduced into this country, the thing was held in such detestation in America, that he had no more apprehension of its obtaining a footing here than he had that there would arise a new race of men without heads, or with their heads placed below their shoulders, or any other unnatural production. In short, he did not know a thing so impossible as the establishment of an American nobility. Knowing this, he regarded the amendment as entirely useless. As to the call for the yeas and nays having an impression on his vote, that was out of the question. He knew his constituents, and they knew him; and they were both too well acquainted with each other for a trifle of this nature to have any influence. To him the call was a matter of the utmost indifference, and he took this opportunity to declare frankly that he should vote against the amendment, whether the yeas and nays were called or not.

Mr. NICHOLAS could not consent to abandon the proposition. It might be said that he did so in terror of the amendment of Mr. DEXTER, which he thoroughly despised.

Mr. BOUDINOT had not designed to speak on this question, but there was one objection to the amendment, which occurred to him, and which had not been noticed by any gentleman. This was, that it would be an act of injustice to make a man do an act in this country which might affect his own interest, and that of his family in another. This case might very possibly happen. A person, by renouncing nobility here, might he be debarred from claiming its privileges in another place, when it would, perhaps, be for his advantage.

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Mr. AMES observed, that too much attention had been given to the amendment as an abstract question. Nothing tended more to bewilder and confuse a debate than such a departure from the subject into abstractions and refinements; for, although by this means we found that plain principles were rendered obscure, and reasonable doctrines carried to excess, yet we did not seem to reflect that nothing is more opposite to just principles than the extremes of those principles. For instance, it would not be safe or proper indiscriminately to admit aliens to become citizens, yet a scrutiny into their political orthodoxy might be carried to a very absurd extreme. The merit of the amendment depends on its adaptedness to the end proposed by the bill, and what is that? To make a rule of naturalization for the admission of aliens to become citizens, on such terms as may consist with our tranquillity and safety. Now, said he, do we think of refusing this privilege to all heretics in respect to political doctrines? Even that strictness would not hasten the millennium. For our own citizens freely propagate a great variety of opinions hostile to each other, and therefore, many of them deviate widely from the intended standard of right thinking; good and bad, fools and wise men, the philosopher and the dupes of prejudice, we find could live very peaceably together, because there was a sufficient coincidence of common interest. If we depend on this strong tie, if we oblige foreigners to wait seven years, till they have formed it, till their habits as well as interests become assimilated with our own, we may leave them to cherish or to renounce their imported prejudices and follies as they may choose. The danger of their diffusing them among our own citizens, is to be prevented by public opinion, if we may leave error and prejudice to stand or fall before truth and freedom of inquiry.

Can the advocates of the amendment even affect apprehensions that there is any intention to introduce a foreign nobility as a privileged order? If they can, such diseases of the brain were not bred by reasoning and cannot be cured by it. Still less should we give effect by law to chimerical whimsies. For what is the tendency of this counterfeit alarm? Is it to rouse again the sleeping apparitions which have disturbed the back country? Is it to show that the mock dangers which they have pretended to dread are real? Or, is it to mark a line of separation between those who have the merit of maintaining the extremes of political opinions, and those whom this vote would denounce as stopping at what they deem a wise moderation? If that is the case, it seems that the amendment is intended rather to publish a creed than to settle a rule of naturalization. Yet it should be noticed that those who would go to extremes are less entitled to the praise of Republicanism than those who would not.

Mr. SAMUEL SMITH was sorry for the turn which the debate had taken; though at first it bore a trifling appearance, it had since called up all the warmth of the House. The gentlemen from the Eastern States, who knew the Republican character of their constituents, and how independent every man there was, both in his temper and his circumstances, had slighted the amendment as unnecessary. Gentlemen from the Southern States, on the other hand, say that they have some reason to be apprehensive. Why, said Mr. S., will not the Eastern members indulge us in this trifle? It is owned by the one party, that it can have no bad tendency; and the other imagine that it must have a good one. Then why not, for the sake of conciliation, grant it?

Mr. MURRAY was sorry that the House had begun the new year with such a discussion. He had seen with much pleasure the appearances of conciliation and unanimity at the outset of the session. He should vote for the amendment, and he hoped that those members who were against it would come round and vote for it. They would thus put an end to this motion, so wasteful of time. Of nobility, however, the gentleman had no alarming apprehensions. There had once been in this House a baronet. He was there for two years before it was known, and it was then discovered that a baronet was a thing perfectly harmless. As for titles of nobility, he believed that all the wholesome and sensible part of the community looked upon the whole as stuff. When Mr. M. contemplated this subject, it reminded him of Holbein's Dance of Death.^[56] He saw nothing in this country but the ghosts of nobility. In Europe, indeed, it was a matter of importance. It established the etiquette of precedence among the ladies in leading down a country dance. The amendment was not worth much either one way or the other. But he wished it to be granted for the reasons assigned by his colleague from Maryland, who had spoke just before him.

Mr. MADISON. When the amendment was first suggested, he had considered it as highly proper, and naturally connected with the subject. No man can say how far the Republican revolution that is now proceeding in Europe will go. If a revolution was to take place in Britain, which for his part he expected and believed would be the case, the peerage of that country would be thronging to the United States. He should be ready to receive them with all that hospitality, tenderness, and respect to which misfortune is entitled. He should sympathize with them, and be as ready to afford them whatever friendly offices lay in his power as any man. But this was entirely distinct from admitting them as citizens of America before they were constitutionally qualified to become so. In reply to the remark of Mr. BOUDINOT, that a renunciation of their titles might injure their families, Mr. M. observed, that if a British revolution took place, these fugitives would, as aliens, be incapacitated from holding real estates. In discussing this question, we had been reminded of the Marquis de Lafayette. He had the greatest respect for that character; but if he were to come to this country, this very gentleman would be the first to recommend and acquiesce in the amendment on the table. He had urged the necessity of utterly abolishing nobility in France, even at a time when he thought it necessary for the safety of the state that the king should possess a considerable portion of power; and Mr. M. believed, that if he were now at freedom, he was as completely stripped of every thing relative to nobility, as it was possible he could be. It had been said, that it was needless to make emigrants renounce their rank, and that oaths were no security. He was ready to allow, that oaths were, in any case, but a very poor security, but they had been adopted in other parts of the bill, and the same reason which recommended them on former occasions might recommend them now.

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Mr. W. SMITH was convinced that the amendment was wholly incompetent to the end which it professed to have in view. You may force a man to renounce his title, but what does that signify, when you cannot hinder his neighbors from calling both him, his wife, and family by the title? He replied to the argument of Mr. S. SMITH, as to the Eastern members giving up the point for the sake of conciliation with the Southern members.

He did not understand that his own constituents had any such panic about them, or that they would thank the Eastern members very ardently for such a concession. They were not afraid of aristocracy. You cannot abolish the practice; and even supposing a nobleman had made his renunciation, perhaps the very person who administered the oath, may, the next moment, say, "My Lord, I wish you a good morning!" and you cannot punish the individual who says so. As to not allowing of titles to wives and daughters, this renunciation will not prevent their being given. But in some parts of the country we have titles already. Mr. S. had often heard an old lady called "the Duchess." He could see no good consequence from the motion. There was indeed one obvious effect. The ignorant part of the American citizens—who, he hoped, were but few—would imagine that those who voted for the amendment were against the introduction of nobility into America, and that those against the amendment were for that introduction. This frivolous kind of legislation had disgraced the proceedings of another nation. They had begun to change the names of their towns and harbors, such as Conde, Dunkirk, Toulon, Havre de Grace, and Lyons. One of these they had named *Havre de Marat*, and so on. But now they were coming back to their

sober judgment, and were repealing these edicts. Lyons was restored to its old name. The pillar erected to announce its rebellion and annihilation had been taken down. The Convention had formerly passed a law for demolishing houses inhabited by aristocrats, but now they began to think it was better to let the houses stand. Would any body say that French liberty was better secured by naming a harbor *Havre de Marat*? Had this done any good to the cause? But if people who were so much afraid of the introduction of nobility would look around them, they might already find in this country alarming marks of attachment to royalty. When Mr. SMITH was lately at New Haven, in Connecticut, he had observed on the top of the State House the figure of a *Crown*, which had stood there undisturbed since long before the beginning of the Revolution. He went into the State House, and found the people as good Republicans as could be, notwithstanding this crown. Again, at Middletown, in the same State, he went into a church, and on the top of the organ there was another *Crown*, which might also be interpreted as a proof of monarchical principles. Reverting to the subject of changing names, Mr. S. said, that the people in the State of New York had for a long time enjoyed as much liberty as the other States. At last, however, it was recollected that one of the streets of the city of New York was called King's street; but this was changed to *Liberty* street, which was, to be sure, a very momentous alteration. If Congress descend to legislate in such littlenesses, they may forbid the title of Worshipful. They may abolish the order of Freemasons, which he thought that they had just as much right to do as to make the foreign nobility renounce their titles before they should be accepted as American citizens. The Congress may, among other objects of legislation, forbid any member to come into that House with an aristocratical cloak—one with gold lace, for example. He asked more than once this question: What peculiar privileges has a foreign nobleman, coming into this country, which he possessed more than all other citizens? He considered the whole amendment as totally trifling. He was content that the yeas and nays should be taken. His sentiments were known already. His name should stand among the noes.

Mr. GILES said, that there had been an echo from one end to the other of the House that his amendment was trifling. Was it consistent for the gentleman, who had been up for half an hour, to spend so much time upon a question, and then conclude by telling the House that it was nothing; that he had been talking for so long a time upon a subject that did not merit their attention? What kind of reasoning was this, or how did the gentleman propose to reconcile it? Was it consistent with the warmth which had been discovered, to say that all this discussion, all this length of time, had been consumed upon nothing? But this kind of language had something more serious in it, for this prohibition of nobility formed one of the pillars of the constitution; so that to call a principle recognized and affirmed by the constitution a trifle, or nothing, and so on, was a very unguarded proceeding. Another notable argument against agreeing to his amendment had been, that the people already detested nobility so thoroughly that it was not worth while to pass this amendment, as their hatred of it would put an end to it without a law. It was enough that the two principal reasons against his amendment, were, first, that it was authorized by the constitution, and secondly, that it would be agreeable to the people. It is strange, that the will of the people, who send us here, is to have no influence in this House, but is to be turned into an argument against passing a law! Mr. G. would adhere to his amendment, because, as the law now stands, there is nothing to hinder a foreigner with a title to become an American citizen, and obtain a seat in this House, and hold both his office and his title. Mr. G. next answered a part of the argument of Mr. W. SMITH, that making people renounce their titles would only rivet their attachment to them, and make them, perhaps, think of these things, when otherwise they would have been forgotten. Mr. G. said, it was quite a new kind of argument, that to renounce a thing, was the way to give it existence. If this rule were to hold, he believed that some members of the House would renounce things which they very much wanted. For example, he himself should possibly renounce a hundred thousand dollars. As to the call for yeas and nays, he had some time ago informed the House that he gave up this point. The thing could not affect him, either one way or another, because his sentiments were already known.

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Mr. TRACY regretted that so much time should be lost on trifling subjects. We had seen the National Convention of France diminish their dignity, by spending three or four days on the business of giving a name to the late Duke of Orleans, and hardly had they finished, by giving him the *name* of Egalité, before in *substance* he became so bad that they cut his head off. What good did his renunciation of title do, excepting that it afforded him a short opportunity of deceiving his fellow-citizens? Mr. T. said he was fully convinced, and had been so from the beginning of the debate on the Naturalization bill, that a length of time was the only valuable probation of an alien, and the only successful mode of discerning his principles, and the justice and propriety of his claim to be naturalized. He thought the sentiments of the gentleman from Virginia (Mr. *Giles*) were highly commendable, when he said we ought to avoid extremes in politics, and adopt a sober medium of political reasoning, suited to the steady and rational temper of Americans, equally removed, on the one hand, from tyranny, and on the other from anarchy. And he would ask, whether a solemn abjuration of all foreign allegiance, with proofs of a good moral character, and attachment to the principles of our Government, would not secure us, as to the principles of the heart, as thoroughly, without the farce of renouncing his title, as with it? He considered titles, in this country, as very empty, unmeaning things; and they would go into disuse of themselves, having no solid support, either in the habits or constitution of this country. But, by the Constitution of the United States, any citizen might receive and enjoy a title from a foreign prince or sovereignty, and Congress could not prevent it. The words of the constitution are:

"No title of nobility shall be granted by the United States; and no person holding any office of profit or trust, under them, shall, without the consent of Congress, accept any present, emolument, office, or title, of any kind whatever, from any

King, Prince, or foreign State."

Mr. T. supposed it was clear that Congress had no power respecting this matter, but what was expressly delegated by the constitution, and that had given them a check only on officers of their own appointment, leaving every other citizen, not an officer of Government, at liberty to retain a foreign title if he pleased. And an alien might, even if this amendment should pass, renounce his title, become naturalized, and in an hour accept of the same title, or another, from any foreign Prince, and Congress can make no laws to prevent it. If it be a fault that our citizens can receive and enjoy titles, it is a constitutional one; Congress are not blamable for it, but they would be blamable were they to arrogate powers not given them, upon this or any other subject. Mr. T. repeated, that there could be no danger in this country from titles; they were universally considered as trifles, and it would be dignifying them too much to legislate about them. He asked the gentleman who brought forward this motion, whether it was not, in a measure, a departure from his former declaration, of sober, rational temper, in politics, to insist so much upon its importance as he did? He was sorry the yeas and nays were insisted upon with so much spirit; it looked like party, in a very unimportant matter: he did not mean to accuse any man, or men, and mentioned it with diffidence, but it really struck his mind in this way. Much had been said about adhering to the constitution strictly, on former occasions; but, from many things said now, it seemed as though there was no safety for the people, unless the House of Representatives absorbed the whole governmental power. Mr. T. said, if that House should become political cannibals, and attempt to devour both the other branches of the Legislature, he would oppose it, whether it was popular or not, for he considered the constitutional checks of the branches of this Government, upon one another, as containing the most complete security for liberty that any people could enjoy. If his construction was a just one, Mr. T. thought the amendment could do no good; it formed a test which might make hypocrites, but not proselytes: it stripped an alien for a moment of a trifle, which in the next he might resume and wear for ever.

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Mr. SEDGWICK.—Has it not been said that there was a party in the United States, not only for aristocracy, but even for monarchy? Is not the present a most favorable opportunity for holding up these people to popular resentment? He was convinced that the gentleman who moved this amendment had no design of doing any such thing, but that did not lessen the reality. He said that Mr. GILES had brought gentlemen into a dilemma, which he did not, or would not see. They had at first opposed the motion, as trifling, and this they had a right to do. The member (Mr. GILES) then moved his call for the yeas and nays; and if gentlemen who had already spoken against the amendment, were now to draw back, and vote for it, they would betray a disgraceful poverty of spirit. Their constituents would say that their votes had been given *in terrorem* of the yeas and nays. The motives for pushing this call could be nothing else but to stigmatize members of that House, as wanting to introduce a nobility, whereas they opposed the amendment on no such account, but merely because it was not worth their taking up. As to himself, he did not care. He could not wish to stand better with his constituents than he actually did. He was well known to them. But, in other quarters of the continent, it might be said that the Eastern States were represented by aristocrats. If this be a desirable object, said Mr. S., in God's name, let gentlemen persist in calling for the yeas and nays. It will be said, "There go the Eastern aristocrats! They want to import nobility here, when it can no longer exist in Europe!" Mr. S. said, that, at first, he gave but little opposition to the amendment, thinking it frivolous. He repeatedly declared, upon his honor, that he firmly believed it to be so, and that he had no other reason for opposing it. If he had been, upon this occasion, warmer than usual, he was sorry for it; but the mischievous and unconciliating consequences of this call for the yeas and nays, had hurt him exceedingly.

Mr. MADISON denied the assertion of Mr. SEDGWICK, that the amendment was trifling; and the member himself seemed to betray, by his behavior, a consciousness that he had not promoted conciliation. An abolition of titles was essential to a Republican revolution, and therefore such an abolition had been highly proper in France. The sons of the Cincinnati could not have inherited their honors, and yet the minds of the Americans were universally disgusted with the institution, and in particular, in South Carolina; yet a member from that State (Mr. W. SMITH) has told the House that his constituents were under no fears of aristocracy, and that they could hear titles without emotion. Even the Chief Magistrate of South Carolina had told the Cincinnati that these distinctions ought to be laid aside.

Mr. HILLHOUSE thought it quite frivolous to spend time upon the motion. That was all his objection. It had been said that, allowing the amendment to be trifling, yet it was no harm to make an idle law, and that therefore it should be agreed to for the sake of conciliation. Supposing a man to make a will, bequeathing a hundred thousand guineas, when he was not worth a shilling, there would be one serious effect at least, for it would make the testator ridiculous. To legislate for the sake of expressing a sentiment, was very silly, and what he never should agree to. If Mr. GILES would make an amendment incapacitating all foreigners whatever from holding, upon any account, a civil office in America, Mr. H. would agree with him, because he did not want to see any of them in such offices, and conceived that Americans could legislate for themselves much better without any such assistance.

Mr. LYMAN said, that whenever a member of that House called for the yeas and nays, it was a rule with him to rise and second the motion, because the people had, upon all occasions, a right to know their votes; and even if only one member desires the yeas and nays to be taken, Mr. L. conceived that it ought to be done, as the thing was in itself so highly proper. Since he had the honor of a seat in that House, therefore, he had always seconded every call for yeas and nays, that the public might understand, as fully as possible, what they were about, and how their votes went. He said that it was extremely improper to ascribe wrong motives, when gentlemen

supported a call for yeas and nays. It was sacrificing the dignity of the House to cast out such insinuations. When the call had once been made and agreed to, it would be very mean to retract it, to gratify any member. The public had always, and without any exception, a right to know what their Representatives were doing, and how they were voting, and he, for one, should adhere to the call.

Mr. W. SMITH said, that he had already put a question which nobody had answered, and on that account he should now rise and put it again. What are the emigrant nobility to renounce? When they come into this country, they possess not one privilege which is not possessed by every body else. He had expected that the gentleman from Virginia, (Mr. GILES,) when last up, would have explained this matter, but he had not done it. The great bugbear was, lest a *ci-devant* Lord may get a seat here, and that somebody may call him My Lord. But, even after you have got his renunciation of nobility, if other people choose to give him his titles, you can neither hinder nor punish them; so that the amendment is, to all practical intents and purposes, absolutely useless and nugatory. Some members of this House belong to the order of Cincinnati. If they come here with badges at their button-holes, can you forbid them? He wished that gentlemen would show what was to be renounced. There was nothing at all to renounce. The whole amendment is totally futile.

Mr. DEXTER then rose, but the House had become so impatient for the question, that he was heard with difficulty. He only wanted to ask whether the call for yeas and nays was withdrawn or not? [Pg 566]

Mr. McDOWELL said that he had already informed the House that he should insist on the call.

Mr. AMES then asked, whether it was not competent to put the previous question, viz: Shall this call be now taken?

The SPEAKER, in reply, said, that according to his judgment, the previous question could have been regularly taken upon any topic whatever, which produced a debate; but the House, by a recent decision, had determined that the previous question could not be regularly taken upon an amendment.

He was then asked, whether the call of yesterday was valid to-day, or if it was necessary for the members to rise over again? Mr. SEDGWICK was clearly of this opinion; in which the SPEAKER, after some consideration, concurred, as some gentlemen had deserted the call, and he, in reality, did not know whether a fifth part of the members would support a call or not.

It was then suggested, that there could not be a second call, if the first was disappointed; and some gentleman said, that he hoped no member would insist on a thing so extremely distressing to the feelings of many members. Several gentlemen had now attempted to speak at the same time, and the mischievous and unconciliating effects of the call were enumerated with much emphasis.

Mr. NEW at last came forward, and declared that he moved for a call. Mr. McDOWELL said the same.

Mr. SEDGWICK then rose again. He appealed to the House, that, since he had a seat in Congress, he had never troubled them with a call more than a very few times; and he affirmed, upon his honor, that he never had moved for the yeas and nays at all, unless he was uncertain how the votes of the House would go. But the gentlemen who now moved for the call had not this excuse. They knew very well that they would carry their point, and that by a large majority; so that the insisting for the yeas and nays could arise only from a design that gentlemen who voted against the amendment should be held out to the public as wanting to introduce a nobility. He owed little to Mr. GILES for having withdrawn his motion, when others were so ready to renew it.

Mr. NEW, on hearing these remarks, declared that he should withdraw his motion, since so much had been said about it.

Mr. BLOUNT then rose, and said that it was needless to waste time, for the yeas and nays must and should be taken.

Twenty-three members seconded his motion, and the SPEAKER declared that the point was now determined.

Mr. DEXTER next rose, and observed that he had withdrawn his amendment, under a hope of conciliation, and that the yeas and nays would not be taken. But since this request had been refused, he should move it again, and have the yeas and nays upon that likewise, and before the other. He went over the beaten ground of the bad consequences of holding members up to popular resentment.

Mr. VENABLE said, that if the gentleman were so disposed, he should willingly try the question at once on this motion, without farther investigation about it.

On calling over the names, there were, on the amendment of Mr. DEXTER—yeas 28, nays 63.

The amendment of Mr. GILES was then taken up, and determined in the affirmative—yeas 59, nays 32.

Ordered, That the said bill, with the amendments agreed to, be recommitted to Mr. MADISON, Mr. DEXTER, and Mr. CARNES.

MONDAY, January 5,

THOMAS SPRIGG, from Maryland, appeared, and took his seat in the House.

The House resolved itself into a Committee of the whole House, on the bill from the Senate, entitled "An act to authorize the settlement of the claim of Samuel Prioleau;" and, after some time spent therein, the committee rose and reported progress.

Defence of the Frontiers.

A Message was received from the PRESIDENT OF THE UNITED STATES, laying before Congress, for their consideration, the copy of a letter from the Secretary of War,^[57] accompanied by an extract from a memorandum of James Seagrove, Agent of Indian Affairs. The Message and papers were read:

Mr. MURRAY then moved that the Message should be referred to the same Committee of the whole House, to which had been referred the memorial from the inhabitants of the South-western Territory.

Mr. NICHOLAS objected strongly to this motion, as showing too much deference to the Heads of the Departments. The paper in question ought not to have been sent to the House at all.

Mr. MURRAY defended his motion. He inquired how the gentleman proposed to get information? Was he to manufacture it himself, or in what way could he better obtain it than from the Heads of the Departments? He had not, for his own part, that species of jealousy of them which the gentleman last up had.

Mr. NICHOLAS repeated his arguments with some warmth. He said that the letter from the late Secretary at War was not official, but officious. It had a particular aspect which should forbid its getting any such mark of attention. It was neither more nor less than a commentary on some of the proceedings of the last session of Congress. If this was received, we might expect the table to be heaped with such things.

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Mr. SEDGWICK could really see no reason to reject the motion. The PRESIDENT had undoubtedly a right to send the communication. The subject was confessedly of the utmost importance. The member asked, if the House were to close their understandings, and refuse all information from that quarter? He repeated that he could see no ground of any sort for refusing consent to the motion.

Mr. GILES was equally dissatisfied with the matter of this letter, and with the manner in which it had been introduced into the House. They were both equally exceptionable. The letter had come without any call. It was an Executive comment on a Legislative proceeding. It was a defence of a measure adopted by the Senate, and it condemned by implication another of that House. To Mr. G. it was a very extraordinary paper. The PRESIDENT was not to be supposed, however, answerable for the propriety of its contents. He should be very unwilling to take any notice of this paper at all. It had been justly remarked that it was a comment on transactions of the last session. A section of a bill passed in the Senate last session, and rejected by the House of Representatives, was inserted in it, and recommended. This paper might operate very materially on the deliberations of the House. This was a very bad precedent. The Executive had nothing to do with any question depending before the Legislature, and consequently had no occasion to send such a thing.

Mr. HOLTEN imagined that the gentleman from Maryland (Mr. MURRAY) had extended his motion too far. It ought to have comprehended only the taking into consideration the Message of the PRESIDENT.

Mr. MURRAY complained of the asperity of expression employed by a gentleman from Virginia, (Mr. NICHOLAS.) Not official but officious, and the intelligence artificial, were phrases to which he objected. The gentleman might have higher sources of information than he had. Mr. M. was willing to take up with information wherever he could get it, and he could have it nowhere with more propriety than from the national servants. It was no good reason to reject information merely because we had not asked for it. Mr. GILES had given a piece of intelligence which Mr. M. said was to him entirely new, viz.: that when the House wanted information, it was one of their rules not to refer for it to the Heads of Departments. The topic was great and important, and the House, before they rise, must examine in general into the situation of the South-western frontier, and our terms with the Indians. Mr. M. said, that the delegate from the South-western territory (Mr. WHITE) would certainly be glad to obtain the information conveyed in this paper. If any gentleman would point out any other way by which the House could, without absurdity, get from the PRESIDENT the information contained in this letter, Mr. M. should be willing to adopt it.

Mr. BOUDINOT was entirely satisfied both as to the propriety of the matter contained in the letter of the Secretary, and as to the manner in which it had been introduced into that House. That the PRESIDENT had a right to consult the Heads of Departments, there could be no kind of doubt. Mr. BOUDINOT then read the following passage from the constitution: "The PRESIDENT shall be Commander-in-chief of the Army and Navy of the United States, and of the militia of the several States. He may require the opinion, in writing, of the principal officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices." Mr. B. defended the Message in all its circumstances, and in the most pointed terms. It was perfectly proper, and peculiarly so at this time. By the constitution, and by the rules and practice of the House, the PRESIDENT had a right to offer his advice regarding Legislative acts.

Mr. W. SMITH had seen much needless jealousy in the House towards Heads of Departments; and the present he thought a refinement on that side. There had been two objections to the

communication from the Secretary of War, the one as to the matter, and the other as to the manner in which it was introduced to the House; as to the latter, it was said to have been obtruded unasked. In this last objection Mr. S. saw nothing. He read a precedent from the Journals, which he insisted to be exactly similar, and where Mr. NICHOLAS himself had been one of a committee appointed to examine and report. As to the matter, we might as reasonably object to the Speeches of the PRESIDENT, reminding the House of business which had been before them, or recommending subjects to their notice. He considered the objections of both sorts as entirely unfounded.

Mr. MADISON recommended the alteration suggested by Mr. HOLTEN, for restricting the motion of commitment to the Message of the PRESIDENT, and not to take any notice of the letter from the Secretary, which he considered as, in itself, extremely improper. It could not be meant as information, and the House had no occasion to take advice from the Secretary. The letter itself looked more like a forced thing, than any which he recollected to have seen since the establishment of the constitution. The subject, however, was delicate. The PRESIDENT had an undoubted right to give advice or information in any way which he thought best. It was totally ill-judged in the Secretary to have conveyed his opinion in the very words of a clause in a bill that had passed through the Senate last session, and been rejected in that House. The communication translated into plain language amounted to this: "The Senate last session had more wisdom than this House, and it is proper for this House to reconsider its proceedings, and improve by the superior wisdom of the Senate." Due respect should, however, be paid to the Message of the PRESIDENT. It ought to be taken into consideration, and Mr. M. was not willing to cast obstructions in its way, or to make needless objections.

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Mr. DAYTON said, that he was for referring the Report of the Secretary at War, with the PRESIDENT'S Message, to the Committee of the Whole, and that consequently he was against striking out the words which expressed that intention. If, by omitting to take any notice of the Report of the Secretary, it was meant to reject the information on account of the source from which it came, it argued such a degree of jealousy and distrust as appeared both unreasonable and unconstitutional. If, on the contrary, the object was not so much to reject it, as, by the manner of referring the Message, to convey any reproof or disrespect towards the late Secretary of War, Mr. D. should be still more decidedly averse to the modification proposed. He lamented it as an unhappy circumstance for this country, that the gentleman who was lately the Head of the War Department had thought proper to resign. That gentleman had executed the complicated and important duties of his office with zeal, fidelity, and ability, and ought to be protected from any proposition or remark which glanced unfavorably at him, or might wound his feelings at the moment of his leaving us. Mr. D. then adduced the Report of the Secretary of War in 1790, to the PRESIDENT, on the subject of the militia system, as a striking precedent. The Secretary there informed the PRESIDENT, that he had submitted to him a plan for the arrangement of the militia. The PRESIDENT sent a Message with the plan to the House of Representatives. What were the steps then taken in that parallel case? Was the Message then alone referred as it is now proposed by some gentlemen? The journals, on the contrary, prove, that the Message and plan were referred to the Committee of the Whole. It was possible, Mr. D. added, that the present Congress might deem themselves wiser than their predecessors. It was possible that many might think it safest to shut their ears against all kinds of information from the Heads of Departments, or even from the PRESIDENT himself. There might be some who would be willing to free the House of Representatives from certain obligations, or shackles under which the constitution placed them, by tearing out a leaf from that instrument, but he ventured to say that it was too soon yet to attempt it.

Mr. SMILIE complained of the style of the memorial from the Secretary of War, and, as a specimen, he read the following passage:

"It is a melancholy reflection that our modes of population have been more destructive to the Indian natives than the conduct of the conquerors of Mexico and Peru. The evidence of this is the utter extirpation of nearly all the Indians in the most populous parts of the Union. A future historian may mark the causes of this destruction of the human race in sable colors. Although the present Government of the United States cannot with propriety be involved in the opprobrium, yet it seems necessary however, in order to render their attention upon this subject strongly characteristic of their justice, that some powerful attempts should be made to tranquillize the frontiers, particularly those south of the Ohio."

In reading the above extract, Mr. M. went no farther than to the words *sable colors*. Mr. S. SMITH desired that he should read on, that the House might hear that no insinuation was intended, as if the present Government of the United States had countenanced such ravages. Mr. SMILIE said, that he knew what came after, but who would compare the first settlers of North America to the Spaniards, who destroyed in their mines thousands and millions of the Indians, and whose memory had been consigned to the execration of centuries?

Mr. AMES rose. Just when he had begun speaking, there came in a message from the PRESIDENT by his Secretary. On this, Mr. A. observed, that, perhaps, while gentlemen were now speaking there might have arisen a new subject of dispute. Perhaps by the new doctrine, we should reject all communications from that quarter. The message having been delivered, Mr. A. went on to remark, that turning loose the American militia to guard the South-western frontier, was a system of slaughter, of desolation. It was to make a Potter's field a hundred thousand miles in extent! It was a system to waste the blood of the white man, and to extirpate the Indians. The militia were not the people to prevent those kind of injuries against the Indians which were the

cause of hostilities. But gentlemen who were now so delicate as to the style of memorials, would do well, if they extended that delicacy to other memorials which had been presented to that House, and referred by the consent of those very members to select committees. Papers had been offered to that House, wherein its conduct had been criminated and reprobated in the most unqualified language of detestation. Yet gentlemen, on some of these occasions, showed no resentment. Mr. A. ridiculed the idea of the present motion as introducing a new and dangerous precedent. The opposition to it came exactly under that description, for it was a direct attack upon the principles of the constitution.

Mr. FITZSIMONS approved of the motion. It had been asked if the PRESIDENT was responsible for the contents of this Report from the Secretary of War? Mr. F. did not think so; but if he had not communicated it, the member would have thought him responsible for the omission. The PRESIDENT had a right to ask advice from the Heads of the Departments. Mr. F. never knew a message from the PRESIDENT which required a reference, that had been refused it. As a matter of course, as a matter of right, it ought to be referred.

Mr. MURRAY rose and read that passage in the Report of the Secretary, which Mr. S. Smith had desired Mr. SMILIE to read, and which he had not read. [They are inserted both together at full length as above.]

Mr. NICHOLAS moved an amendment, and which was seconded, for striking out the latter part of the resolution proposed by Mr. MURRAY. This made it merely a reference of the Message from the PRESIDENT to the Committee of the Whole, and omitted all notice whatever of the Report from the Secretary of War.

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Mr. SEDGWICK really thought this a squeamishness for which he saw no manner of foundation.

Mr. GILES arose. He said that a gentleman from Massachusetts had asserted that some members considered the whole constitution as entirely in this House. This imputation was a thing of so serious a nature, that Mr. G. wished the gentleman to point out the person to whom he alluded. If it respected Mr. G. himself, the assertion was unfounded. It was not true. He had the highest respect for every branch of the constitution. This was a charge frequently made by one side of the House. Gentlemen had called the contents of this paper information. He saw in it nothing but what the House knew without the assistance of the Secretary. He considered the report as an effort upon the opinion of this House, as an attack upon its independence, and that in a very indelicate way. He thought the report in all respects unworthy of the notice of the House. He hoped that this paper would not be committed, but that the Message of the PRESIDENT would be so.

[The passage in the report repeatedly referred to as having been borrowed from a bill passed in the Senate, last session, is in these words:

"That all persons who shall be assembled, or embodied in arms, on any lands belonging to Indians, out of the ordinary jurisdiction of any State, or of the territory south of the Ohio, for the purpose of warring against the Indians, or committing depredations upon any Indian town, or persons, or property, shall thereby become liable and subject to the rules and articles of war, which are or shall be established for the government of the troops of the United States."

This was a section of a bill which the Senate passed the last session, entitled "An act for the more effectual protection of the South-western frontiers," but it was disagreed to by the House.]

Mr. KITTEKA considered this as entirely a dispute about words, or plainly about nothing at all. Gentlemen from Virginia were more jealous of the Executive than even the constitution itself. Mr. K. was satisfied that the PRESIDENT had a right to interfere in the Legislative proceedings with his opinion and advice. There was neither principle nor precedent for the amendment of Mr. NICHOLAS. The dispute was merely about words, because if the Message of the PRESIDENT was referred to a Committee of the Whole, the report in question would, in any case, be referred along with it.

Mr. AMES rose again to make some remarks on the danger of extending too far the privileges of the House of Representatives over the other House. The moment that this House is turned into a Convention, there is an end of liberty. As to impropriety and indelicacy of style, he could wish that the cognizance of members might extend to memorials addressed to the House, that we may not have addresses disrespectful to it. He entirely vindicated the conduct of the PRESIDENT as to this matter, and saw a peculiar propriety in his having made the communication at present on the table.

The question was loudly called for; but Mr. NICHOLAS rose in reply to Mr. AMES. Would any man call this a communication from the Executive? Mr. AMES spoke a few words in a low tone of voice. Mr. N. proceeded, "The gentleman prevaricates." "I prevaricate, sir!" rejoined Mr. A. Mr. N said, that at best he went off from the point. As to the precedent produced by Mr. W. SMITH, it was quite inapplicable. It bore no resemblance or connection to the one before the House. The other adduced by Mr. DAYTON was, he admitted, in point. But that gentleman would admit that it occurred in the infancy of the constitution, which was an excuse for it. He hoped that the amendment would go through.

Mr. TRACY quoted something which Mr. NICHOLAS had said. That gentleman immediately answered, that he had been misquoted. I know, said Mr. TRACY, as well as that gentleman, what he said. Mr. NICHOLAS got up a second time, and repeated what he affirmed were the words which he had really spoken. He did not say so before, said Mr. TRACY, but I am content that he should say so now. I only beg that he may not interrupt me. As to the motion for striking out one-half of the

resolution, Mr. TRACY looked upon it as out of all propriety. The PRESIDENT had sent a letter of two lines, enclosing a report from the Secretary of War. To refer the former without the latter, would be like referring to any person the superscription of a letter, but adding, at the same time, you must not look at the inside of it. Mr. T. did not care from whom the report came. If it contained useful information, that was all he wanted to know. And, supposing it had been sent from a Democratic society, that of itself would with Mr. T. be no reason to refuse it a reference. He then observed how much more deference had been paid by that House to Democratic societies than was now paid by some gentlemen to the PRESIDENT. Much care had been taken that a vote of censure should not be passed on them. It looked as if gentlemen wanted to grasp all power within this body. The amendment was wrong in point both of principle and practice. To refer a mere superscription, (for the letter of the PRESIDENT was nothing more,) would look strange enough. The resolution, as amended, was in a state of hostility with common sense.

Mr. LYMAN was in favor of the amendment for striking out the words in the latter part of the motion. He thought it improper to refer to a Committee of the whole House the report of the late Secretary of War, because it was of an amphibious nature. It was not a mere official statement of supposed facts, but the reasoning on these facts. He was sensible that precedents could be found on the journals, which sanctioned a commitment of similar reports; but, for his part, he had ever thought the practice improper, and he must meet the question as it appeared to him. He said, that the constitution authorized the PRESIDENT OF THE UNITED STATES, nay, it made it a duty incumbent on him, to give information, from time to time, of the state of the Union. He was also equally required to suggest, for the consideration of the House, whatever he thought expedient; but there was a most material difference between communicating information, and argument or inferences deduced from it. The official information would always, without doubt, be reports from the different departments, and, therefore, would have the credit and weight which was due to it; but whenever plans or arguments were communicated, they should have the responsibility attached to the signature of the PRESIDENT. What was the case in the present instance? Had the Executive avowed the plan of the Secretary of War, or his reasoning? He was persuaded, from the communication itself, that the PRESIDENT did not at all espouse the report as his own wishes or opinion; for there was nothing in the Message implying that the report had been officially required, or that any one sentiment was from the high authority of the Executive. As to the Secretary of War, Mr. L. had a respect for him, and believed that he had discharged the duties of his office with ability and fidelity, but it implied no censure to decline hearing his arguments. All that the House wanted was facts and information. They were fully competent to the suitable deductions. As to the observation of his colleague, that the House were abridging the powers of the Executive, it was so far from being the case, they were only reclaiming what had been remitted and disused; and he had no fears that they would abuse it.

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Mr. HILLHOUSE thought that gentlemen were spending time in a very trifling way. It is the duty of the House to hear information from every quarter. He was against the amendment.

Mr. J. WADSWORTH said, that some gentlemen had been offended at the comparison in the report between the North American settlers and the Spaniards. Mr. W. remarked, that if gentlemen would look into two historians, the one of Virginia and the other of New England, they would see bad enough work. If the Spaniards, or any other nation in history, had acted worse, he was much at a loss to comprehend what their proceedings could have been. As to Pennsylvania, much had been said of the purchases from the Indians of their lands; but where was the difference between shooting an Indian and catching him in a trap? And, as to the conduct of the Pennsylvanians, when they drove the Indians back to Pittsburg, that was sufficiently cruel. We have murdered them from the beginning, said Mr. W. As to the question on the amendment, he knew perfectly well that the PRESIDENT had acted exactly conformable both to the constitution and the practice of the House. To refuse committing the report of the Secretary along with the Message, would be an affront, not to the Secretary, but to the PRESIDENT.

Mr. MADISON looked upon the expression, as to the Spaniards, as being extremely exceptionable. It had escaped, perhaps, inadvertently. The Secretary would not have used it in a report to the House, nor would the PRESIDENT have employed it, as from himself, in any Message to the House. Mr. M. was for the amendment. It was natural enough that the Secretary, when communicating his sentiments in a private manner, should make use of illustrations for enforcing his opinion that he would not have adopted in an official paper.

Mr. PAGE was persuaded that the Report from the Secretary of War contained nothing new, or, if new, nothing which may not as well be used when in the hands of members, as when in those of a Committee of the Whole. If the amendment had been to throw the Message under the table, more warmth could not have been shown, in charging the opposers of the motion for reference to a Committee of the Whole with indecency to the PRESIDENT, and with a design at usurpation of his power, &c. It is said, that a jealousy has been betrayed by some members of an encroachment on the privileges of this House. Surely, a most unnecessary and unreasonable suspicion has also been betrayed by others, of a design in the gentlemen who supported the motion of Mr. NICHOLAS, to encroach on the powers of the Executive. Expressions have been used not consistent with decency and order. Gentlemen have been charged with a factious spirit, favoring indecent remonstrances, and with slighting and treating contemptuously the Message from the PRESIDENT. Some members have, at another time, been charged with speaking, not to the House, but to their constituents, in order to gain their votes at an approaching election. Mr. P. said, that his respect for the Government, and for the PRESIDENT, was equal to that of any man in the House. He was far from wishing to reflect on the late Secretary of War. Mr. P. had never, by any vote, censured his conduct, and he entertained no wish for his resignation. But he was at liberty to think the report

given to the PRESIDENT wrong, the communication of it to the House as unnecessary, and even if necessary, as sufficiently acted upon when printed and put into the hands of the members. He might have no doubt respecting the constitutionality of the Message from the PRESIDENT, or of the report of the Secretary to him. He might require no precedents from the Journals to prove that the motion for referring that Message was perfectly in order. But he might doubt whether the substance of the report was of such a nature as to require the consideration of the Committee of the Whole. He might also doubt whether the report was of sufficient importance to require the most mature consideration. There might be circumstances attending the manner of its introduction, as some members allege that there were, which render the report improper to be referred to a Committee of the Whole. It would be a precedent for referring every Message, and that would be attended with unnecessary delay. It will be paying a superfluous compliment. If the information came from the poorest citizen, and was sufficiently important, he would refer it, but though it came from the PRESIDENT or Senate, and contained nothing which, in his opinion, required a commitment, he should vote against it. Mr. P. was for the amendment of Mr. NICHOLAS.

Mr. S. SMITH remarked, that the principal objection made by the gentleman who spoke last, (Mr. PAGE,) to the commitment of the report was, that it contains nothing new. The observation will apply with equal justness to a great part of what has been said on the subject before the House. He wished, therefore, that the question might be immediately taken.

The amendment was negatived without a division, but by a very great majority. The motion, as it originally stood, was then put and carried.

TUESDAY, January 27.

Reduction of Salaries.

The House resolved itself into a Committee of the whole House on the motion of the twenty-third instant, "that a committee be appointed to bring in a bill or bills to amend the act entitled 'An act for establishing the salaries of the Executive Officers of Government, with their assistants and clerks;' and an act 'for allowing compensation to the members of the Senate and House of Representatives of the United States, and to the officers of both Houses;' and to reduce all such salaries as, in the opinion of the said committee, after having made due inquiry, ought to be reduced."

Mr. CLAIBORNE said: A worthy gentleman from Maryland, the other day, suggested an amendment to the proposition now before you, which I understood to contemplate the increase of some salaries; and, if that gentleman can reconcile it to himself and his constituents, let him move and carry it, if he can. For my part, I am pleased with the proposition as it is, and yet it may have great imperfections. It is very common for fond parents to be blind to the imperfections of their own offspring; and, as this is a production of my own, it is probable that I may be under the same delusive prejudices, but I hope that cheerful acquiescence which I have always shown to the majority, has sufficiently evinced that I am no bigot to my own opinions. I said, the other day, that I was determined, if the proposition must die, it should be by assassination; but as, in this, a degree of guilt is implied, and might be attended with serious consequences to those concerned in it, I should be satisfied to give it a fair trial, and, if it must die, that it may be by legal and fair adjudication, or, in other words, after full and fair discussion of its merits.

We now have fairly before us a proposition that contemplates a redress of these grievances, which, since the adoption of the present form of Government, have been a subject of grievous complaint and heartburning amongst citizens of the United States. Many of them, and, I believe, a very great majority, conceive that the exorbitant salaries established to the Legislative, Executive, Judiciary, and their assistants, are not consistent with, or can possibly contribute to the existence or well-being of a Republican Government, which, in its nature, holds out the idea of equality and justice, but which, in the present mode of administration, cannot fail to have a direct opposite tendency, inasmuch as the very profuse salaries that all who have the good fortune to get places under the pay and influence of the present Administration, if they make a prudent use of them, must ultimately enrich and place them in a situation so far above the vast bulk of the citizens, whose industrious fingers are not permitted a single dip into those very coffers which have been swelled by filching a little from that hard-gotten pittance already far inadequate to the necessary but very ordinary subsistence of their families, as at last to endanger the very existence or shadow of this glorious and dear-bought Government, that has already raised the drooping and once-dejected heads of the poor American citizens, who now glory more in having thrown off that subordination that was assumed and exercised over them under the late detestable Monarchical Government, by their rulers, or public officers, than even in their lives and fortunes. Men begin to know the inherent rights of human nature. They have dipped into and tasted a little of the sweets of political regeneration, and, amongst all classes of your citizens, you may discover a zeal that amounts to enthusiasm, that lives and burns and grows almost to a prodigy. Instances are not wanting, sir, to evince that thousands of those who were not fond of this Government at its adoption, are now, on all occasions, ready to step forth in its support, and the laws that are passed consistent therewith. But this does, by no means, argue that they will submit for ever to repeated abuses of the Government, which may ultimately tend to its overthrow; and exorbitant salaries, with other profuse appropriations of the public money, at a time when the nation is groaning under an immense weight of foreign and domestic debt, which (calculating upon the blessings of peace, and of course, a very increasing revenue, not reasonably to be calculated on so long a time,) it is agreed on all hands will take a term not less than thirty-

two years to extinguish. Here I shall again be told, that the price of house-rent, and every other necessary of life, has increased, and may continue to increase, so as to drive all your officers out of your service. To this I beg leave to answer, that, if you continue such high salaries, or increase them, as in some instances it is asked, and because of the present enhanced price of the necessaries of life, I think the evil will increase in proportion to the immense sum of money that you throw into circulation, for a redundancy of that, or any thing else, will always diminish the value; and, if the present custom of disbursing the public money is persisted in, the whole wealth of the United States must shortly centre in and about Philadelphia! But, sir, by the adoption of public economy, we may shortly become able to obviate this great evil, and make our disbursements more diffusive, by paying out money to those who have demands upon your justice, distributed over the United States, if any but those who reside around the seat of Government have any demand upon your justice or goodness. I am apprised that the proposition is a very unpopular one here, and that many will perhaps knit their brows at me; but, sir, when I entered into public life, it was without any cringing views. I meant not to court smiles, or fear frowns, and I had no doubt but I should meet my share of both. When I gain the former by proper conduct, I have pleasure in it; when the latter by improper conduct, I am sorry for it. But it will be much to be lamented if ever we see the day when the people shall be suffered to complain from year to year of any grievance, and their Representatives shall be ashamed, or afraid, to make those grievances known, or ask redress, lest they be laughed out of countenance, or lose favor at Court. But so hardy am I, if you prefer that expression, that, while I have the honor of a seat in this House, none of those considerations shall ever deter me from stepping forth in their behalf; but, be the result of this proposition what it may, I now warn you against evils that *may* come, as you have been heretofore warned of evils that *have* come, for the obligations of power and submission are reciprocal. It is as much your duty to pass wholesome laws, as it is the duty of the people to obey them. And now, having done my duty, I shall take my seat, content to abide the result, but hope a committee will be appointed.

Mr. NICHOLAS declared that he would be very willing to vote for the appointment of such a committee, if he could see any good purpose to be derived from it, or if the gentleman who laid the resolution on the table could give him any information that tended to prove its expediency. For his own part he had but a small family, and of that he had left one-half behind him in Virginia, yet he found that his allowance as a member of the Legislature was barely sufficient for supporting this half of his family, though he lived with as much economy as he ever had done in his life. He was certain that he should not take one shilling of public money home with him to Virginia. He requested gentlemen to remember that it was not the present Congress who had given six dollars per day to themselves, but that it had been fixed by their predecessors, and fixed at a time when living was fifty per cent. cheaper than it is now.

Mr. BOUDINOT observed, that he should not have troubled the committee on this question, had it not been for several considerations particularly applicable to himself. He was as impartial on the present debate as any member on the floor. After the close of this session of Congress, he never expected to receive a farthing of public money again, and therefore no interest of his own could sway his judgment improperly to object against the resolution on the table. He had been among the number of those members who originally were for fixing the compensation of members of Congress at a less sum than six dollars; not because he thought it beyond the amount of their expenses, but, from an idea of the then deranged state of the finances, and that, if sacrifices were to be made, they should begin with this House. He appealed to his uniform conduct for six years past, to prove that he had always opposed an increase of salaries or other public expenses, when the interest of the Union did not require it. He did not doubt that the gentleman who brought forward this resolution thought he was doing his duty in advocating it; and Mr. B. thought it was equally the duty of the committee to be convinced that they were not wasting their time in unnecessarily proceeding in business, without having some foundation for rational inquiry.

Mr. B. did not doubt but there were uninformed individuals, who might object to six dollars per day; but he was confident that the well-informed among the citizens of the United States, and those who reflected on the subject, would think (at the present day at least) it was not more than would barely pay the reasonable expenses of gentlemen who attended to their duty here in a proper manner. Almost every article of consumption was from twenty to thirty per cent. higher now than it was at the commencement of the Government.

The Constitution of the United States, as the act of the people and the public voice, contemplated a compensation to the members of Congress. Did not this mean something more than the bare discharge of their expenses? Yet Congress had not gone beyond it.

When Congress sat at New York, Mr. B. said that he was in a situation more favorable in point of expense than any gentleman on the floor, who did not reside in that city. He boarded with a near relation, and was in a manner in his own family; and, although he paid the usual price of boarding as at other places, yet there were a thousand nameless small articles which saved him many advances. He was within sixteen miles of his own family, from whence he received many things that prevented his laying out money. During three sessions, he kept an exact and faithful account of his expenditures, and, at the end of that time, the balance was but 43s. 4d.; but on which side of the question his memory did not allow him to say. At present, he was also under very peculiar advantages, yet he was confident that, at the end of the session, he should not have any balance in his favor from his compensation as a member. Mr. B. appealed to every gentleman's own knowledge, and particularly to the gentleman who made the motion, if he thought that what he received would more than pay his expenses.

Gentlemen were often crying out against an Aristocracy in this country; yet measures of this kind

tended to establish one, by reducing the compensation of members, so that no citizen but the rich and affluent could attend as a Representative in Congress. This certainly was the most effectual way of bringing about a dangerous Aristocracy in the United States. Should not men of abilities, though in the middle walks of life, be encouraged to come forward and yield their services to their country, without being dependent on any person or set of men whatever? Is it not sufficient that their time and talents are given to the public? Must they pay their expenses too?

Mr. B. was aware that the resolution proposed related to the officers of Government as well as members of Congress, but he had confined his remarks to the last, as the part of the subject he was best acquainted with. He begged gentlemen to look around and point out the public officer who received more than a reasonable reward for his services. Professional men, of the first abilities, were absolutely necessary to carry on the public business; and could any one, fit for his office, be shown who could not do full as well, if not much better, in the exercise of his profession in private life than he did in the public service, if pecuniary matters were his only object? In short, (Mr. B. said,) this House was placed between Scylla and Charybdis. The public officers were complaining, and even resigning, for want of sufficient compensation for their services; on the other hand, an attempt was now made to reduce their salaries still lower, on the supposed clamors of the people. Mr. B. did not believe they could be denominated those of the people; neither did he see any evidence of the fact. He did not consider the complaints of a few individuals as the public voice. Ought not the gentlemen to come forward with some kind of calculations or estimates to have shown that certain salaries were too high, or more than the services performed were entitled to? This had not been done; but the committee were urged, at this important moment, to proceed to an inquiry, which every gentleman on the floor already knew as well as he could do by the most labored investigation. He therefore concluded that, to agree to the resolution, would be a waste of the short time that yet remained of the session, and an unwise measure. Mr. B. would have contented himself with joining the committee in a silent vote on this subject, but he thought the observations made in support of the measure ought to receive some answer, if not to convince the committee, yet to satisfy their constituents that there could exist no necessity for a present inquiry of this nature.

Mr. W. SMITH said, that the resolution was, in its present shape, so extremely vague, that one did not know how to give it a definition or a vote. Different objects were lumped together. If, by an inquiry, the gentleman meant to examine into the wages of members of this House, it was quite needless to appoint a committee, because every member can at this moment speak for himself. But Mr. S. did not consider the present time as the most proper for beginning to reduce salaries, when, within the last twelve months, there had been three resignations, viz: the Secretary of State, the Secretary of War, and the Secretary of the Treasury, and all chiefly for one reason, the smallness of the salary. I have no doubt (said Mr. S.) of there being complaints, and, if the salary was reduced to three dollars per day, there would be still complaints, as we see is the case with the members of the Legislature of Pennsylvania. He only wished that the committee would rise, and he should then vote in the House that they might not have leave to sit again. The mover of this resolution had mentioned the danger of meeting with reproaches from the people, who thought their salaries too high. Mr. S. saw very little in this matter, because the people who railed at the salary of six dollars per day, were only anxious to get in themselves, and embraced this topic as an expedient of ousting those members whom they wanted to succeed.

Mr. GOODHUE wished to ask Mr. CLAIBORNE one question, "Whether he found himself growing rich?"

Mr. SEDGWICK saw no occasion for rising, because the committee were perfectly competent at this moment to determine the question.

Mr. RUTHERFORD was for reducing the salaries by one dollar per day, and one dollar every twenty-five miles that the members had to travel. This would be a reduction of one hundred dollars per day, which would be much better bestowed upon the innocent widow of the veteran, who had fallen in the service of his country.

Mr. PAGE said, that he did not think the resolution, as it was worded, was a proper subject for discussion in that place; for the House, and not a committee, could properly resolve that committees should be appointed. However, as the resolution had been submitted by the House to the consideration of the Committee of the Whole, it must be examined; but, as to the object of it, that he thought was more properly before the committee, as proposed by the resolution; for, as I have remarked on other occasions, if, instead of discussing a question fully, and collecting the sense of all the members in a Committee of the Whole, it be referred to a committee of one member from each State, that committee might be unanimous in favor of a resolution, against which, eighteen members for Virginia, and a proportionate number from other States, might vote; or, by the weight of that committee, the resolution might be carried, which could not have passed had it been fully and freely discussed in the House. Here, then, my colleague's question should be examined, as I cannot say (as has been said by one of them) that I had no hand in fixing the salaries and pay of the officers of Government and members of Congress, having actually voted at New York for them as they now stand. I think I may, with propriety, give my opinion respecting it. And I am clearly of opinion, sir, that the question arises from a misapprehension of the subject to which it is applied; for there cannot be a greater mistake than to suppose that parsimony in a Republic is necessary to its support. A certain degree of economy is so; but parsimony, applied to the salaries of public officers, and the Representatives in particular, may be ruinous to the interests of a Republic. Should the salaries be so low that men of small fortunes cannot afford to serve their country, it must be deprived of their assistance, and we must accept of the services of the rich, who, to have their wills, though low, will serve even without pay; or, the State will be served by artful demagogues, by ready, designing men, who may, in pursuit of

profit as well as popularity, cut out places for themselves and friends, producing at length confusion and anarchy, or, at least, such a bungling system of legislation as will cost more time and money to rectify their blunders than the most extravagant salaries could amount to. What true Republican could wish to exclude from a seat in Congress a physician, lawyer, merchant, farmer, or any other person possessed of such well-known abilities and virtues as to attract the attention and respect of a district which might wish to intrust its interests to him as a Representative? Or, rather, who ought not to desire that, as all offices are open to all, that the son of the poorest citizen might be enabled, if qualified to fill a seat here or elsewhere, to do it without sacrificing his private interest? Is it reasonable to expect that men should sacrifice domestic ease and the interests of their families to serve their country? It is not just to require it. Human nature, except on great and trying occasions, cannot obey such a requisition. My colleague says that he is not a man of fortune; but, has he not a profession by which he can make more than by his attendance on this House? If not, he has not a right to require such a sacrifice of any other person's time and talents. The constitution, far from requiring any thing like it, demands that compensation shall be made for all services; and who will desire less for services than a mere subsistence for a person whilst actually employed in such service? I am sure that less than the present pay of members of Congress would not, in their present situation, be a subsistence. I recollect that, when the House of Representatives were debating, in the first session, at New York, whether their daily pay should be four, five, or six dollars, I affirmed that the expenses of the members where I boarded required that it should be six, that the State of Virginia having once allowed her delegates to Congress eight dollars, and never less than six, when she bore the whole expense, could not object to her Representatives receiving that sum, when divided, as it was, amongst the States, and spread out over the various duties and taxes of the United States. I asked those, as I might ask my colleague now, who of our constituents could calculate what he would save by any proposed reduction of our pay? I have long suspected, sir, that Republics have lost more by parsimony than they were aware of, and that a misapprehension of some practices in ancient Republics has been artfully kept up, so as to favor Aristocracy and Monarchy. The British Parliament has now no pay; but have they been as independent as their countrymen wished them under the British Government?

In reply to the member who had objected to the pay of the SPEAKER, and the difference between the pay of members of the two Houses, Mr. P. said, that whoever would consider the duty of the SPEAKER; his long confinement to the chair; his painful attention to every word spoken in the House, and his responsibility for the correctness of the journals—an examination of which must take up much of his time—would surely not think his pay too great. As to the difference between the pay of a Senator and Representative, he had voted for it, from a belief that a Senator having more services to perform than a Representative, had a right to more pay. The Senate not only have to originate bills as this House has, and to revise and amend bills sent from hence, and often to correct the careless errors they contain, but to make themselves acquainted with the law of nations, and to be prepared to judge of treaties; and also of offences brought before them by impeachments. When the Senators may have gone through the labors of a long session, and the Representatives are returning home, they may be called upon to consider certain nominations to offices, or certain treaties; and at another time to try certain impeachments. Besides all this, the age of a Senator must be such, by the constitution, that it is probable that his family is larger, and his pursuits in life more fixed and profitable than those of a Representative, who may be elected when only twenty-five, and therefore his services must require higher compensation. As to the PRESIDENT and VICE-PRESIDENT'S salaries, I voted for a larger sum than was allowed to either, and thought that the disproportion between them was too great. With respect to the judges, I still think their salaries too small, and so should every one think who will consider the vast importance of their office; the labor of both mind and body which it requires; the laborious course of study through which a man must have gone to be qualified for it, and the lucrative employment such a one must have given up to undertake it. In short, I do not recollect a salary which I think too high. And I must repeat it, that I do not think that large salaries in a Republic can injure it; but that small, inadequate salaries may overturn a Republic.

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I am sorry that the question has been brought before us respecting our own pay this session, because the elections in Virginia are not over; it would become us much better another session, if re-elected, to reduce it, than to do so when we may be left out. Besides, if I vote for a reduction, I may be suspected of courting popularity; and, if against it, of despising the opinions of my constituents, if they have adopted those which some members tell us prevail amongst their constituents. I do not like to be in such a dilemma, nor to have my independence unnecessarily tried. I wish, as the question is before us, that it may be fully debated here, and even referred to the further consideration of a select committee; because I think the opinions even of a single member and his district should be treated with respect; and that when they have been fairly proved to be founded in error, there will be an end of complaints, and an acquiescence in the decision of this House.

Mr. GILLESPIE proposed an amendment, the scope of which was, that a committee should be appointed to examine and report whether any and what alterations were necessary in the act fixing salaries to the officers under Government. He suggested this amendment from no motive whatever but what was fair. There had been, and there still was, a degree of clamor upon the subject, and it was the duty of the House to pay attention to the voice of the public, whether right or wrong. If, upon investigation, it should appear that the salaries were not higher than they ought to be, then the report of the committee would be the best method for stopping the public clamor.

Mr. CLAIBORNE hoped that the committee would not rise, but decide the point. He trusted that no

gentleman would again point at him, and say that the motion came out of his brain. There was not one officer under Government whom he would point out and say, that such an officer had too high a salary. He had expectations that this discussion, by bringing forward the observations of several gentlemen, would in some degree satisfy the people, and that there would be no more pointing out with a finger and saying, "*There goes a six-dollars-a-day man.*"

Another member observed, that it was the duty of the House to attend to the voice of their constituents, and for this reason, he should vote for a committee. He would mention what he had always considered as a most odious distinction, the additional dollar per day, which is to be paid to the Senate from and after the 4th of March next. [The reader will observe, that by the act, members of the Senate were to have seven dollars per day, but the additional dollar was not to commence till the lapse of six years,^[58] when all the Senators of the first Congress had gone out.] There was another thing for which he never could see any reason, and that was the giving of the twelve dollars per day to the SPEAKER.

Mr. GILES was perfectly convinced that the allowance to the members is small enough already. The saving of a dollar per day suggested by Mr. RUTHERFORD, would be but little, and it was beginning at the worst of resources. The pay ought to be such as would bring persons of middling circumstances into the House; persons neither too high in life nor too low. If the pay was greatly reduced, none but very rich people could afford to give their attendance, and if too high, a seat in the House might be an object to persons of an opposite description. Formerly the State of Virginia allowed eight dollars per day to the members of its Legislature. This sum had since been reduced to six dollars. Mr. G. mentioned this to show that in the practice of individual States, there might be found a precedent for the allowance to members of Congress. He was for voting directly. Mr. G. said, that there was a country from which America had copied a great deal, and very often too much; a country which still had a very pernicious influence in the United States. The members of the British House of Commons received no wages, while the officers of State had immense salaries. It was however understood, that the British House of Commons were very well paid for the trouble of their attendance. Mr. G. did not wish to see scenes of that kind in this country.

Mr. HILLHOUSE hoped that the House would have done with this thing immediately, as it had now answered all the purposes expected from it, and he trusted that all motions of that sort which had an eye to certain operations out of the House, would meet with the same fate.

The motion was negatived by a very great majority.

[Before the adjournment, the SPEAKER suggested to the House a considerable inconvenience, occasioned by gentlemen being introduced, and occupying such parts of the House without the bar as were particularly allotted for the use of the House, and of which several members complained. There was often so great a crowd that members could scarce walk round when they had papers to present to the Chair. The passage was often obstructed when messages were to be delivered, and frequently there was no room left for the members when they wished to confer privately with each other. As he did not conceive himself authorized to give special directions without orders from the House, he would take the liberty to suggest to the members of the House, when introducing their friends, the propriety of placing them under the galleries to the left of the Chair, and reserving the space to the right of the Chair for the members of both branches of the Legislature, the diplomatic gentlemen, judges, and other officers of Government; which was generally acquiesced in.]

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THURSDAY, January 29.

AARON KITCHELL, returned to serve in this House, as a member for the State of New Jersey, in the room of Abraham Clark, deceased, appeared, produced his credentials, and took his seat in the House; the oath to support the Constitution of the United States being first administered to him by Mr. SPEAKER, according to law.

Thomas Person and others.^[59]

The House then resolved itself into a Committee of the Whole, Mr. COBB in the chair, to resume the consideration of the claims of Thomas Person and others, to certain lands lying on the frontier of the State of North Carolina, and ceded by the Commissioners of the United States to the Indians.

Mr. GILLESPIE took up the subject in the same stage in which it stood before he spoke the preceding day. He said, let us examine the conduct of other States. Did not New York dispose of lands within her chartered limits, and from the sales become wealthy, as she has large sums in the funds? The State of Virginia took advantage of the purchase of Henderson and Company, for that part now called Kentucky, although they now exclaim that the purchase was unlawful; yet, unlawful as it was, it has extinguished the Indian title to those lands. Now, if the purchase of Henderson and Company had this effect on the north-east side of Walker's line, which divides Kentucky from the South-west Territory, is it not just that it should have the same effect on the south-west side, when made by the same persons, on the self-same day? And surely the rights of North Carolina must be at least equal to those of Kentucky, in every thing except that of power. But is Congress going to legislate by strength of arm? I hope not. It has been admitted, by some who have spoken on the subject, that the citizens of North Carolina have a right of redress by law, and by others, against her own Legislature. To the first of these I ask, against whom is the suit to commence? Are our citizens, thus bereft of their property, to be compelled to litigate suits at law for property taken for public use, and for which they have a just claim against the United

States; or have they not an equal right to compensation for that which the United States, by their agent, took from them, as other citizens are entitled to, for property piratically taken on the high seas, by the robbers of Britain? And do we, in the last case, say to these unfortunate sufferers, commence suits against those who have injured you? No. Government has taken the litigation in hand, at her own cost. Let her do so with the citizens of North Carolina. Or, will the Government of the United States support the claim of the injured against her own Executive? Will they do it against the State of North Carolina? They cannot; and from what has been said in this matter, it is plain that, as the Government of the United States has converted the property of the citizens of North Carolina to the uses of her Government, compensation ought to be made out of the public purse, as the contrary would, on her part, destroy that bond of union between her, as the sovereign power of the United States, and her citizens, and as not only bound to govern with justice, but also to protect them from all manner of injury, as well domestic as foreign. Mr. G. apologized, that he was without authority in the House, but would pledge his reputation that what he should advance, if not verbatim, should be in substance with the author quoted:

"It is admitted by many, that the sovereign authority possesses a power, under the laws of eminent domain, to alienate the property of the subject, for the benefit of the Commonwealth, by impeding public necessity against private injury." But, without doubt, they "that have lost or sacrificed their property to the public safety in such extremity, ought to have satisfaction made, as far as possible, by the Commonwealth. Any thing short of this would destroy the reciprocity between the sovereign and subject."—*Puffendorf, b. 8, c. 5, § 7.*

But can public necessity be urged in the present case to justify this kind of political robbery? I answer, no. If the Indians are to be kept in peace by bribes, why not, in this, as in other similar cases, by presents and pecuniary rewards? Is it not an indignity to the United States to purchase peace from an Indian nation, at the expense of a part of her citizens, whose resources at best were scanty, and are, by this and other speculations, almost annihilated? Surely it is. And, let me add, is it not an invariable axiom with all authors on Government,

"That all sacrifices of property made by individuals for the public benefit or accommodation, should or ought to be paid out of the public revenue, and that one should not bear more of the burden than another."—*Burlamaqui, b. 8, c. 5, § 27, 28.*

Is it not, then, obvious to all, who will reflect on this subject, that compensation is due to these individuals, whose property has been wrested from them for Government purposes? The same author observes, in the 38th section of the same chapter:

"That as no subject can assume any part of the sovereign power without the consent of the whole, neither can any sovereign authority deprive the subject of his right and property, nor substitute another sovereign over him without his consent."

The public is in nothing more essentially interested than in the protection of every individual's private rights, as modelled by the municipal law in this and similar cases. The Legislature can, and frequently does interpose, and compel the individual to acquiesce. But how does it interpose and compel? Not by stripping the individual of his property in an arbitrary manner. No. But by giving him full and ample indemnification for the injury sustained; for there must be an end of all social commerce between man and man, unless private possessions be secured from unjust invasions. Thus, the protection of a State, in every precedent to be found in books that treat of the fundamental laws of civil society, or in the resolutions and acts of the British Parliament, means restitution, indemnity, or compensation. *Grotius*, when treating of the right of the sovereign authority to give up or take the property of the subject, calls it "restitution, satisfaction;" *Burlamaqui*, "indemnity, and indemnifying the subject for the injury sustained;" and *Vattel*, "recompense out of the public money." It is farther observed, that cases of this kind operate, like property thrown into the sea to save the ship, by making an estimate of the loss, and causing an equal average on the property saved, which each owner is bound to pay. So that, from the fullest conviction, I am of opinion the citizens of North Carolina are entitled to the relief reported by the select committee, and that strict justice requires we should comply with it; for, as I have said, in nothing is the Government of the United States more concerned, in a superlative degree, than in doing strict justice to her citizens, as of the last importance in preserving the affections of the people to the Government. Vacancies in our departments, civil, judicial, or military, may be supplied as well, but to restore the confidence of a people borne down with oppression, exceeds comprehension. It is like attempting to return from the grave—is without precedent, and is vain labor indeed. At different epochs it has shook the foundations of monarchies, and caused tyrants to tremble and atone for their crimes with their lives; and, as I said at an early stage of the debate, if usurpers, tyrants, and despots have been compelled to do justice by this undeniable law of nature, shall the Government of the United States, founded on the pure principles of Democracy, be less just? Surely not. Have we received a power to exercise in wantonly oppressing those who gave it? God forbid! Therefore, let it ever be impressed on our minds, that justice exalteth a nation. The House, I hope, will pardon my detaining them, at a time when every moment is precious. But the duty I owe to my injured constituents forbids silence, and will, I hope, be a sufficient apology. I shall, therefore, submit to the judgment of the House, not doubting but justice will be done.

Mr. NICHOLAS was satisfied that the purchasers of the lands had a claim either against the United States or the State of North Carolina. Much had been said about the Indian right; but the Indians never had been fit to occupy these lands. It could never have been the design of nature that these

people should be termed the possessors of land which they were incapable to enjoy. He was, upon the whole, on the side of the claimants, though he enumerated some of the difficulties that would attend an attempt to please all parties.

Mr. W. SMITH had found much difficulty in forming his opinion upon this question. He had at first been somewhat disposed against the claimants, but at last, after full deliberation, he was convinced of the justice of giving them redress. He requested the particular attention and candor of the House. The United States were, in this case, made a judge in their own cause, and therefore it became more their duty to examine every part of the subject with the more accuracy. Mr. S. then began a distinct detail of the circumstances in the present dispute. Previous to the year 1776, North Carolina was a British Colony, and the British Crown considered itself as entitled to bestow grants of territory. In that year, North Carolina became a sovereign State, and consequently she conceived herself as succeeding to the right of the British Crown, and as having a right to bestow grants in the same way as the Kings of Great Britain had done. This claim was asserted in her general Declaration of Rights, and it was incorporated into her constitution. When North Carolina entered into the Union, all the Legislative rights of the State were preserved, and, by a necessary inference, her title to the lands comprehended in her original charter. In 1783, the State opened an office to sell the absolute right of such lands as had not been disposed of. In 1789, North Carolina ceded the right of jurisdiction to the United States, but she reserved her own Legislative rights, and consequently her right to sell the lands within her own territory; and in disposing of the lands in question, the State did not intend merely to sell the right of pre-emption from the Indians, but the absolute title to the lands. Mr. S. read a part of the constitution of North Carolina, in order to explain what degree of legislation the State had conceded to the Federal Government, and what part she reserved to herself; and he was clearly of opinion, that the disposal of the lands had been reserved. In 1783 the State offered these lands for sale. In 1786, the Commissioners of the United States assigned a great part of them to the Indians. In 1788, the Legislature of North Carolina declared that they would support the purchasers. The grand question now is, did the State, by acceding to the confederation, give up her right of legislation? She gave up her right to make Indian treaties, but reserved that of legislation, because, as above observed, it formed a part of her constitution, which was understood to continue unviolated. These lands were bought with certificates, which it was alleged, on the other side, would purchase nothing else. If the certificates would purchase nothing else, it was proper at least that they should have been restored to their first owners, who might have subscribed them to a part of the public debt of the United States. They were certainly entitled either to their land or their certificates. These certificates, which were paid into the Treasury of North Carolina, were those of the United States. If the owners had only a pre-emption right, Mr. S. insisted that the certificates should be returned.

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Mr. SEDGWICK said, that this was quite a new fact to him, and if it was as stated, there was no necessity for Legislative interference at all. The State of North Carolina had only to come forward and subscribe them to the Treasury.

Mr. W. SMITH explained, that when delivered into the Treasury of North Carolina, they had been cancelled. After this they were again ordered to be made current by the subscriptions of the officers of the State, and in that shape they were offered to the Commissioners of Loans, who refused to accept them. The exact amount of the certificates could still be ascertained, as well as the names of the persons to whom they belonged. They had been cancelled, but not destroyed.

Mr. BOUDINOT imagined that Mr. SMITH had furnished a new and forcible argument against his own cause. This claim of North Carolina to sell the lands was wrong, and this doctrine had been the cause of all the disputes in which the Federal Government has been engaged. The Crown of Britain had never pretended to any right of this kind, nor ever thought it had a title to any lands till they were first purchased from the Indians. The question before the committee was, have the United States taken away any claim which the purchasers of these lands had? And the answer is, that the United States have not. The State of North Carolina only had a right to sell the privilege of pre-emption. This was the only right which the purchasers obtained, and this right they still possess. As to the certificates, they were not those of the United States, but those of North Carolina. They were not Continental certificates, and for that reason Continental officers would not accept them; but North Carolina has since brought these certificates into her account against the General Government. The commissioners, in 1786, had done a very great service to North Carolina, by settling a line of boundary, and putting an end to the Indian war. He thought that the best way would be for the claimants to apply to the Executive, and agree among themselves to extinguish, by an interference of that kind, the Indian right. This would be much better than for the House to involve itself in the purchase of an immense tract of land, at an expense of seven or eight hundred thousand dollars, (or how much more, Mr. B. could not tell,) when there was so much occasion for the money to pay the national debt. He again declared that he should think it the best way to obtain the good offices of the Executive in extinguishing the Indian right. The Six Nations possessed part of the territory of Pennsylvania. This State also may apply to the General Government for redress, if North Carolina were to get payment for these lands. The State of New York may do so, for the same reasons as North Carolina. This would be involving the Government in an endless labyrinth. He was as unwilling as any gentleman in the House to interfere with the rights of the Legislature of North Carolina. But he did not wish to see the House going blindfold into the business. The United States have too much land already.

Mr. KITTERA.—The certificates must have been given in by North Carolina to the United States. She denied the right of the commissioners, in 1786, to make Indian treaties, but now that right is given up. He agreed with Mr. BOUDINOT as to his observations on Pennsylvania. Georgia also, he

said, had about sixty millions of acres within her chartered limits. The business would never have an end, if the General Government was to interfere in all these cases.

Mr. SCOTT.—Has not this Government a right to restrain every wild-goose excursion into the woods? If it has not, the Union must fall prostrate at the feet of every wild speculator. Pennsylvania, at a great expense, made preparations for an establishment at Presqu'Isle. The ground had been bought at a great expense from the United States. Yet for the sake of general peace, the settlement had been stopped.

Mr. McDOWELL denied that the two cases corresponded, for the lands at Presqu'Isle had not been given to the Six Nations.

Mr. BOUDINOT differed from the last speaker. He did not think that any thing farther had been done against the interest of North Carolina than against that of Pennsylvania.

Mr. BLOUNT denied that the Indians ever occupied the lands in question, or were fit to occupy them, in any proper sense of the word. To walk across a country, and to shoot in it, was different from an occupation. But, besides, the Creeks and Cherokees were not the only tribes who had hunted there. It had been said yesterday that these lands gave rise to speculation. Mr. B. wished that it had done so, for in that case the certificates would all have been paid by this time. There was no difficulty in funding Southern certificates, when once they got into the hands of Northern speculators. Mr. B. thought himself entitled to receive back from the United States the money which he had paid into the Treasury of North Carolina for these lands.

Mr. MURRAY requested the favor of any gentleman to inform him, whether the lands in question were possessed and occupied, in the more civilized sense of the terms, by the white people? He believed they were not. Had they been in peaceable possession, living on, and cultivating the lands, that circumstance would form a very interesting motive in his mind in favor of the indemnity that was asked. But, in fact, they never were possessed of any right but that which North Carolina could give them—the pre-emption right; that right they now possessed as fully as they did at the time of the cession to the United States. [Mr. CARNES rose, and informed him, that many white people who had begun farms were driven off their lands, and reduced to great distress by the proceedings of the commissioners.] Mr. M. said, an argument struck him of some weight—that if the claim be gratified, the claimants will be in a better situation now than they would have been if the cession had not been made; for North Carolina could not have given them absolute possession but by force of arms. This she would not have a right to do, under this Confederation, nor under the constitution, as no one State can make war. But the claimants can ask nothing more of the United States than they could have had accomplished for them by the State of North Carolina. A new doctrine, resulting from the Revolution, must be admitted as a ground of reasoning, when Indian, unconquered territory, is before us. The Provinces had power, as individual bodies—which States, as such, have not—the right of making war, and gaining possession of Indian territory by conquest. So it was, that a province could, from its own separate resources, make war on Indians, and pay individually the expense. But when the great contest for independence came on, all the States were, in fact, principal confederated bodies, long before they signed the paper of confederation. The doctrine, which suited such a body of States, was, that whatever might be gained by the joint efforts and expense of all, should be the property of all, jointly; and he thought that every principle of sound justice warranted him in applying the doctrine, so far as to say, that whatever might be the chartered limits of each province, while dependent, yet the moment of the joint contest was that in which the true limits of a State were, as far as property in land went, confined to that boundary which was really located, occupied, and peaceably holden within the limits. To say that the State had a right more positive than the pre-emptive one, to lands actually occupied and defended by hostile tribes of Indians within the chartered limits, admits a principle, that, if put into action, tended necessarily to violate the great principle of the Confederation, and of the present constitution, which divests the individual States of the right to make war; as the State to make good any sales she might make within the hostile territory, would be obliged to make war on the tribes to dispossess them. The lands in question were in this situation. They were occupied by Indian tribes, and were never in possession of North Carolina. The gentleman from that State seems to doubt the occupancy of the tribes. Mr. M. believed we would violate principles of justice were we to borrow the principle of occupancy from books, and apply it to Indian society. The Indian tribes held certain tracts of land. As to the mode in which they thought it most rational to use the land, it was nothing against their right to say its exercise differed from our mode. He understood they made a hunting ground of the land in dispute. They had a right to use it as such, and their mode of use was no argument against their right. All that could be, or was proved to belong to North Carolina, was the colonial right to qualified sovereignty, called the pre-emption right. This was all she could grant, and this was all that the claimants could take from her. They had that now; and as he could not see the propriety of making their situation better than if the cession had not been made, so he could not agree to the resolution for giving them indemnity. Perhaps his ideas on the subject might be fashioned by local circumstances, belonging as he did to a State which had no share in those rich funds which the large frontier States possessed, he thought, very unjustly, in immense tracts of back lands. He felt it a duty to narrow all claims like the present as much as possible. Connecticut, Rhode Island, Jersey, Delaware, Maryland, were all in the same situation. They had no back lands, and were divested of the share they were justly entitled to in the back lands, which now bring immense funds of wealth into the land offices of those States which possess them.

Mr. HEISTER wished to have that part of the law read which relates to the species of certificates referred to in the debate; this was accordingly done. Mr. H. said that he had not enough of

evidence before him to give a vote. He therefore wished that the committee might rise.

Mr. MACON said, that, according to Mr. BOUDINOT, it was the doctrine of North Carolina in 1783, that the State possessed a right to the unappropriated lands. If that was their doctrine then, nothing had since happened which could make it cease to be so now. The Crown of Britain had transferred the absolute property of lands, without inquiring for permission from the Indians. This evidence went strongly to prove that North Carolina had the same title. The case of Presqu'Isle did not apply, for Pennsylvania was raising troops to make that settlement, and no State can, by the constitution, raise troops of itself. He wished the committee not to rise till they had determined the question.

Mr. CARNES had foreseen that the claim before the committee would be opposed upon various grounds: but he considered none of them as well founded. Grants were first made by North Carolina to individuals, of lands within her chartered boundary. The cession made to, and accepted by the United States, conditioned to secure the interest of individuals. A treaty was thereafter ordered to be held by the United States with the Indians, and by that treaty, lands formerly granted, were relinquished to them. The commissioners of North Carolina protested in form. The people turned out, had paid ten pounds the hundred acres, for their lands, and they were entitled to compensation from North Carolina, or from the United States. It had been said that North Carolina had no right but that of pre-emption. This Mr. C. denied. North Carolina had a right to all the lands within her boundary; and there was an express agreement reserving those lands to individuals. Why did the United States contract with the State, if she had no right? The Indians never could have been considered an independent nation, else there would be compensation *in imperio*. He mentioned the case of the Tallissee Country containing four million of acres. By a treaty made in 1785, between the State of Georgia and the Creeks, this land was ceded to Georgia. By a second treaty at New York, this very country was relinquished to the Indians, and of course the *bona fide* right of the State wrested from them. If a decision could be had on this case before a judicial tribunal, it would not require a moment's hesitation to determine in favor of the State, and that the treaty was a nullity. It had been alleged that the right of pre-emption was the only right in possession of the States, that is, a title to purchase of the holders of the property, in exclusion of all other States, or individuals thereof or the particular State. Mr. C. contended that the fee-simple of all the soil within the chartered limits belonged to the State. As to the boundaries, the definitive treaty of peace settles them beyond contradiction. As to the proprietors of these lands being in no worse condition now than before the cession back to the Indians, the people were ploughing the lands, when driven from them, and will any gentleman say that this is not injuring people? As to the State of North Carolina having no particular claim to the land now beyond the Indian line, he would put a case within the chapter of possibilities. Suppose that all the Indians were driven over the Mississippi to-morrow, to whom would the lands which they now possess belong? The particular States to be sure, within whose range they lay. The gentlemen who advocate for morality, and who talk of treating the Indians with humanity, are the very men who have uniformly countenanced the raising of troops, and augmenting the force on our north-western frontiers. How can they reconcile their conduct? The Indians to the South are to be treated with humanity, and those to the North are to be butchered, that the United States may enjoy their property.

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Mr. BOUDINOT said, that the charter from Britain extended to the South Sea, but such a stretch of territory was not really claimed by Britain. He read several of the old laws of North Carolina, to prove that the Indian right of soil had always been acknowledged.

Mr. BLOUNT had never thought of quoting this book, which he now did, to show that the British Government had authorized conquest. He did not know of one purchase made in Carolina. It was all conquest, and so were nine-tenths of all the lands held by the white people in America.

Mr. McDOWELL.—Those lands which are the subject of debate, and which a number of gentlemen have contended, that North Carolina had not a right to grant to her citizens, have been proved to be within the chartered limits as granted by Charles II., and which limits, sovereignty and jurisdiction were guaranteed to the State by the Articles of Confederation.

After this, and within the year 1783, the Legislature passed a law for opening an office to receive entries of lands in the district of country now called the territory south of the Ohio, for the redemption of special and other certificates; and after a number of the surveys were made, and the grants issued, the Government of the United States ordered a treaty to be held with the Cherokee Indians at Holston, in the year 1785, and the commissioners agreed to give up a large quantity of lands before stated to the Indians; but, previous to articles being signed, Colonel Blount, who was the agent for North Carolina, entered his protest in behalf of the State, that some of the articles about to be entered into between the commissioners, on the part of the United States, and the Cherokee Indians, would infringe on the Legislative rights of the State of North Carolina, and the Legislature of the State also protested against the proceedings.

I must here remark, that the then Government of the United States, agreeably to the Articles of Confederation, could not legally make use of the property of the State for any purpose without their consent.

This continued to be the situation of this business, till after Congress requested a cession of those lands, with the sovereignty thereof, which now form the territory south of the Ohio, which was complied with under certain reservations, to continue claims, and the situations of the claimants as good as though this cession had not been made, which was a complete acknowledgment of the right of North Carolina, on the part of the United States, but in my opinion placed them in the same situation that the State would have been in, had the cession not taken place.

Since the adoption of the present Government, another treaty was ordered to be held with the Indians, and the lands were given up to the Indians. Here the Executive right to make such treaty may be questioned, and I believe rightly too; for it would be an extraordinary power for them to make use of the property of individuals, without their consent, or making any compensation, and apply it to national purposes. Great difficulties would be involved were a remedy to be attempted in a judicial way against the Government. I do therefore think either that policy or interest, on the part of the United States, would point out a compliance, in part, with the report on the table, for it will not place the United States in any worse situation than they would have been in, had the lands not been entered. Had that been the case, those certificates would have been in the hands of individuals, a debt against the Government, but on their being subscribed now, to the amount actually paid on their relinquishing their claim, you would then have the land, which will be valuable at a period far distant.

Some gentlemen appear to be alarmed at the sum; but if the principle is a just or fair one, the sum ought not to be an objection. I will here state further, to remove the alarms of those gentlemen, that the sum will fall far short of the statement made by Mr. Jefferson, as a great deduction is to be taken from that; but I can further assert, that a great number of the claimants would not relinquish their claim to said lands to subscribe; it would generally be such as are in indigent circumstances. And here I cannot help making some reply to the objections stated by several members, who have alleged that North Carolina had acted wrong in selling these lands before they had extinguished the Indian claim, and that the claimants were in no worse situation than they would have been had the cession not have taken place. I am not a little surprised to find, that gentlemen cannot see the distinction, for had the cession and treaty at Holston taken place, they were at liberty to settle the lands, and North Carolina was bound to protect them; but since the treaty had been made, the land is not only given up as stated, but it is made criminal to cross the boundary. Mr. DEXTER has stated that North Carolina has acted unjustly and wrong in making sale of those lands before she had extinguished the Indian claims.

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Here I shall repeat what I stated before in answer to what the gentleman has said: That the Indian claims to said lands were, in part, extinguished by Henderson's purchase, and part by conquest, and that a considerable part of the lands, that no nation of Indians could establish a claim to, had been claimed by different tribes as territory grounds, but had not been inhabited by any tribe within the memory, or any account that can be traced, and for as great a length of time the different tribes had been at war with each other about the right of hunting on said land. But so far as it relates to the right of North Carolina, I believe no member has a right to call it in question at this time. The gentleman's arguments would have been more applicable at the time the cession act was under consideration; and as to what the member said about the principle and precedent it would fix, I will only call the attention of that gentleman and the committee, to the conduct of the Government of the United States. Have they not pushed conquests into the Indian country north-west of the Ohio? Are they not continuing to do so, and is it not in contemplation to sell large quantities of lands in that country, that have never been purchased? If so, the precedent which the gentleman fears so much is already established. But here I beg leave to call the attention of the committee, in the most serious manner, to the number of citizens concerned, perhaps near twenty thousand. A great number of them are men who turned out in support of the American Independence, who fought, who bled, and furnished their property freely to the support of the cause. For this service they received certificates, which they wished to realize by entering said lands, and flattered themselves with sitting down on those lands, and in the latter part of life making themselves and families happy. Their hopes were soon blasted. After the act of last session, the Treaty of Holston took place, which gave their property to a savage and cruel enemy, to quiet the minds of an enemy who not only were opposed to us through the war with Britain, but ever since have been imbruing their hands in the blood of innocent women and children. What will be the feelings of the claimants, who have acted as I have stated, when they find that their request, which to be sure is a modest one, and which is only to be reimbursed for sums actually paid, is refused? Should this be the decision, I leave you to draw the conclusion. Should they proceed to settle those lands in opposition to the treaty, I should not be much surprised. But the report on your table goes too far, as to damage and a future preference, which I am not in favor of; therefore the resolutions in the latter part of the report I hope will be stricken out.

On the same question, Mr. GILLESPIE made the subsequent remarks: he observed a disposition in the House to call the question; he then said that the situation in which he stood required that he should say something in support of the resolution under consideration, as it had been stated as a new and singular case, from which he took the liberty to dissent, as every writer on the law and usage of nations, held it as an invariable axiom, that all sacrifices of property made by individuals for public uses, ought to be paid out of the public purse. He stated the treaty between England, France, and Spain, in 1763, and the case of the loyalists in 1783, and as the hour of adjournment had arrived, concluded with a motion for the committee to rise and report progress.

The question was then put, Shall the committee now rise and report progress? This was negatived. The resolutions in the report were successively put, and lost.

The committee then rose; the Chairman reported progress, and the House adjourned.

FRIDAY, January 30.

The House proceeded to consider the report of the committee to whom was referred the Message from the PRESIDENT OF THE UNITED STATES, of the thirtieth of January, one thousand seven hundred and ninety-four, enclosing the copy of a letter from the Governor of North Carolina, covering a

resolution of the Legislature of that State; as, also, the petitions of Thomas Person and others, proprietors of lands in the territory of the United States south of the river Ohio, and of the Trustees of the University of North Carolina, to which the Committee of the whole House had, yesterday, reported their disagreement: Whereupon,

The first resolution reported by the committee, being again read, in the words following, to wit:

"Resolved, That it shall be lawful for the Executive of the State of North Carolina to subscribe, by way of loan to the United States, the amount of all such certificates as have been deposited in payment for any lands, (reserved by the act of cession aforesaid,) in payment for any lands which may have been relinquished to the Indians by the treaty aforesaid, in trust for the persons by whom they were so deposited, according to their respective rights and interests:"

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The question was taken, that the House do agree with the Committee of the whole House in their disagreement to the said first resolution, and it was resolved in the affirmative.

The second resolution reported by the committee, being again read, in the words following, to wit:

"Resolved, That the United States ought to reimburse the said persons the money which they have expended in having entries and surveys made, and in obtaining grants, and any other incidental charges which they have necessarily incurred, with interest; and that they should moreover make a reasonable allowance for the loss and damage which the petitioners have sustained, by having possession of the said land withheld from them:"

The question was taken, that the House do agree with the Committee of the whole House in their disagreement to the said second resolution, and resolved in the affirmative.

The third resolution reported by the committee, being again read, in the words following, to wit:

"And whereas, the grants to the aforesaid lands, made by virtue of an act of the Legislature of North Carolina, are valid to all intents and purposes, as coming fully within the purview of a condition contained in the act of session from the said State to the United States: therefore,

"Resolved, That, whenever the United States shall think proper to extinguish the Indian claim to the said lands, by purchase or otherwise, it will be just and reasonable that the several persons who have obtained grants or made surveys or entries, should have such rights confirmed and established, and their titles perfected, in preference to any other persons, on repaying to the Treasury of the United States, the amount of what they may now receive, as a compensation for their disbursements and losses, in case such persons shall think proper to make such repayment within a certain time, to be limited by Congress for that purpose:"

The question was taken that the House do agree with the Committee of the whole House, in their disagreement to the said third resolution, and resolved in the affirmative.

A motion was then made, and the question being put, that the House do agree to the following resolution:

"Resolved, That such persons as have entered lands agreeably to the laws of North Carolina, in the territory ceded by that State to the United States, and on the Indian side of the line established by the Treaty of Holston, ought to be reimbursed by the United States the amount of the purchase-money actually paid for the same, and the necessary expense of locating and surveying, where the survey has been made; such persons first relinquishing their right thereto, to the United States:"

It passed in the negative—yeas 14, nays 56, as follows:

YEAS.—Theodorus Bailey, Thomas Blount, William B. Grove, George Hancock, Matthew Locke, Nathaniel Macon, Joseph McDowell, Alexander Mebane, John Page, Robert Rutherford, William Smith, Benjamin Williams, Richard Winn, and Joseph Winston.

NAYS.—Fisher Ames, John Beatty, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Lambert Cadwalader, Thomas Claiborne, David Cobb, Peleg Coffin, Joshua Coit, Jonathan Dayton, Henry Dearborn, George Dent, Gabriel Duvall, Benjamin Edwards, Thomas Fitzsimons, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glenn, Benjamin Goodhue, Andrew Gregg, Thomas Hartley, John Heath, James Hillhouse, William Hindman, Samuel Holten, John Hunter, William Irvine, Aaron Kitchell; Amasa Learned, William Lyman, James Madison, William Montgomery, Andrew Moore, Peter Muhlenberg, William Vans Murray, Anthony New, John Nicholas, Nathaniel Niles, Alexander D. Orr, Josiah Parker, Andrew Pickens, Francis Preston, Thomas Scott, John S. Sherburne, Jeremiah Smith, Samuel Smith, Zephaniah Swift, George Thatcher, Uriah Tracy, Jonathan Trumbull, John E. Van Allen, Peter Van Gaasbeck, Artemas Ward, and Paine Wingate.

Another motion was then made and seconded, that the House do come to the following resolution:

"RESOLVED, That the President of the United States be requested to cause a treaty to be entered into with any Indian tribes who may claim, hold, possess, or be entitled, to any lands within the territory ceded by the State of North Carolina to the United States; and to endeavor to obtain, by such treaty, an extinguishment of the Indian claims to all lands, the pre-emptive right to which has been sold by the said State, in pursuance of the act of one thousand seven hundred and eighty-three, opening an office for the sale of the said lands."

Ordered, That the said motion be committed to Mr. WILLIAM SMITH, Mr. DAYTON, Mr. SWIFT, Mr. McDOWELL, and Mr. PAGE.

MONDAY, February 9.

ROBERT GOODLOE HARPER, returned to serve in this House as a member for the State of South Carolina, in the room of ALEXANDER GILLON, deceased, appeared, produced his credentials, was qualified, and took his seat in the House.

FRIDAY, February 13.

Heirs of Count de Grasse.

A memorial of Amelie, Adelaide, Melanie, and Silvie de Grasse, four daughters of the late Count de Grasse, now residing at Salem in the State of Massachusetts, was presented to the House and read, praying a loan of money for their present subsistence; the effects which they brought from France being exhausted, and having no other means of support, but in property in the Island of St. Domingo, from which, under present circumstances, no supplies can be drawn.

Ordered, That the said memorial be referred to Mr. AMES, Mr. MADISON, and Mr. GILMAN, with instruction to examine the matter thereof, and report the same, with their opinion thereupon, to the House.

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WEDNESDAY, February 18.

Count de Grasses Heirs.

The House then went into a committee on a memorial from the four daughters of the late Admiral Count de Grasse. It was read with the report from a select committee, which proposed to give each of these ladies, who are now residing in Boston, and in indigent circumstances, a thousand dollars, in consideration of the important services rendered by their father to the United States. To this proposal the committee agreed, and the Chairman reported the resolution.

The House then took up the report.

Mr. MACON objected that though the claims of the petitioners were strong, yet they were not more so than those of multitudes of others. On the very day when we have come to a resolution to receive no more petitions from our fellow-citizens, we are going to give so large a sum at once to foreigners. He was aware that the Count de Grasse had done eminent services to America, and he felt them as much as any person, but he still saw no reason for preferring these petitioners, when there were likely a hundred of the officers of De Grasse, or of Rochambeau's army, that were in this country, and in want.

Mr. DEXTER said, that if ever there was a case where it would be proper to act first, and thereafter try to find reasons for what had been done, this was such a case.

The report was, on a division, agreed to by a great majority—sixty-one gentlemen rising in the affirmative. The resolution is in the following words:

Resolved, That, in consideration of the extraordinary services rendered the United States by the late Count de Grasse in the year one thousand seven hundred and eighty-one, on the urgent request of the Commander-in-chief of the American forces, beyond the term limited for his co-operation with the troops of the United States, there be allowed and paid to Amelie, Adelaide, Melanie, and Silvie de Grasse, daughters of the late Count de Grasse, respectively the sum of one thousand dollars each.

Ordered, That a bill or bills be brought in, pursuant to the said resolution, and that Mr. AMES, Mr. MADISON, and Mr. GILMAN, do prepare and bring in the same.

SATURDAY, February 21.

An engrossed bill authorizing the payment of four thousand dollars for the use of the daughters of the late Count de Grasse, was read the third time and passed.

TUESDAY, February 24.

Case of Thomas Person and others.

It was moved that the House should go into consideration of the report of the select committee to whom had been referred a resolution of the House in relation to the back lands of North Carolina.

The following is the resolution of the select committee:

"*Resolved*, That in case the President of the United States shall think proper to enter into a treaty or treaties with all or any of the Indian tribes claiming lands within the territory south of the river Ohio, for the extinguishment of their claims to all or any of the said lands, the sum of — dollars be, and the same is hereby, appropriated to the purpose of defraying the expenses of any such treaty or treaties."

Mr. GOODHUE did not see that the United States had any concern to interfere in such a purchase: it was private property.

Mr. DAYTON explained that the petition of Thomas Person and others comprehended only two millions of acres. The resolution contemplated twenty millions. It will, when completed, enable the United States to protect the Choctaws and Chickasaws from the Creeks and Cherokees, if the latter should happen to attack them; and that they will attack the Chickasaws is not improbable, from assistance which the latter have given to the white people. Besides, the frontier will be capable of defence, at a much cheaper rate, in this way than at present it can be. It is now an irregular line. A peculiar circumstance, besides, will make the lands easy to be purchased. No Indian tribes reside on them. When the gentleman from Massachusetts considers these things, he will not object, since the United States will gain eighteen millions of acres by the transaction.

Mr. GOODHUE admitted the reasoning as to the eighteen millions, but still scrupled as to the rest.

Mr. SWIFT recommended that the Indian claim should in the mean time be extinguished.

Mr. MCDOWELL, in reply to Mr. GOODHUE, said that if the gentleman had attended to the reasonings formerly used on this subject, and which had occupied considerable time of the House during the present session, he could have been at no loss for understanding the propriety of this purchase being made by the United States.

A committee were named to bring in a bill, in terms of the resolution recommended by the select committee.

WEDNESDAY, February 25.

Indian Lands in Georgia.

The House again resolved itself into a Committee of the whole House on the report of the committee to whom was referred so much of the message from the PRESIDENT OF THE UNITED STATES, of the seventeenth instant, as relates to the disposition of Indian lands by the Legislature of the State of Georgia.

Mr. AMES said, that during the time when the National Debt bill was under discussion, he had attempted to get something introduced in favor of the new emission money creditors, but gentlemen always rose *en masse* against any proposal that would tend to obstruct the progress of the bill. He now again urged that this affair might be taken into consideration. He knew he should be told of a standing rule of the House that the unfinished business must first be taken up. These creditors had waited for four years without redress, and the rules of the House ought to give way to common feeling and common sense. He therefore moved that the rule in question should be suspended.

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The motion was negatived, and the House then went into a committee upon the second and remaining resolutions in the report of the select committee on the Message of the PRESIDENT.

The following is a copy of the third and fourth resolutions in this report:

"*Resolved*, That the President of the United States be authorized, whenever claims under prior contracts may cease to exist, to obtain a cession of the State of Georgia, of their claim to the whole or any part of the land within the present Indian boundaries; and that — dollars ought to be appropriated to enable him to effect the same.

"*Resolved*, That all persons who shall be assembled, or embodied in arms, on any lands belonging to Indians, out of the ordinary jurisdiction of any State, or of the territory south of the river Ohio, for the purpose of warring against the Indians, or committing depredations upon any Indian town, or persons, or property, shall thereby become liable and subject to the rules and articles of war, which are, or shall be established for the government of the troops of the United States."

After some discussion, the committee rose; the Chairman reported progress, and asked leave to sit again. This was negatived—yeas 33, nays 35.

The House then took up the resolutions. Various amendments were proposed; and the last resolution, in particular, was objected to, as subjecting people to martial law.

Mr. WADSWORTH said, that from a trial by jury he had no hopes. There never had been one instance of a white man condemned and hanged by white men, on the frontier, for the murder of an Indian, since the first landing in America. There might be such a thing for the murder of an Indian, when they lived among the whites. That there ever had been such a thing he did not know. He had been told by judges, upon the frontier, that it was no matter what evidence of a murder of an Indian was brought. No jury would bring the criminal in guilty. It was but very lately that a cool and unprovoked murder had been committed on the borders of this State upon

an Indian. The evidence was clear. Nobody pretended to doubt it. The judge gave an earnest charge to the jury; but all to no purpose; they found "not guilty."

Mr. SEDGWICK proposed an amendment to the last resolution, as follows:

"Resolved, That all persons who shall be assembled, or embodied in arms, on any lands belonging to Indians, out of the ordinary jurisdiction of any State, or of the territory south of the river Ohio, for the purpose of warring against the Indians, or of committing depredations against any Indian town, or persons, or property, shall thereby become liable and subject to be taken and confined by the military force of the United States, in such manner as to be made amenable to, and triable by law."

Ordered, That the said motion be committed to Mr. SEDGWICK, Mr. MADISON, and Mr. HILLHOUSE.

FRIDAY, February 27.

Indian Lands in Georgia.

The House then went into a Committee of the Whole, Mr. SHERBURNE in the chair, on the report of the select committee to whom had been referred the motion of the 25th instant, respecting such persons as shall be assembled, or embodied in arms, on any lands belonging to Indians, out of the ordinary jurisdiction of any State, or of the territory of the United States south of the river Ohio. The resolutions are as follow:

"Resolved, That all persons who, unauthorized by law, may be found in arms on any lands westward of the lines established by treaties with the Indian tribes, shall, on conviction thereof, forfeit a sum not exceeding — dollars, and be imprisoned not exceeding — months.

"Resolved, That it shall be lawful for the military force of the United States to apprehend every person or persons found in arms, as aforesaid, and him or them to convey to the civil authority of the United States, within some of the States, who shall, by such authority, be secured, to be tried in manner hereafter expressed.

"Resolved, That every person apprehended, as aforesaid, shall be tried in manner and form as is expressed in and by the act, entitled, 'An act to regulate trade and intercourse with the Indian tribes.'"

Several amendments were proposed and agreed to. At last Mr. VENABLE proposed one, which was, in substance, that persons should not be liable to the operation of the law who were in pursuit of Indians that had committed actual hostilities on the frontier.

Mr. SEDGWICK paid many compliments to Mr. VENABLE, as a sound lawyer, who certainly knew that, by the inherent rights of nature, every man was to pursue and punish those who had robbed him. This was implied in the bill, and was a part of the law of nature, so that there could be no use for its insertion.

Mr. VENABLE, in reply, declared that he was not so sound a lawyer as the gentleman supposed him to be. He was not so sound a lawyer as to discover that there was any such implication in the bill as the gentleman stated. Neither was he a sound enough lawyer to see, that, if his amendment was really implied in the bill, there could be any harm in having it expressed. At present he could discover no such implication. On the contrary, he saw very plainly, that, by the resolution as it now stood, a man whose family had been murdered or carried off by the savages, might, while pursuing them, be stopped and sent to jail. Mr. V., from the admission of Mr. SEDGWICK himself, insisted on the propriety of adopting his amendment.

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Mr. HILLHOUSE objected to the permission of armed individuals crossing the line, upon any pretence whatever. What use was there for expending millions every year in defence of the frontier people, if they were to be at liberty to cross the Indian line as often as they pleased, and to do what was to all intents and purposes carrying on war? If they will fight, let us recall our forces and leave them to fight for themselves. Are they, for the stealing of a horse, or some such thing, to cross the line in armed bodies, and act just as they please? Mr. H. utterly denied the doctrine admitted by Mr. SEDGWICK, that a man was authorized to chastise by his own hand those who had injured him. Was he to be both judge and executioner in his own case? No such thing.

Mr. GREENUP said, that, in coming to Congress every year, he was obliged to pass over territories belonging to Indians, and he always thought it necessary to carry a gun. He did not see, by the resolution as it stood, why the military officers of the United States might not stop him, as well as other people.

Mr. MOORE objected to the clause altogether. It is usual for people on the frontiers to send out parties over the line to watch the Indians, and when they are coming to give notice, that the country may be prepared for their reception. Now, these people may be seized by your officers.

Mr. FINDLAY imagined it would be the best way to declare that there shall be no frontier. It had been said by Mr. HILLHOUSE that the United States might withdraw their forces, and leave the frontier settlers to defend themselves. Did he imagine that, as it is, they are not kept in a perpetual state of alarm, of exertion, and of danger? There has not been a harvest for many years past where the people have not been called off from their labors, and, to their very great loss, to protect the frontier. This resolution not to allow pursuit, would be inviting the Indians with a witness.

Mr. SEDGWICK said, that this amendment, in reality, destroyed all that had been done or intended. No military officer, after such an amendment, will run the risk of taking a man up. The prisoner has only to say, "I am in pursuit of Indians," and then he must be set at liberty; for, in the wilderness, no evidence can be had to contradict him. The amendment, therefore, was a *coup de grace* to the whole affair. Mr. S. said he was personally extremely hurt at the constant complaints of the inefficiency of the defence afforded on the frontier, which cost annually so much to Government.

Mr. BLOUNT thought that the best way would be, to let it be known that the whites were authorized to pursue the Indians into their own country, and then they would stand more in awe. He mentioned a circumstance that happened within memory, to prove how much the Indians feared a serious attack, and how well they remembered a serious chastisement. Mr. B. stated that some Indians had made an incursion, and were stealing cattle belonging to the army, at a block-house. One of them was most deservedly shot, and the soldier had his pay stopped.

Mr. HILLHOUSE said, the more that he thought of this amendment, the more he saw its mischievous consequences. It went to invert all the laws that had been made for the protection of the Indians; and, instead of being a bill to protect them from the whites, the resolutions would produce a bill to protect the whites from them.

Mr. SMILIE objected to Mr. SEDGWICK's having threatened that the army of the United States should be withdrawn from the frontiers. [He had made some other advances against that gentleman, to which Mr. SEDGWICK answered not loud enough to be heard; but at this last, he arose, and said that he would not sit still to hear himself thus quoted for affirmations of which he had never uttered a single word.]

Mr. FITZSIMONS really hoped that the House would not agree to this amendment. It would totally defeat all the effects proposed by the bill. It had been said, that if a man had his family murdered, and he was in pursuit of the murderers, he might be stopped by a military officer, and sent to jail. The answer was, that if the officer refused to join him in the pursuit, he would lose his commission. He should be sorry if those resolutions, which had cost so much time and labor to the House, were thus to be thrown away.

The amendment was, on a division, carried—yeas 36, nays 28. The committee then rose.

SATURDAY, February 28.

Indian Trading Houses.

It was moved that the House should resolve itself into a committee on the bill for establishing trading houses for the purpose of supplying the Indian nations within the territory of the United States. This was done accordingly, Mr. SHERBURNE in the chair.

Mr. GILES then moved to strike out the first section.

Mr. GOODHUE wished to move that the committee rise; to which Mr. GILES agreed. Mr. GOODHUE then said, that his reason for this motion was, the inattention of members to the business before them. To attempt going through the bill at present was a perfect farce. He was satisfied that the bill would never go through this session. He did not, for his own part, yet know whether it was proper or not.

Mr. PARKER said, that the bill had been long enough before the House for the gentleman from Massachusetts to have made himself acquainted with its contents and its merits. He vindicated the principle of the bill, as tending to conciliate the affections of a distressed and unhappy people, and as it might likewise prevent the expenses of a war with them. France, Britain, and Spain, had adopted this policy, and found the good effects of it. He considered the bill as of the utmost consequence, and, thinking so, he should use his utmost influence to get it passed. The expense proposed was not great, as the affair was only experimental.

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Mr. MONTGOMERY was of the same opinion with the gentleman who spoke last. He thought that the Indians had common sense enough not to quit allies who supplied them with articles which they wanted, till we also made some effectual establishment of that kind. The member went on the same ground with the gentleman who spoke last.

Mr. BOUDINOT thought that the reason given by Mr. GOODHUE for moving that the committee should rise, viz: that gentlemen would not attend to their duty, was the worst imaginable. What did the House meet for at all? It was the duty of the Chair to compel them to mind their business. Mr. B. then referred to something which had been said by Mr. SWIFT, who had been up just before Mr. BOUDINOT. Mr. B. in reply to this gentleman, said, that he would not wish to press the bill this session if members did not think it proper. He was willing, if agreeable, to refer the matter for one year to the PRESIDENT. But there never would nor could be a complete peace till something of this kind was done. The PRESIDENT himself had told us as much.

Mr. GILES said, that the bill could not be got through this session. He was willing to take the question either in the first way that he had moved it, or in any other. This was a most improper time of the session to bring it in.

Mr. MURRAY hoped that the committee would seriously attend to the first clause in the bill, and would not rise. He felt the shortness of the time, but he was willing to devote to-morrow (Sunday) to this subject, and he trusted that the importance of it would give the employment a solemnity not inconsistent with the day. Without a bill to establish a well-guarded intercourse with the

Indians, the frontier policy will be unsystematic and despicable. To complete the system, it appeared to him that three great objects are to be embraced: 1st. Force to protect the frontier from Indian invasion—for this the Military Establishment is made. 2d. A regulation, by law, that shall restrain the frontier people from predatory invasion into the Indian country, carrying law and settlement hand in hand. 3d. The establishment of trading houses under the influence of the two first parts of the system, for the purpose of conciliating the Indians by supplying their wants, and detaching their habits of trade and their affections from a foreign nation. With these three points embraced in one system, he had no doubt but their co-operation would produce the great object, peace on the frontier. Without the last, the other parts of the system would be totally inefficient.

Mr. HILLHOUSE said, that the House ought to begin at the right end of the subject, by reversing the vote which the committee passed yesterday, authorizing the frontier people to pass the line in pursuit of the Indians as often as they pleased. If this was allowed, it would be impossible ever to keep peace.

On a division, shall the committee now rise? it was determined in the affirmative—yeas 35, nays 31.

The question was then put by the SPEAKER, Shall the committee have leave to sit again? It passed in the affirmative—yeas 34, nays 33.

But it was presently remarked, that some gentlemen had risen both in the yeas and nays; others had been without the bar. The question was, therefore, taken over again, and determined in the negative—yeas 36, nays 41. The bill is, therefore, thrown out.

Indian Lands in Georgia.

The House proceeded to consider the resolution and amendments thereto, reported yesterday from the Committee of the whole House on the report of the committee to whom was referred a motion of the 25th instant, respecting such persons as shall be assembled or embodied in arms on any lands belonging to Indians out of the ordinary jurisdiction of any State, or of the territory of the United States south of the river Ohio: Whereupon,

The first resolution being read, in the words following, to wit:

"Resolved, That all persons who, unauthorized by law, and with hostile intent, may be found in arms on any lands allotted or secured to the Indians by treaties between the United States and any Indian tribes, shall, on conviction thereof, forfeit a sum not exceeding — dollars, and be imprisoned not exceeding — months."

And the amendment thereto, reported by the Committee of the whole House, to add to the end thereof the words, "unless it shall be in immediate pursuit of Indians, who shall have recently committed hostilities."

When the question was about to be taken on it, Mr. VENABLE rose and pointed out the difference of opinion between two gentlemen who were both opposed to his amendment. One of them (Mr. SEDGWICK) had maintained that, when individual Indians, unauthorized by the rest of their tribe, crossed the line and committed depredations, a settler was, by the law of nations, authorized to pursue them across the line and to retaliate, and that this was implied in the bill. Mr. HILLHOUSE had materially differed from him, and agreed with Mr. VENABLE, in supposing that the person so pursuing across the line was punishable by the resolution as it stood, without the amendment. He then reminded the House that this frontier line was, perhaps, fifteen hundred miles long. The Indians may come over any part of it, while the citizens of the United States are not to be allowed to cross it one mile in pursuit. Even a man in pursuit of savages who may have carried off his wife and children, may be stopped. The amendment he regarded as essential. Military officers may judge on the spot whether such persons whom they meet beyond the line, in pursuit of Indians, are within the sense of the act or not.

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Mr. AMES denied that the resolution as it first stood took away the right of a man to pursue the Indians, in order to recover his wife and children. But the amendment of Mr. VENABLE went to legalize all those acts of violence and revenge, that, for a century past, have deluged the frontier with blood.

Mr. LYMAN vindicated the inhabitants of the frontier. If the Indians are so unfortunate as to be the dupes of other nations, (viz: the Spaniards and British,) that is not our fault. The frontier people, from time to time, have done every thing in their power to keep them in peace.

Mr. HILLHOUSE opposed the amendment.

Mr. McDOWELL said, that weekly and daily murders were committed by the Creeks in the district of Mero and in the South-western Territory. Do the United States avenge these murders? No. Do they demand back the property carried off? No. Instead of any satisfaction to the people, their characters are abused on this floor. The frontier people know that their happiness consists in peace, and, therefore, cultivate it as much as they can. He took a general view of the subject, and explained the insignificance of the posts as at present held by the troops of the United States for any purpose of protection. He noticed the inveterate hatred of the Indians against the whites, and their innate thirst of blood.

Mr. MOORE went on the same grounds.

Mr. GILES did not like the harsh style assumed by some gentlemen in speaking of the frontier settlers. A hundred years hence these people would preponderate over this part of the Continent. He represented an Atlantic part of the Union, but, at the same time, he would carefully avoid any thing that might offend the Western people. The first settlers in this country were, when they first landed, frontier settlers. For his own part, he believed that the war between the whites and the Indians would be eternal. He said, that, from some intelligence received this day, there was reason to believe that a war with the Creeks might soon be expected.

Mr. WADSWORTH.—Gentlemen have a great disposition to husband our little time, and I need not mention their manner of doing it. He said that he was willing to grant protection to the frontiers, but not to give leave, as by the amendment proposed, for an eternal war. He thought it calculated to drive the gentlemen on each side of this question into such opposite extremes, that they would never meet again upon the subject. He was willing to grant any degree of protection, but nothing for conquest. He said that the ancestors of the people now in the Atlantic part of the country were once frontier people, and he believed them to have been neither worse nor better than the present settlers, who are in the same situation. We are told of murders and robberies committed by the Indians; but the accounts of some of the officers employed by Government vary a little from this, and give room to suspect that there may be some error on both sides. He did not believe that this amendment would pass; but, if it should do so, it would widen the difference of opinion in the House.

Mr. PAGE was for the amendment.

Mr. CARNES could not conceive the reason why all regulations made in this House were for Indians only, as if the whites were constantly the aggressors. He asked if the Creeks performed a single tittle of the treaty of New York, about which there had been so much parade? No. The only design of Indians in making a peace is to get presents, for these they always get. As soon as these are spent they commit a new set of murders, in the hopes of another treaty. Thus they always have gone on, and always will go on, from murders to treaties, and from treaties to murders. Mr. C. complained that a gentleman from Maryland (Mr. MURRAY) had some days ago called the frontier people semi-savages. He hoped that such an expression would never again be used in that House. As to the treaty of New York, he might be told that the Creeks restored a number of women and children. He knew that; but he also knew that, before they did so, the relations of those people were obliged to put their hands in their pockets and pay large sums for their redemption, as the prisoners would not have been delivered up in consequence of the treaty of New York. This bill, without the amendment of Mr. VENABLE, would be an encouragement to the savages to come over the line and murder with impunity.

Mr. SCOTT was entirely in favor of the amendment. If the resolution passes without the amendment houses will soon be smoking and blood running. He believed that the subject in question was beyond the reach of human wisdom to regulate. He thought that striking out the amendment would only encourage the Indians to come in a body across the line. This they were never afraid of doing. The only thing which they feared was a pursuit, and this was to be effectually prevented by striking out the amendment. Was there ever such a thing heard of before as that, when the savages have carried off a man's wife and children, he must not be at liberty to pursue them? It would be the most frightful thing imaginable for the House to pass a law declaring such a pursuit criminal. Mr. S. could figure a case where the farm of a settler might come close to the Indian line, and the Indian might stand on the other side of the line and shoot him, and his neighbors would not be at liberty to pursue the murderer. Mr. S. said, that in that part of the country where he resided (Washington county) nothing of this kind was to be feared, as the line was at a sufficient distance from the cultivated lands, but there were other places on the frontier of the United States where this might happen. He said that no Christian nation had a right to ask better terms than this amendment offered to the savages. Stay upon your own side of the line and you are safe, but, if you cross over to us, we shall cross over in pursuit of you. This was fair play. If the resolution passed without the amendment, Mr. S. said that the Indians would immediately encamp close on their side of the line, and lie in watch there for whole months together, till they found a safe opportunity of crossing.

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Mr. MURRAY said, he would make a remark or two on the criticism of the gentleman from Georgia, who had felt affected by an expression of his a few days since, when he called some of the people of the frontier "semi-savages." He did so, and he felt the expression not inapplicable. He confined the import of this expression exclusively to those upon the frontier who lead an unstationary life—who press forward into the deeper wilderness, by the new waves of advancing population, and live the life of savages without their virtues. He begged leave to call the gentleman's attention to a declaration of his own, last session, to justify this expression, which he used more to designate a peculiar than a general character of the people in the region to which he applied it. The gentleman said, he did not value the lives of one hundred Indians as much as the life of one white man, or words to that extent. [This was in a debate just before the close of the last session. The words of Mr. CARNES were, "I would not give the life of one white man for that of fifty Indians."] Mr. MURRAY said, he had two points always in his view when the frontier was a subject in that House—protection to the frontier against the hostility of the Indians, and restraint upon the whites to prevent the occasions of war against the savages. He had given every testimony to the first by supporting every measure for their defence; that he represented a district perfectly beyond the danger of the Indians, was proof that he was actuated in his votes for appropriation and force by no other motive than that which belonged to every man there who supported the great principle of Government, that the whole must protect the parts. He wished to see such a system established, combining these two points, as would give complete protection against the

Indians, and yet restrain the whites from violating peace. He wished to see the day when the arms of the Government might, without a crime, strike a whole tribe, if that tribe or its members waged war on the frontiers. But, to do this, it was necessary to place our relative situation so as that justice might be secured. He wished to adopt a regulation like the present, to prevent our fellow-citizens from the gratification of private revenge, the source from whence so much blood is shed. In order to justify exemplary punishment on Indian tribes, you must first be in a situation to restrain the whites from doing injustice to them. You must do what all nations have done, when, from the general or local state of civilization, private war disturbs public tranquillity—you must restrain the right of private war, by placing the power of vengeance out of the reach of individuals, and in the hands of Government. Nor did this idea go at all to restrain that inalienable right of resistance against imminent danger, which was sanctioned by the law of nature. The picture drawn by the gentleman from Pennsylvania, (Mr. SCOTT,) with his accustomed ability and force, was certainly an interesting one—were an encampment of Indians to be heard in the woods near a settlement, after any evidence of hostility, he did not doubt but the neighbors would be perfectly justifiable in changing the scene of blood from the cottage to the camp—if the amendment which actually arms all the passions of revenge with the rights of law, be rejected, you will attain one of the great objects of frontier policy—the ability to restrain the right of private war, from which public war arises as a consequence. The Government will, when this ability to restrain is complete, become responsible for the protection of the whites against the savages. Until that is accomplished, he did not believe Government could, either in justice or policy, expend treasure or use force, when uncertain of the justice of the cause. He therefore hoped that the amendment would be rejected.

Mr. FINDLAY was for the amendment, and mentioned several examples to prove the cruelty and perfidy of the Indians.

The amendment itself was in these words: "Unless it shall be in immediate pursuit of the Indians who have recently committed hostilities."

Mr. MADISON did not think the question explicit; he therefore proposed another, which was to prevent the pursuers from coming within a certain number of miles of an Indian town. He was extremely doubtful whether his amendment or any other would effectually answer the end proposed. He was convinced that no law of any kind would be able to hinder people from crossing the line in pursuit of Indians, who might have carried off their families.

Mr. HARPER said, that however little time the House had to spare, and however long the discussion might have been, he could not help trespassing on their patience for a short time to deliver his sentiments, as he thought himself tolerably acquainted with the subject. He expressly denied that the Indians ever committed any murder without previous provocation. The process is shortly this: An Indian crosses the line and steals a horse. And as long as Indians exist they will always steal horses. The man to whom the horse belonged collects as many of his neighbors as he thinks sufficient, pursues the Indian, and, not contented with recovering his horse, he kills the thief. The Indians, who have no such sacred ideas of property, immediately come over the line, and in revenge murder a number of innocent people. Indian murders are not unprovoked. They are not of that stamp. Mr. H. considered the amendment of Mr. VENABLE as a source of endless confusion. Any man, if it passed, might cross the Indian line as often as he thought proper, and say that he was in pursuit of Indians with prisoners. I undertake, (said he,) if you will give me a hundred dollars, to go to the frontier and get a witness who will come into a Court of Justice and swear that on such a day ten Indians came over the line in arms. Mr. H. said he was personally acquainted with the frontiers. He had a high respect for the inhabitants, there were many very worthy people among them; but likewise many others of a very different kind. This amendment will set open a door to all sorts of fraud and mischief. Mr. H. honored the sentiments of patriotism that gave rise to it, but he could not possibly agree to the propriety of its insertion.

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Mr. WHITE, the member from the South-western Territory, said, that he had to complain of the slaughter of near four hundred citizens under the auspices of your Government. He felt himself much affected, and as to the doctrine of Indian killing, only in retaliation, he denied it altogether. The love of blood was hereditary in them. When the gentleman says that with a hundred dollars in his pocket, he can find ten men on the frontiers—[Mr. HARPER explained, that he only said he could find a witness.] Well, (said Mr. W.) if the gentleman did not mean a reflection on the frontiers, he meant nothing at all. I know not how well the gentleman may be practised in the arts of subornation, but I myself know of no such man. [Mr. HARPER.—I expected the gentleman would confine himself to a decent answer.] Mr. W. proceeded to observe that no man acquainted with the frontiers would have made any such assertion as the gentleman had done. He was likewise extremely surprised at the gentleman from Maryland, for having persisted in affirming that many of the frontier people were semi-savages.

The yeas and nays were now taken on the amendment, which was lost by a majority of 7—yeas 39, nays 46, as follows:

YEAS.—James Armstrong, Theodorus Bailey, Abraham Baldwin, Thomas Blount, Thomas P. Carnes, Gabriel Christie, Thomas Claiborne, William J. Dawson, George Dent, Samuel Dexter, Gabriel Duvall, Benjamin Edwards, William Findlay, Christopher Greenup, William B. Grove, George Hancock, Carter B. Harrison, John Heath, William Irvine, Matthew Locke, William Lyman, Nathaniel Macon, Joseph McDowell, Alexander Mebane, William Montgomery, Andrew Moore, Peter Muhlenberg, Joseph Neville, Anthony New, Alexander D. Orr, John Page, Thomas Scott, John Smilie, Thomas Sprigg, Thos. Tredwell, Philip Van Cortlandt, Abraham Venable, Francis Walker, Richard Winn, and Joseph Winston.

NAYS.—Fisher Ames, John Beatty, Elias Boudinot, Shearjashub Bourne, Benjamin Bourne, Lambert Cadwalader, David Cobb, Peleg Coffin, Joshua Coit, Henry Dearborn, Thomas Fitzsimons, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glenn, Benjamin Goodhue, James Gordon, Robert Goodloe Harper, James Hillhouse, William Hindman, Samuel Holten, John Hunter, Aaron Kitchell, John Wilkes Kittera, Amasa Learned, James Madison, Francis Malbone, William Vans Murray, Nathaniel Niles, Andrew Pickens, Theodore Sedgwick, John S. Sherburne, Jeremiah Smith, Israel Smith, Wm. Smith, Zephaniah Swift, George Thatcher, Uriah Tracy, Jonathan Trumbull, John E. Van Allen, Peter Van Gaasbeck, Peleg Wadsworth, Jeremiah Wadsworth, John Watts, Benjamin Williams, and Paine Wingate.

Mr. GILES, who had been in the House during the whole debate, had gone out just before the question was put, and returning immediately after the names had been called, asked leave to vote. The rule of the House was read by the SPEAKER, which is that no member shall vote who was not present at putting of the question. Mr. G., on this account, was not allowed a vote.

Mr. CARNES then moved to amend the said resolution by adding to the end thereof the following words:

"Unless it shall be in continuation of a pursuit to a distance not exceeding — miles beyond the line of the particular Indians who shall have recently committed murder, or may be carrying off captives or plunder."

It was resolved in the affirmative.

The said resolution, as amended, was then again read, and agreed to by the House, as follows:

Resolved, That all persons who, unauthorized by law, and with hostile intent, may be found in arms on any lands allotted or secured to the Indians by treaties between the United States and any Indian tribes, shall, on conviction thereof, forfeit a sum not exceeding — dollars, and be imprisoned not exceeding — months, unless it shall be in continuation of a pursuit to a distance not exceeding — miles beyond the line of the particular Indians who shall have recently committed murder, or may be carrying off captives or plunder.

The second resolution being again read, and amended, was, on the question put thereupon, agreed to by the House, as follows:

Resolved, That it shall be lawful for the military force of the United States to apprehend every person or persons found in arms as aforesaid, and him or them to convey to the civil authority of the United States, within some one of the States, who shall, by such authority, be secured to be tried in manner and form as is provided in and by the act entitled, "An act to regulate trade and intercourse with the Indian tribes:" *Provided*, that no person shall be confined after his arrest, and before his removal, more than — days.

Ordered, That a bill or bills be brought in pursuant to the said resolutions, and that Mr. SEDGWICK, Mr. MADISON, and Mr. HILLHOUSE, do prepare, and bring in the same.

TUESDAY, March 3.

Adjournment.

Ordered, That a message be sent to the Senate to inform them that this House, having completed the business before them, are now about to adjourn without day; and that the Clerk of this House do go with the said message. [Pg 590]

A message from the Senate informed the House that the Senate have appointed a committee, on their part, jointly, with such committee as may be appointed on the part of this House, to wait on the PRESIDENT OF THE UNITED STATES, and inform him that Congress is ready to adjourn without day, unless he may have any further communications to make to them.

The House proceeded to consider the said message: Whereupon,

Resolved, That this House doth agree to the resolution of the Senate for the appointment of a joint committee of the two Houses, to wait on the PRESIDENT OF THE UNITED STATES, and inform him of the intended recess of Congress; and that Mr. BOUDINOT, Mr. SEDGWICK, and Mr. TRUMBULL, be of the committee appointed on the part of this House.

On a motion made and seconded,

"That the thanks of this House be presented to Frederick Augustus Muhlenberg, in testimony of their approbation of his conduct in discharging the arduous and important duties assigned him while in the chair:"

It was resolved unanimously: Whereupon, Mr. SPEAKER made his acknowledgments to the House in manner following:

"GENTLEMEN: I feel myself highly honored by this distinguished mark of your approbation of my conduct in the station you were pleased to assign unto me; and although I am conscious that my feeble efforts do not merit so precious a reward, yet permit me to assure you that it has made a lasting impression on my mind, and I shall ever esteem it with the most unfeigned satisfaction.

"Gentlemen, I sincerely thank you; may every happiness attend you; may you long

continue to enjoy the confidence of your fellow-citizens; and may you meet with their just applause of having deserved well of your country."

Mr. BOUDINOT, from the joint committee appointed to wait on the PRESIDENT OF THE UNITED STATES and inform him of the intended recess of Congress, reported that the committee had performed that service, and that the PRESIDENT signified to them that he had no further communication to make during the present session: Whereupon, Mr. SPEAKER adjourned the House *sine die*.

FOURTH CONGRESS.—FIRST SESSION.

[Pg 591]

HELD IN THE CITY OF PHILADELPHIA, DECEMBER 7, 1795.

LIST OF MEMBERS.

SENATORS.

New Hampshire.—John Langdon, S. Livermore.
Vermont.—Elijah Paine, Moses Robinson.
Massachusetts.—George Cabot, Caleb Strong.
Rhode Island.—William Bradford, Theodore Foster.
Connecticut.—Oliver Ellsworth, Jonathan Trumbull.
New York.—Aaron Burr, Rufus King.
New Jersey.—F. Frelinghuysen, John Rutherford.
Pennsylvania.—William Bingham, James Ross.
Delaware.—Henry Latimer, John Vining.
Maryland.—John Henry, Richard Potts.
Virginia.—Stevens T. Mason, Henry Tazewell.
North Carolina.—Timothy Bloodworth, Alexander Martin.
South Carolina.—Pierce Butler, Jacob Read.
Georgia.—James Gunn, George Walton.
Kentucky.—John Brown, Humphrey Marshall.

REPRESENTATIVES.

New Hampshire.—Abiel Foster, Nicholas Gilman, J. S. Sherburne, Jeremiah Smith, Paine Wingate.
Vermont.—Daniel Buck, Israel Smith.
Massachusetts.—Fisher Ames, Theop. Bradbury, Henry Dearborn, Dwight Foster, Nathaniel Freeman, Benjamin Goodhue, George Leonard, Samuel Lyman, William Lyman, John Read, T. Sedgwick, George Thatcher, Joseph B. Varnum, P. Wadsworth.
Rhode Island.—Benjamin Bourne, Francis Malbone.
Connecticut.—Joshua Coit, C. Goodrich, Roger Griswold, James Hillhouse, Nathaniel Smith, Zephaniah Swift, Uriah Tracy.
New York.—Theodorus Bailey, William Cooper, Ezekiel Gilbert, Henry Glenn, John Hathorn, J. N. Havens, E. Livingston, John E. Van Allen, Philip Van Cortlandt, John Williams.
New Jersey.—Jonathan Dayton, Thomas Henderson, Aaron Kitchell, Isaac Smith, Mark Thompson.
Pennsylvania.—David Bard, George Ege, William Findlay, Albert Gallatin, Andrew Gregg, Thomas Hartley, Daniel Heister, John W. Kittera, Samuel Maclay, Frederick A. Muhlenberg, John Richards, Samuel Sitgreaves, John Swanwick, Richard Thomas.
Delaware.—John Paton.
Maryland.—Gabriel Christie, Jeremiah Crabb, George Dent, Gabriel Duvall, William Hindman, Samuel Smith, Thomas Sprigg, William Vans Murray.
Virginia.—Richard Brent, Samuel J. Cabell, Thomas Claiborne, John Clopton, Isaac Coles, William B. Giles, George Hancock, Carter B. Harrison, John Heath, John George Jackson, Andrew Moore, Anthony New, John Nicholas, John Page, Josiah Parker, Francis Preston, Robert Rutherford, A. B. Venable.
North Carolina.—Thomas Blount, Nathan Bryan, Dempsey Burges, Jesse Franklin, James Gillespie, William B. Grove, James Holland, Matthew Locke, Nathaniel Macon, Absalom Tatom.
South Carolina.—Lemuel Benton, Samuel Earle, Wade Hampton, R. G. Harper, William Smith, Richard Winn.

Georgia.—A. Baldwin, John Milledge.

Tennessee.—Andrew Jackson.

Kentucky.—Christopher Greenup.

PROCEEDINGS IN THE SENATE.

MONDAY, December 7, 1795.

The following Senators appeared, and took their seats:

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire.

CALEB STRONG and GEORGE CABOT, from Massachusetts.

THEODORE FOSTER, from Rhode Island.

OLIVER ELLSWORTH and JONATHAN TRUMBULL, from Connecticut.

MOSES ROBINSON, from Vermont.

RUFUS KING, from New York.

JAMES ROSS and WILLIAM BINGHAM, from Pennsylvania.

HENRY LATIMER, from Delaware.

HENRY TAZEWELL and STEVENS T. MASON, from Virginia.

ALEXANDER MARTIN and TIMOTHY BLOODWORTH, from North Carolina.

PIERCE BUTLER and JACOB READ, from South Carolina.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a PRESIDENT *pro tempore*, [Pg 592]
as the constitution provides, and HENRY TAZEWELL was duly elected.

Ordered, That the Secretary wait on the PRESIDENT OF THE UNITED STATES, and acquaint him that a quorum of the Senate is assembled, and that, in the absence of the VICE PRESIDENT, they have elected HENRY TAZEWELL President *pro tempore*.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled, and ready to proceed to business; and that, in the absence of the VICE PRESIDENT, they have elected HENRY TAZEWELL President *pro tempore*.

Ordered, That Messrs. READ and CABOT be a joint committee on the part of the Senate, together with such committee as the House of Representatives may appoint on their part, to wait on the PRESIDENT OF THE UNITED STATES, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled; that they have elected JONATHAN DAYTON their Speaker; and that they have concurred in the appointment of a joint committee to wait on the PRESIDENT OF THE UNITED STATES, and acquaint him that the two Houses of Congress are assembled, and are ready to receive any communications that he may be pleased to lay before them.

Mr. READ, from the joint committee appointed for that purpose, reported that they had waited on the PRESIDENT OF THE UNITED STATES, and had notified him that a quorum of the two Houses of Congress were assembled; and the PRESIDENT OF THE UNITED STATES acquainted the committee that he would meet the two Houses in the Representatives' Chamber at 12 o'clock to-morrow.

TUESDAY, December 8.

HUMPHREY MARSHALL, from the State of Kentucky, attended.

A message from the House of Representatives informed the Senate that the House are now ready to meet the Senate in the Chamber of that House, to receive such communications as the PRESIDENT OF THE UNITED STATES shall be pleased to make to them.

Whereupon, the Senate repaired to the Chamber of the House of Representatives for the purpose above expressed.

The Senate then returned to their own Chamber, and a copy of the Speech of the PRESIDENT OF THE UNITED STATES to both Houses of Congress was read, as follows:

Fellow-Citizens of the Senate, and of the House of Representatives:

I trust I do not deceive myself, while I indulge the persuasion that I have never met you at any period, when, more than at the present, the situation of our public affairs has afforded just cause for mutual congratulation, and for inviting you to join with me in profound gratitude to the Author of all good for the numerous and extraordinary blessings we enjoy.

The termination of the long, expensive, and distressing war in which we have been engaged with certain Indians north-west of the Ohio, is placed in the option of the United States, by a treaty which the commander of our army has concluded, provisionally, with the hostile tribes in that region.

In the adjustment of the terms, the satisfaction of the Indians was deemed an

object worthy no less of the policy than of the liberality of the United States, as the necessary basis of durable tranquillity. The object, it is believed, has been fully attained. The articles agreed upon will immediately be laid before the Senate, for their consideration.

Contemplating the internal situation, as well as the external relations, of the United States, we discover equal cause for contentment and satisfaction. While many of the nations of Europe, with their American dependencies, have been involved in a contest unusually bloody, exhausting, and calamitous; in which the evils of foreign war have been aggravated by domestic convulsions and insurrection; in which many of the arts most useful to society have been exposed to discouragement and decay; in which scarcity of subsistence has embittered other sufferings; while even the anticipations of a return of the blessings of peace and repose are alloyed by the sense of heavy and accumulating burdens which press upon all the departments of industry, and threaten to clog the future springs of Government; our favored country, happy in a striking contrast, has enjoyed general tranquillity—a tranquillity the more satisfactory, because maintained at the expense of no duty. Faithful to ourselves, we have violated no obligation to others. Our agriculture, commerce, and manufactures, prosper beyond former example; the molestations of our trade (to prevent a continuance of which, however, very pointed remonstrances have been made) being overbalanced by the aggregate benefits which it derives from a neutral position. Our population advances with a celerity which, exceeding the most sanguine calculations, proportionally augments our strength and resources, and guarantees our future security. Every part of the Union displays indications of rapid and various improvement; and with burdens so light as scarcely to be perceived; with resources fully adequate to our present exigencies; with Governments founded on the genuine principles of rational liberty; and with mild and wholesome laws—is it too much to say, that our country exhibits a spectacle of national happiness never surpassed, if ever before equalled?

Gentlemen:

Among the objects which will claim your attention in the course of the session, a review of our Military Establishment is not the least important. It is called for by the events which have changed, and may be expected still further to change, the relative situation of our frontiers. In this review, you will doubtless allow due weight to the considerations that the questions between us and certain foreign powers are not yet finally adjusted; that the war in Europe is not yet terminated; and that our Western posts, when recovered, will demand provision for garrisoning and securing them. A statement of our present military force will be laid before you by the Department of War.

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With the review of our army establishment is naturally connected that of the militia. It will merit inquiry, what imperfections in the existing plan further experience may have unfolded. The subject is of so much moment, in my estimation, as to excite a constant solicitude that the consideration of it may be renewed until the greatest attainable perfection shall be accomplished. Time is wearing away some advantages for forwarding the object, while none better deserves the persevering attention of the public councils.

While we indulge the satisfaction which the actual condition of our Western borders so well authorizes, it is necessary that we should not lose sight of an important truth, which continually receives new confirmations, namely: that the provisions heretofore made with a view to the protection of the Indians from the violences of the lawless part of our frontier inhabitants are insufficient. It is demonstrated that these violences can now be perpetrated with impunity; and it can need no argument to prove, that, unless the murdering of Indians can be restrained by bringing the murderers to condign punishment, all the exertions of the Government to prevent destructive retaliations by the Indians will prove fruitless, and all our present agreeable prospects illusory. The frequent destruction of innocent women and children, who are chiefly the victims of retaliation, must continue to shock humanity, and an enormous expense to drain the Treasury of the Union.

To enforce upon the Indians the observance of justice, it is indispensable that there shall be competent means of rendering justice to them. If these means can be devised by the wisdom of Congress, and especially if there can be added an adequate provision for supplying the necessities of the Indians, on reasonable terms—a measure, the mention of which I the more readily repeat, as in all the conferences with them they urge it with solicitude—I should not hesitate to entertain a strong hope of rendering our tranquillity permanent. I add, with pleasure, that the probability even of their civilization is not diminished by the experiments which have been thus far made under the auspices of Government. The accomplishment of this work, if practicable, will reflect undecaying lustre on our national character, and administer the most grateful consolations that virtuous minds can know.

Gentlemen of the House of Representatives:

The state of our revenue, with the sums which have been borrowed and reimbursed pursuant to different acts of Congress, will be submitted from the proper Department, together with an estimate of the appropriations necessary to be made for the service of the ensuing year.

Whether measures may not be advisable to re-enforce the provision for the redemption of the public debt, will naturally engage your examination. Congress have demonstrated their sense to be, and it were superfluous to repeat mine, that whatsoever will tend to accelerate the honorable extinction of our public debt, accords as much with the true interest of our country as with the general sense of our constituents.

Gentlemen of the Senate, and of the House of Representatives:

The statements which will be laid before you relative to the Mint will show the situation of that institution, and the necessity of some further Legislative provisions for carrying the business of it more completely into effect, and for checking abuses which appear to be arising in particular quarters.

The progress of providing materials for the frigates, and in building them; the state of the fortifications of our harbors; the measures which have been pursued for obtaining proper sites for arsenals, and for replenishing our magazines with military stores; and the steps which have been taken towards the execution of the law for opening a trade with the Indians—will likewise be presented for the information of Congress.

Temperate discussion of the important subjects which may arise in the course of the session, and mutual forbearance where there is a difference of opinion, are too obvious and necessary for the peace, happiness, and welfare of our country, to need any recommendation of mine.

G. WASHINGTON.

UNITED STATES, *December 8*, 1795.

Ordered, That MESSRS. KING, ELLSWORTH, and CABOT, be a committee to report the draft of an Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech this day to both Houses of Congress.

WEDNESDAY, December 9.

The VICE PRESIDENT of the United States attended.

The following motion was made by Mr. MARTIN:

"Resolved, That, in conformity to a resolution of the Senate of the United States, passed the 20th day of February, 1794, the gallery of the Senate Chamber be permitted to be opened every morning, subject to the restrictions therein mentioned, a suitable gallery having been erected and provided in the Senate Chamber, in the late recess of Congress, for that purpose."

And, the motion being amended, it was

Resolved, That, in conformity to a resolution of the Senate of the United States, passed the 20th day of February, 1794, the gallery of the Senate Chamber be permitted to be opened every morning, subject to the restrictions in said resolution mentioned.

THURSDAY, December 10.

JOHN BROWN, from the State of Kentucky, and FREDERICK FRELINGHUYSEN, from the State of New Jersey, severally attended.

Mr. KING, from the committee appointed for that purpose, reported the draft of an Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech to both Houses of Congress, at the opening of the session, which was read, and ordered to lie for consideration until to-morrow.

FRIDAY, December 11.

ELIJAH PAINE, from the State of Vermont, attended.

Address to the President.

The Senate took into consideration the report made by the committee, of an Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech to both Houses of Congress, at the opening of the session, which is as follows:

SIR: It is with peculiar satisfaction that we are informed by your Speech to the two Houses of Congress, that the long and expensive war in which we have been engaged with the Indians north-west of the Ohio is in a situation to be finally terminated; and, though we view with concern the danger of an interruption of the peace so recently confirmed with the Creeks, we indulge the hope, that the measures that you have adopted to prevent the same, if followed by those

Legislative provisions that justice and humanity equally demand, will succeed in laying the foundation of a lasting peace with the Indian tribes on the Southern as well as on the Western frontiers.

The confirmation of our Treaty with Morocco, and the adjustment of a Treaty of Peace with Algiers, in consequence of which our captive fellow-citizens shall be delivered from slavery, are events that will prove no less interesting to the public humanity than they will be important in extending and securing the navigation and commerce of our country.

As a just and equitable conclusion of our depending negotiations with Spain will essentially advance the interest of both nations, and thereby cherish and confirm the good understanding and friendship which we have at all times desired to maintain, it will afford us real pleasure to receive an early confirmation of our expectations on this subject.

The interesting prospect of our affairs, with regard to the foreign powers between whom and the United States controversies have subsisted, is not more satisfactory than the review of our internal situation: if from the former we derive an expectation of the extinguishment of all the causes of external discord that have heretofore endangered our tranquillity, and on terms consistent with our national honor and safety, in the latter we discover those numerous and wide-spread tokens of prosperity which, in so peculiar a manner, distinguish our happy country.

Circumstances thus every way auspicious demand our gratitude, and sincere acknowledgments to Almighty God, and require that we should unite our efforts in imitation of your enlightened, firm, and persevering example, to establish and preserve the peace, freedom, and prosperity of our country.

The objects which you have recommended to the notice of the Legislature will, in the course of the session, receive our careful attention, and, with a true zeal for the public welfare, we shall cheerfully co-operate in every measure that shall appear to us best calculated to promote the same.

JOHN ADAMS,

*Vice President of the United States,
and President of the Senate.*

The Address was taken up by paragraphs.

The fourth and fifth paragraphs were moved to be struck out by Mr. MASON.^[60]

Mr. MASON observed, that he had hoped nothing contained in the Address reported as an answer to the PRESIDENT'S Speech, would have been such as to force the Senate to precipitate decisions. The two clauses he objected to disappointed him in that hope. They were calculated to bring again into view the important subject which occupied the Senate during their June session. This he conceived could answer no good purpose; the minority on that occasion were not now to be expected to recede from the opinions they then held, and they could not therefore join in the indirect self-approbation which the majority appeared to wish for, and which was most certainly involved in the two clauses which he should hope would be struck out. If his motion were agreed to, the remainder of the Address would, in his opinion, stand unexceptionable. He did not see, for his part, that our situation was every way auspicious. Notwithstanding the treaty, our trade is grievously molested.

Mr. KING observed, that the principal features observable in the answer reported to the PRESIDENT'S Address, were to keep up that harmony of intercourse which ought to subsist between the Legislature and the PRESIDENT, and to express confidence in the undiminished firmness and love of country which always characterize our chief Executive Magistrate. He objected to striking out especially the first clause, because founded on undeniable truth. It only declares that our prospects, as to our external relations, are not more satisfactory than a review of our internal situation would prove. Was not this representation true, he asked; could it be controverted? This clause, he contended, contained nothing reasonably objectionable; it did not say as much as the second, to which only most of the objections of the member up before him applied, an answer to which he should defer, expecting that a question would be put on each in order.

The Chair requested that the motion should be reduced to writing. Mr. MASON accordingly reduced it to writing, and it went to striking out both clauses at once.

Mr. MASON agreed most cordially that the situation of our external relations were not more a cause of joy than our situation at home. But the obvious meaning of the clause, he conceived, was an indirect approval of our situation relative to external concerns; and to this he could not give his assent, as he did not consider their aspect as prosperous or auspicious.

Mr. BUTLER said, that when the committee was appointed to draft an answer, he hoped they would have used such general terms as to have secured a unanimous vote. He was willing to give the Chief Magistrate such an answer as respect to his station entitled him to, but not such a one as would do violence to his regard for the constitution and his duty to his constituents. He could not approve of long and detailed answers, however unexceptionable the Speech might be in matter, and however respectable the character might be from whom it came. He had hoped, from the peculiar situation of the country, and of the Senate, that nothing would have been brought forward in the answer, on the subject which agitated the June Executive session, calculated to

wound the feelings of members. He had been disappointed; it was evident that some members of the Senate could not give their voice in favor of the Address in its present shape, without involving themselves in the most palpable inconsistency.

He had long since, for his own part, declared himself against every article of the treaty, because in no instance is it bottomed on reciprocity, the only honorable basis. After this declaration, how could he, or those who coincided in opinion with him, agree to the present Address without involving themselves in the most palpable inconsistency?

The sentence objected to, notwithstanding the explanation of the gentleman from New York, appeared to him so worded as to lead the citizens at large to believe that the spoliations on our commerce were drawing to a fortunate close. This was not, he conceived, warranted by the existing state of things. Indeed, he protested, he knew no more of the actual situation of the treaty negotiation than the remotest farmer in the Union; could he then declare, he asked, that it was drawing to a happy close? Indeed, from the latest information received, far from our situation having been ameliorated by the negotiations of our Executive, he conceived our trade as much in jeopardy as ever.

As to the internal prosperity, he owned there was some cause for congratulation; but even in this his conviction could not carry him as far as the clauses in the Address seemed to go. In a pecuniary point of view, the country had made a visible progress; but he saw in it no basis of permanent prosperity. There were no circumstances attendant on it that gave a fair hope that the prosperity would be permanent. The chief cause of our temporary pecuniary prosperity is the war in Europe, which occasions the high prices our produce at present commands; when that is terminated, those advantageous prices will of course fall.

Mr. B. now came to speak of the second objectionable clause. He regretted whenever a question was brought forward that involved personality in the most indirect manner. He wished always to speak to subjects unconnected with men; but the wording of the clause was unfortunately such as to render allusion to official character unavoidable. He objected principally to the epithet *firm*, introduced into the latter clause, as applied to the Supreme Executive. Why *firmness*? he asked. To what? or to whom? Is it the *manly* demand of restitution made of Great Britain for her accumulated injuries that called forth the praise? for his own part he could discern no firmness there. Is it for the *undaunted* and *energetic* countenance of the cause of France, in her struggle for freeing herself from despotic shackles? He saw no *firmness* displayed on that occasion. Where then is it to be found? Was it in the opposition to the minority of the Senate and the general voice of the people against the treaty that that *firmness* was displayed? If it is that *firmness* in opposing the will of the people, which is intended to be extolled, the vote shall never, said Mr. B., leave the walls of the Senate with *my* approbation.

Mr. READ said, he was not in the habit of giving a silent vote, and, as many of his constituents were adverse to the instrument to which he had given his assent, he thought this a fit opportunity to say something on the subject.

Gentlemen on the other side had spoken of their feelings; did they suppose, he asked, that those who were in the majority had not feelings? Also, gentlemen declared they would not recede from their former determinations; did they expect that the majority would recede?

He had, he said, taken the question of the treaty in all its aspects, and considered it maturely, and though he lamented that he differed in opinion on that subject with his colleague, and a portion of the people of his State, he nevertheless remained convinced that the ratification of it was advisable: it rescued the country from war and its desolating horrors.

After reading that part of the PRESIDENT'S Speech to which the clauses objected to were an echo, he asked, whether any one could say, under the conviction that the measures of Government had prevented a war, that our view of foreign relations was not consolatory? On all hands, he observed, the idea of a war was deprecated; both sides of the House wished to avoid it; then is it not a consolatory reflection to all that its horrors have been averted? Is there a man who does not believe that, had the treaty not been ratified, we should have had war? If the country had been plunged into a war, would it be as flourishing as it is?

The trifling vexations our commerce has sustained are not to compare to the evils of hostility. What good end could have been answered by a war? The Address, in the part under discussion, says no more than that we rejoice at the prospect that the blessings of peace will be preserved; and does not this expectation exist?

Great Britain, in the plenitude of her power, had availed herself of the right she had under the law of nations, of seizing enemies' goods in neutral vessels; but has allowed compensation to some Americans, and a system of mild measures on our part is the best security for further.

But the Senate and the PRESIDENT are the constitutional treaty-making powers. If mistaken in their decisions, they cannot be accused of having been misled by sudden and immatured impressions. He should conceive himself unfit to fill a chair in the Senate, if he suffered himself to be carried away by such impressions. The people could not, in their town meetings, deprived of proper information, possibly form an opinion that deserved weight, and it was the duty of the Executive not to be shaken in their determination by tumultuous proceedings from without. Upon this ground he much approved the PRESIDENT'S conduct, and thought it entitled to the epithet, *firm*.

In local questions, affecting none but the interest of his constituents, he should attend to their voice, but on great national points, he did not consider himself as a Representative from South Carolina, but as a Senator for the Union. In questions of this last kind, even if the wishes of his

constituents were unequivocally made known to him, he should not conceive himself bound to sacrifice his opinions to theirs. He viewed the PRESIDENT as standing in this situation, and though he might hear the opinions of the people from every part of the United States, he should not sacrifice to them his own conviction; in this line of conduct he has shown his firmness, and deserves to be complimented for it by the Senate.

Mr. ELLSWORTH was opposed to striking out. The clause records a fact, and if struck out, the Senate deny it. The PRESIDENT asserts it; in the Address reported, the Senate assent; a motion is made to strike out; is it because the truth of it is doubted? It cannot be called an unimportant fact, therefore its omission will not be imputed to oversight. The latter part of the clause expresses our gratitude to Almighty God. Will the Senate refuse to make an acknowledgment of that kind? Do they not admit that He is the source of all good, and can they refuse to acknowledge it? And if so, is it possible that, in admitting the fact and expressing the sentiment, which so naturally flows from it, the Senate should wound the feelings of any friend to his country?

The truth of the fact is as clear as that the sun now shines; the sentiment is unexceptionable; he, therefore, recommended to his friend the mover, not to insist upon striking out merely, but that he should vary the motion, and propose a substitute.

To bring the mind to the point with precision, it was necessary to attend to the wording of the clause. He read it. As to the signification of that part which relates to our foreign concerns, he did not consider it as hypothetical, but a positive declaration of a conviction that their situation is satisfactory, and on that ground he wished to meet the question.

The clause objected to expresses an expectation that the causes of external disagreement which have unhappily existed, will be peaceably done away. He said he had that expectation; many have it not. Those who have it not will negative the clause; those who have it will vote in its favor; the result will be the sense of a majority; the Senate could not be expected, more than on other occasions, to be unanimous; if the declarations contained in those clauses are supported, they will be considered as the sense of the majority of the Senate; others may dissent; but because unanimity could not be obtained, it was no reason why the majority should give a virtual negative to the declaration which they conceived founded on truth.

Mr. TAZEWELL said, the discussion had taken a turn different from that which he expected when he heard the motion. He understood the motion at the time it was made, and still so understood it, as not intending to question the propriety of any thing which was contained in the PRESIDENT'S communication to both Houses of Congress. But from what had been said, (by Mr. READ, of South Carolina,) that part of the answer to the PRESIDENT'S communication which had given rise to the motion, was intended to have a further operation than he originally believed. He asked what had given rise to the practice of returning an answer of any kind to the PRESIDENT'S communication to Congress in the form of an Address? There was nothing, he said, in the constitution, or in any of the fundamental rules of the Federal Government, which required that ceremony from either branch of the Congress. The practice was but an imitation of the ceremonies used upon like occasions in other countries, and was neither required by the constitution, nor authorized by the principles upon which our Government was erected. But having obtained, he did not intend now to disturb it. To allow the utmost latitude to the principle which had begotten the practice, it could only tolerate the ceremony as a compliment to the Chief Magistrate. It could not be permitted to arrest all opinions previous to regular discussions, nor to operate as a means of pledging members to the pursuit of a particular course, which subsequent and more full inquiries might show to be extremely improper. Every answer, therefore, to the PRESIDENT'S communication ought to be drawn in terms extremely general, neither seducing the PRESIDENT into a belief that this House would pursue a general recommendation into points not at first contemplated by them, nor pledge themselves to the world that that state of things was just, which time had not permitted them thoroughly to examine. The clauses now under consideration had, at least in one instance, deviated from this principle. They declare to the world, "That the interesting prospect of our affairs with regard to the foreign powers, between whom and the United States controversies have subsisted, is not more satisfactory than the review of our internal situation." The communications from the PRESIDENT have not uttered so bold a sentiment, nor is there any thing in those communications that justifies the assertion of this fact. Placing the treaty with Great Britain out of the question, which seems to have been the uppermost consideration when this sentence was penned, the seizure of our provision vessels since the signature of that treaty, and the unwarrantable imprisonment of our seamen, are acts which cloud our prosperity and happiness. The minds of the Americans must be brought to consider these things as trivial incidents in our political affairs, before the sentence under consideration can be approved. He said he must, therefore, vote for the motion to strike out the two clauses of the answer, in order that some more fit expressions might then be introduced to succeed them. He hoped the answer might be couched in terms just and delicate towards the PRESIDENT, without wounding the feelings of any Senator; and he believed both might be done without any difficulty, after the two clauses were expunged.

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After some further observations from MESSRS. MASON, BUTLER, and BLOODWORTH, in which the latter expressed the opinion that he did conceive the terms of our peace with Great Britain consistent with the dignity and honor of the United States, the question was put, and decided for striking out—ayes 8, noes 14.

On a further attempt to amend one of the clauses some conversation took place more remarkable for ingenuity than interesting for solidity, being chiefly a debate upon words. The Senate divided on it—7 to 15.

On the question, of agreeing to the Address, it was carried—14 to 8, as follows:

YEAS.—Messrs. Bingham, Cabot, Ellsworth, Foster, Frelinghuysen, King, Latimer, Livermore, Marshall, Paine, Read, Ross, Strong, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Butler, Langdon, Martin, Mason, Robinson, and Tazewell.

Ordered, That the committee who prepared the Address wait on the PRESIDENT OF THE UNITED STATES, and desire him to acquaint the Senate at what time and place it will be most convenient for him that it should be presented.

Mr. KING reported, from the committee, that they had waited on the PRESIDENT OF THE UNITED STATES, and that he would receive the Address of the Senate to-morrow at 12 o'clock. Whereupon, resolved, that the Senate will, to-morrow at 12 o'clock, wait on the PRESIDENT OF THE UNITED STATES accordingly.

SATURDAY, December 12.

Agreeably to the resolution of yesterday, the Senate waited on the PRESIDENT OF THE UNITED STATES, and the VICE PRESIDENT, in their name, presented the Address then agreed to.

To which the PRESIDENT OF THE UNITED STATES was pleased to make the following reply:

GENTLEMEN: With real pleasure I receive your Address, recognizing the prosperous situation of our public affairs, and giving assurances of your careful attention to the objects demanding Legislative consideration; and that, with a true zeal for the public welfare, you will cheerfully co-operate in every measure which shall appear to you best calculated to promote the same.

But I derive peculiar satisfaction from your concurrence with me in the expressions of gratitude to Almighty God, which a review of the auspicious circumstances that distinguish our happy country have excited; and I trust the sincerity of our acknowledgments will be evinced by a union of efforts to establish and preserve its peace, freedom, and prosperity.

G. WASHINGTON.

The Senate returned to their own Chamber, and soon after adjourned.

MONDAY, December 14.

JOHN RUTHERFORD, from New Jersey, attended.

TUESDAY, December 15.

AARON BURR, from New York, and JOHN VINING, from Delaware, severally attended.

WEDNESDAY, December 16.

WILLIAM BRADFORD, from Rhode Island, attended.

FRIDAY, December 18.

GEORGE WALTON, appointed a Senator of the United States by the Executive of the State of Georgia, in place of JAMES JACKSON, resigned, produced his credentials, and, the oath required by law being administered, he took his seat in the Senate.

MONDAY, January 4.

The following Message was received from the PRESIDENT OF THE UNITED STATES, by Mr. Dandridge, his Secretary. Captain Sedam, of the first Sub-legion, bearing the colors mentioned in the Message:

Gentlemen of the Senate, and of the House of Representatives:

A Letter from the Minister Plenipotentiary of the French Republic, received on the 22d of the last month, covered an Address, dated the 21st of October, 1794, from the Committee of Public Safety to the Representatives of the United States in Congress; and also informed me that he was instructed by the Committee to present to the United States the Colors of France. I therefore proposed to receive them last Friday, the first day of the new year, a day of general joy and congratulation. On that day the Minister of the French Republic delivered the Colors with an Address, to which I returned an answer. By the latter, the Senate will see that I have informed the Minister that the Colors will be deposited with the archives of the United States. But it seemed to me proper previously to exhibit to the two Houses of Congress these evidences of the continued friendship of the French Republic, together with the sentiments expressed by me on the occasion in behalf of the United States. They are herewith communicated.

UNITED STATES, *January 4*, 1796.

The Message and papers were read; after which the colors were withdrawn, and the Message and papers ordered to lie for consideration.

TUESDAY, January 5.

Presentation of French Flag.

A motion was made by Mr. TAZEWELL, seconded by Mr. LANGDON, that it be—

"Resolved by the Senate of the United States in Congress assembled, That the President be informed the Senate have received, with the purest pleasure, the evidences of the continued friendship of the French Republic, which accompanied his Message of yesterday.

"That he be requested to assure that magnanimous nation, through the proper organ, that the Senate unite with him in all the feelings expressed to the Minister of France, on the presentation of the Colors of his nation, and devoutly wish that this symbol of the triumphs and enfranchisement of that great people, given as a pledge of faithful friendship, and placed among the evidences and memorials of the freedom and independence of the United States, may contribute to cherish and perpetuate the sincere affection by which the two Republics are so happily united."

Mr. ELLSWORTH moved that these resolutions should lie on the table until to-morrow, that members should have an opportunity of perusing attentively the papers accompanying the Message of the PRESIDENT. [Pg 598]

Mr. BUTLER said, that he should very reluctantly, in general cases, oppose a motion of the kind now made; but, on the present occasion, he could not give it his assent. If the resolutions were intricate, or by the question the judgment of the Senate could be committed, he should accord in the wish expressed by the mover; but, as the resolutions go merely to an expression of the sentiments of the House respecting the French Republic, their feelings and judgment must be as ripe for such expression now as they can be at any future period. It was not like a law that was to affect the Senate hereafter; it had nothing to do with the internal situation of the country or municipal regulations; but they only went to express a sympathetic feeling for the French Republic, and a wish to see them enjoy every happiness under the form of government they have lately chosen.

This cannot commit the Senate, he conceived. If the motion for postponement prevailed, it might convey a distrust of the sense of the Senate respecting that Republic. He felt a lively sense towards that nation on account of the glorious cause in which they had embarked; of their gallantry and spirit in their arduous struggle to place men upon a footing they were entitled to, raising them from a state of the most abject and debasing slavery.

He declared himself always ready to express his feelings on the magnanimity of such a people. If other members of the Senate possessed not those feelings, they could now give the resolutions their negative. He did not wish for a postponement, as it might be viewed as in a manner slighting the Republic.

Mr. ELLSWORTH believed there was no real difference of opinion on the subject. All felt an ardent friendship for the French; but one mode of expressing it might be more proper than another. Besides, it might be a doubt whether an expression of the feelings of the Senate on this occasion was necessary—the Representatives had already spoken. He was not, as the member who spoke before him, ready on all occasions to express his sentiments; but only on fit occasions, and then he wished to do it in the most proper manner. The operations of his mind, he confessed, were slow. He wished more time for the perusal of the documents laid before the Senate by the President.

Mr. LIVERMORE was also in favor of postponement.

Mr. LANGDON observed, that since members did so earnestly require time, he should not urge an immediate decision; he should no longer object to a postponement till to-morrow. He was happy to hear gentlemen say there was no difference of sentiment upon the present occasion; he hoped that, upon subjects relative to France, this might always be the case, and that the Senate would not confine itself to empty professions of attachment, but would evince it by substantial deeds.

Mr. TAZEWELL did not wish to press the business to an immediate decision, since members desired time. He confessed he did not expect a motion for a postponement would be made, as the resolutions he offered contained nothing more than the PRESIDENT had expressed on the occasion. However, if it was wished that the Senate should express their sentiments in still stronger language than the PRESIDENT, he should not object.

The opposition to the motion for postponement being withdrawn, it was agreed to.

WEDNESDAY, January 6.

The Senate resumed the consideration of the motion made yesterday on the Message of the

PRESIDENT OF THE UNITED STATES, of the 4th instant, and the presentation of the flag of the French Republic; and,

On motion of Mr. CABOT, seconded by Mr. ELLSWORTH, to expunge these words from the second paragraph of the motion: "that he be requested to assure that magnanimous nation, through the proper organ"—

Mr. STRONG was in favor of striking out. He observed that the communication made to the Senate by the PRESIDENT consisted of two distinct parts, the letter from the French Committee of Safety and the address accompanying the flag. In the letter not one word was said about the flag; it was written in October, '94, and there was probably then no idea of sending one. The letter and the flag only happened to be delivered at the same time; there was no other connection between them. The letter, he said, was in answer to one from this country, and was meant to close a complimentary correspondence. It required no answer; it would puzzle any one to make an answer to it. An attempt was made by the resolution offered, which proved it impossible to answer it. The resolution forsook the contents of the letter, which, he repeated, closed the correspondence. The United States had presented to the National Convention our flag; or rather our Minister (and he was unwilling to question the propriety of his so doing) presented it on behalf of this Government; a French flag was sent in return; then the propriety of an answer on this ground became the sole question. This flag had been delivered to the PRESIDENT, who made an answer on the presentation of it—a complete and perfect answer. He communicated his answer to the Senate. Then was it proper, he asked, that the Executive should be requested to make a second answer, and nearly in the same words? The PRESIDENT, in his answer, expressly says, that he speaks not only his own sentiments, but those of the citizens at large, including, no doubt, the Senate. In this situation of the transaction nothing can be proper to be done by the Senate but to express their opinion of the propriety of his answer; and this would be accomplished by adopting the substance of the resolution, after striking out the words proposed.

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There could be (he concluded by observing) no difference of feeling in the Senate on the occasion. The only difference was in the mode of expressing it, and he inclined, for the reasons given, to that which was the object of the motion for striking out.

Mr. ELLSWORTH was also of opinion that the subject divided itself into two distinct parts. The first object was an expression of the pleasure of the Senate at this new evidence of the friendship of France, and joining with the PRESIDENT in all the feelings he had expressed on the occasion. This would be effectually done by entering on the journals the resolution as proposed to be amended. The PRESIDENT received the flag and answered, then communicated the transaction to the Senate.

It appeared, by the papers communicated, he contended, that there was no connection between the letter of the Committee of Public Safety and the flag. He would not say that both were not very important transactions, but they were disconnected. The letter was written much antecedent to the sending of the flag—it was written in '94, and was intended to close a correspondence. The correspondence began by an address from the Convention, while Robespierre was an active member of it. This address was to Congress: the PRESIDENT transmitted it to each House, and they sent it back to the Executive, requesting he would answer it, with expressions of the friendly dispositions of the United States towards France. The resolutions of the Houses and the letter of the Executive were transmitted through Mr. Monroe. The letter now in the view of the Senate is an answer to that, and closes the complimentary correspondence, if it ever can close. Propriety did not require another word from the Senate; indeed, decency did not admit it, for it could not be contended that the correspondence should be kept up *ad infinitum*.

As to the flag, how can it require an answer from the Senate? It was not presented to them by the French Minister, but to the PRESIDENT, who had answered, not only for himself, but for the citizens of the United States; and he imagined it would not be contended that the members of the Senate were not citizens.

It is not advanced, he said, that the PRESIDENT did not express the sentiments of the Senate in the answer to the Minister; on the contrary, his words are borrowed in this resolution. But it is wished he should answer again in the same strain, and this was, in his opinion, neither necessary nor even proper.

Mr. ELLSWORTH next combated the resolution as originally offered as unconstitutional. Nothing, he contended, could be found in the constitution to authorize either branch of the Legislature to keep up any kind of correspondence with a foreign nation. To Congress were given the powers of legislation and the right of declaring war. If authority beyond this is assumed, however trifling the encroachment at first, where will it stop? It might be said, that this was a mere matter of ceremony and form, and, therefore, could do no harm. A correspondence with foreign nations was a business of difficulty and delicacy—the peace and tranquillity of a country may hinge on it. Shall the Senate, because they may think it in one case trifling, or conceive the power ought to be placed in them, assume it? If it was not specially delegated by the constitution, the Senate might, perhaps, but it is positively placed in the hands of the Executive. The people who sent us here, (said Mr. E.) placed their confidence in the PRESIDENT in matters of this nature, and it does not belong to the Senate to assume it.

So forcibly, he said, were both Houses impressed with the impropriety of the Legislature corresponding with any foreign power, that, when it was announced to them that the unfortunate Louis XVI. had accepted the constitution of '89, the communication was sent back to the PRESIDENT, with a request that he would answer it on their behalf, with congratulations and best wishes.

But even this, he considered, they had not strictly a right to do. It was only saving appearances. Neither branch had a right to dictate to the PRESIDENT what he should answer. The constitution left the whole business in his breast. It was wrong to place him in the dilemma of disobliging the Legislature or sacrificing his own discretion. But if such practices had inadvertently been followed, it was full time to secede from them.

He recapitulated, in a few words, and concluded, by observing, that should the motion for striking out prevail, members would still be in order to amend the resolution, if they chose, by adding to the warmth of expression it already contained.

Mr. BUTLER considered the situation into which the member up before him seemed desirous that the Senate should be placed, as highly degrading; they were to be deprived of the right of expressing their own sentiments, they were to have no voice, no will, no opinion of their own, but such as it would please the Executive to express for them.

The only fault he found in the resolve was, that it was not full and expressive enough. He observed, that it appeared the studied desire of one part of the House to cut off all communication between the people of the United States and the people of the French Republic. Their representatives are now told, that they can have no will, no voice, but through the Executive. Their constituents never intended that they should be placed in this ridiculous point of view, and he declared he never could sit under it silently.

He turned to the journals of the Senate to show that in the proceedings in the case of the answer to the communication from Robespierre and others, there was a considerable division in the Senate, and the mode adopted was by a majority only; but did not meet the sense of the Senate very generally.

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Upon the presentation of the flag to the PRESIDENT, the Minister particularly observes, that it is for the people of the United States. The PRESIDENT in his answer, speaks of himself and his own feelings. He read part of his answer—"Born in a land of Liberty," &c. He does intimate, he observed, in a cursory manner, that he trusts he speaks the sentiments of his fellow-citizens: but does not attempt to make any professions of either branch of the Legislature, thinking, no doubt, that when the subject came before them, they would speak for themselves.

Suppose, he asked, that the expression of friendship contained in the PRESIDENT'S Address on the occasion, fell short of the feelings of the Senate, would they, he asked, adopt the expressions for their own? For his own part, he declared, he could not leave it to others to speak his sentiments, but chose to reserve that right to himself. Even if no communication had been received from the French Republic, no token of attachment, the present period in their affairs, the establishment of a new government, would warrant an address of congratulation. There could be no impropriety in it, unless there were objections to drawing nigher to the Republic. Besides, the address of the Committee of Safety was certainly intended for the Legislature, being directed to the Representatives, unless it could be denied that the Senate were Representatives of the people of the United States.

There was nothing in the constitution, he contended, that could prevent the Legislature from expressing their sentiments: it was not an Executive act, but a mere complimentary answer to a complimentary presentation. If this right was denied them, where would the principle stop? The Senate might be made in time mere automata. It was as proper, he contended, for the Senate to express an opinion on the occasion as for the PRESIDENT or the House of Representatives.

He concluded by observing, that the resolution as offered, said as little as could be said on the occasion, and he never could consent to the striking out, which would cause it to be entered only on the journal, and would be an indirect slight of the French Republic, as the sentiments of the Senate would not be communicated to them.

Mr. TAZEWELL was happy to find no difference in the Senate as to the substance of the resolution. As the form, however, had been made matter of debate, some importance had been given to it which its intrinsic consequence perhaps did not deserve, and it became the Senate to weigh well their decision. It certainly, he said, could not be unknown to the Senate, that unfavorable impressions have travelled abroad respecting their feelings and sentiments towards the French, and he suggested to their consideration whether if the present motion for striking out prevailed, even in the face of their own precedents, it would not give countenance to the surmise. On a former occasion, he stated, a communication was made to the Senate through the PRESIDENT, informing that the King of France had accepted the Crown under the constitution of 1789. The Senate were not content on that occasion with barely approving what the PRESIDENT had done, but requested the PRESIDENT to say in their behalf, that they were happy at the event, and to assure the king of their good will for the prosperity of the French nation and his own. What difference, he asked, was there on that occasion and the present, when the French just adopted and organized a new government? Will it not be said, he asked, that the robes of royalty have charms with the Senate, which the humble habiliments of Democracy do not possess in their eyes, if on the present occasion they should deviate from a precedent established before royalty was abolished? This would be naturally implied, and the Senate, he conceived, should avoid the imputation. There was no necessity pleaded in favor of striking out; if the motion was not insisted on, it would remove impressions which it was useful should be removed, and which he trusted would be removed.

He dwelt on the impropriety of the Senate's rejecting a form of proceeding in this case, not only sanctioned by their own precedent, but by the practice of both the PRESIDENT and Senate. Why, especially, he asked, should they give rise to invidious comparisons between themselves and the

other branch? He hoped the motion for striking out would not prevail.

Mr. ELLSWORTH conceived there existed a material difference between the present case and that cited by the member last up. The communication was then to Congress, now to the PRESIDENT, who had only given an account of the transaction to the Senate. He added, however, that the line of conduct pursued by the Senate on the former occasion did not meet his approbation; they expressed hopes which he never thought could be realized, and in the event it proved so; for before the sentiments of the Senate could cross the Atlantic, the unfortunate king and constitution were both over-thrown. This, he argued, should make the Senate wary in their proceedings in analogous cases. Upon the communication from Robespierre, Barrere, and others, the Senate were more cautious, they said nothing about the constitution, but only requested the PRESIDENT to express in their behalf the sentiments of friendship, &c., which the Senate entertained for France. The Senate gave the PRESIDENT a short text on that occasion; and he wrote according to his own discretion, and perhaps expressed more than the Senate would have said. If a short text was given, this objection occurred; if the Senate amplified, then they dictated improperly to the PRESIDENT what he should write.

The example of the House of Representatives had been mentioned; he conceived it was no rule of proceeding for the Senate. The fact was, that the resolve carried in that House was upon a very slight view indeed of the papers communicated. Indeed, it would appear upon the face of it, that it was penned before the papers were read. This was, in his opinion, no example for imitation; the Senate ought to proceed with their usual deliberation.

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It had been said that doubts had gone abroad, whether the Senate were friendly to France. Those doubts had been raised by writers among us, the same who also endeavor to convince the Americans that the friendship of France towards them was not cordial. This must appear unfounded from the proceeding now the object of debate, and the former suspicion must be removed by an insertion of the substance of the resolution now before the Senate on their journals.

Mr. TAZEWELL said a few words to show that there was no difference between the case he had already cited, the proceeding of the Senate, when they expressed their satisfaction at the manner in which the National Convention had honored the memory of BENJAMIN FRANKLIN, and the present case.

Mr. Ross differed. In the former instances, the PRESIDENT made the original communications to the Senate before he had answered them; now he has answered and only communicates an account of the transaction.

Mr. BURR was against striking out. The National Convention, he observed, might, when they received the answer to their first communication, have said, as is now said on the floor of the Senate, that the correspondence there ended, and that it was not necessary to make us a reply; but they acted differently, and he hoped the Senate would acknowledge the receipt of their pledge of friendship. Indeed he said, he could not see that any great harm would arise in the two branches of the Legislature interchanging even once a year a letter of friendship and good will with the Republic. It was objected that the present resolution was no answer to the letter. A few lines would make it so, and they might easily be added. The omission did not prove, as had been asserted by one member, that it was impossible to answer it. That it was not impossible was testified by the proceedings of the other branch. He did not intend to slight the dignity of the Senate, however, he said, by quoting the proceedings of the other House as a binding rule of proceeding for this; but their proceedings certainly proved the possibility of making an answer; and besides, there was full as much propriety in looking for precedents in their conduct, as in the proceedings of a British Parliament. Each, however, in their place might deserve weight, though not implicit reliance.

He advocated the rights of the Senate to answer for themselves, and the propriety of acknowledging the receipt of the Colors, which were not sent to the Executive exclusively.

He concluded by citing the Senate's own precedents in analogous cases, and he hoped that it would not be insisted that the practice of two or three successive years deserved to be laid to the charge of inadvertency.

After a few words more from MESSRS. STRONG, BURR, READ, and BUTLER, the yeas and nays were called upon striking out, which were taken and stood—yeas 16, nays 8, as follows:

YEAS.—MESSRS. Bingham, Bradford, Cabot, Ellsworth, Foster, Gunn, Latimer, Livermore, Marshall, Paine, Read, Ross, Rutherford, Strong, Trumbull, and Walton.

NAYS.—MESSRS. Bloodworth, Brown, Burr, Butler, Langdon, Martin, Robinson, and Tazewell.

Whereupon it was

Resolved, unanimously, that the PRESIDENT be informed the Senate have received, with the purest pleasure, the evidences of the continued friendship of the French Republic, which accompanied his Message of the 4th inst.

That the Senate unite with him in all the feelings expressed to the Minister of France on the presentation of the Colors of his nation, and devoutly wish that this symbol of the triumphs and enfranchisement of that great people, given as a pledge of faithful friendship, and placed among the evidences and memorials of the freedom and independence of the United States, may contribute to cherish and perpetuate the sincere affection by which the two Republics are so

happily united.

Ordered, That the Secretary lay this resolution before the PRESIDENT OF THE UNITED STATES.

MONDAY, May 9.

On motion, that a paper purporting to be the appointment of WILLIAM BLOUNT and WILLIAM COCKE, respectively, to seats in the Senate, should be read, it was agreed that the motion be postponed until to-morrow.

TUESDAY, May 10.

New State of Tennessee.

The Senate resumed the consideration of the report of the committee to whom was referred the Message of the PRESIDENT OF THE UNITED STATES, of the 8th of April last, respecting a new State south of the river Ohio; together with the motion for amendment, made on the 11th; and on the question to agree to the proposed amendment, it passed in the negative.

WEDNESDAY, May 23.

The Proposed State of Tennessee.

The Senate resumed the consideration, in paragraphs, of the bill laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof.

A letter, signed William Blount and William Cocke, was read, stating that they have been duly and legally elected Senators to represent the State of Tennessee in the Senate. [Pg 602]

On motion,

"That Mr. Blount and Mr. Cocke, who claim to be Senators of the United States, be received as spectators, and that chairs be provided for that purpose until the final decision of the Senate shall be given on the bill proposing to admit the South-western Territory into the Union:"

A motion was made to refer the consideration thereof to a committee; and it passed in the negative.

On motion to agree to the original motion, it passed in the affirmative—yeas 12, nays 11, as follows:

YEAS.—MESSRS. Bloodworth, Brown, Burr, Butler, Foster, Henry, Langdon, Martin, Potts, Robinson, Tattnell, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Gunn, Latimer, Livermore, Marshall, Read, Ross, Rutherford, Strong, and Trumbull.

After debate, the further consideration of the bill last mentioned was postponed until to-morrow.

A letter from RUFUS KING was read, stating that he had accepted the appointment of Minister Plenipotentiary at the Court of London, and resigning his seat in the Senate.

THURSDAY, May 26.

New State of Tennessee.

The bill laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof, was read the third time.

On motion, that the bill be amended, so that the State be called and known by the name of Tennessee, it passed in the negative.

And, after agreeing to sundry amendments, on motion, that the following be an additional section to the bill:

"*And be it further enacted*, That if on the returns by the Supervisor of the Revenue for the District of Tennessee, as directed by this act, it shall appear to the PRESIDENT OF THE UNITED STATES that the territory by this act laid out, and formed into a State, doth contain sixty thousand free inhabitants, that then it shall be lawful for the President, by his Proclamation, to declare the same; and that, in that event, and on their forming a constitution consistent with the ordinance of Congress of the thirteenth day of July, one thousand seven hundred and eighty-seven, the said State, by the name and style of 'The State of Tennessee,' shall be received and admitted into the Union as a new and entire member of the United States of America. And, until an enumeration shall be made, under the authority of Congress, for the purpose of apportioning Representatives, the said State of Tennessee shall be entitled to choose one Representative:"

A motion was made to amend this motion, by striking out the following words:

"And on their forming a constitution consistent with the ordinance of Congress of the thirteenth day of July, one thousand seven hundred and eighty-seven:"

It passed in the negative—yeas 11, nays 12, as follows:

YEAS.—MESSRS. Bloodworth, Brown, Burr, Butler, Henry, Langdon, Livermore, Martin, Robinson, Tattnall, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Foster, Gunn, Latimer, Marshall, Potts, Read, Ross, Rutherford, Strong, and Trumbull.

And, on the question to agree to the motion without amendment, it passed in the negative—yeas 10, nays 12, as follows:

YEAS.—MESSRS. Burr, Foster, Gunn, Henry, Latimer, Livermore, Martin, Potts, Tattnall, and Trumbull.

NAYS.—Messrs. Bingham, Bloodworth, Bradford, Brown, Langdon, Marshall, Read, Robinson, Ross, Rutherford, Strong, and Tazewell.

On the question, that the bill pass, it was determined in the affirmative—yeas 15, nays 8, as follows:

YEAS.—MESSRS. Bingham, Bradford, Brown, Foster, Gunn, Latimer, Martin, Potts, Read, Ross, Rutherford, Strong, Tattnall, Tazewell, and Trumbull.

NAYS.—Messrs. Bloodworth, Burr, Butler, Henry, Langdon, Livermore, Marshall, and Robinson.

So it was resolved, that this bill pass; that it be engrossed; and that the title thereof be "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof."

TUESDAY, May 31.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to alter the time of the next annual meeting of Congress;" in which they desire the concurrence of the Senate. They insist on their amendment, disagreed to by the Senate, to the bill, entitled "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for the enumeration of the inhabitants thereof;" ask a conference thereon, and have appointed managers at the same, on their part. They agree to all the amendments of the Senate to the bill, entitled, "An act regulating the grants of land appropriated for military services, and for the Society of United Brethren, for propagating the Gospel among the Heathen;" except to the last, to which they disagree.

New State of Tennessee.

The Senate proceeded to consider the resolution of the House of Representatives, desiring a conference on the bill, entitled, "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof."

On motion, to postpone the further consideration thereof until the next session of Congress, it passed in the negative—yeas 10, nays 13, as follows: [Pg 603]

YEAS.—MESSRS. Bingham, Bradford, Foster, Latimer, Potts, Read, Ross, Rutherford, Strong, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Burr, Butler, Gunn, Henry, Langdon, Livermore, Marshall, Martin, Robinson, Tattnall, and Tazewell.

Resolved, That the Senate agree to the proposed conference, and that MESSRS. BURR and STRONG be managers at the same on their part.

Mr. BURR, from the joint committee of conference on the bill, entitled "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof," reported, as the opinion of the majority of the joint committee, that the Senate recede from their disagreement to the amendment of the House of Representatives. Whereupon,

Resolved, That the Senate recede from their disagreement to the said amendment.

A motion was made by Mr. Burr, as follows:

"*Resolved*, That any enumeration of the inhabitants of any district under the temporary Government of the United States, for the purpose of furnishing evidence to Congress that such district contains the number which may entitle it to admission into the Union, shall have been taken and made, under a law to be made by the Legislature of the said district, of the free inhabitants only, and, in all other respects, pursuant to the provisions contained in the act, entitled "An act providing for the enumeration of the inhabitants of the United States:""

Which motion was read and ordered to lie until to-morrow for consideration.

WEDNESDAY EVENING, 5 o'clock, June 1.

On motion, by Mr. MARTIN, that it be

"*Resolved*, That the Honorable William Blount, and William Cocke, Esquires, who have produced credentials of being duly elected Senators for the State of Tennessee, be admitted to take the oath necessary for their qualification, and their seats accordingly;"

Ordered, That a paper, purporting to be the credentials of Mr. BLOUNT and Mr. COCKE, be read.

And, on the question to agree to the resolution, it passed in the negative—yeas 10, nays 11, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Gunn, Langdon, Martin, Robinson, Tattnell, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Foster, Latimer, Livermore, Marshall, Potts, Read, Ross, Rutherford, and Trumbull.

A message from the House of Representatives informed the Senate, that the House, having finished the business before them, are about to adjourn to the first Monday in December next.

Mr. BUTLER, from the joint committee appointed to wait on the PRESIDENT OF THE UNITED STATES, and notify him that, unless he had any further communications to make to them, they were ready to adjourn, reported, that the PRESIDENT OF THE UNITED STATES had no further communication to make, except the nomination of certain persons to execute the laws passed the present session.

After the consideration of the Executive business, the PRESIDENT adjourned the Senate to the first Monday in December next.

FOURTH CONGRESS.—FIRST SESSION.

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PROCEEDINGS AND DEBATES

IN

THE HOUSE OF REPRESENTATIVES.

MONDAY, December 7, 1795.

The following members appeared, and took their seats:

From New Hampshire.—ABIEL FOSTER, NICHOLAS GILMAN, JOHN S. SHERBURNE, and JEREMIAH SMITH.

From Massachusetts.—THEOPHILUS BRADBURY, HENRY DEARBORN, DWIGHT FOSTER, NATHANIEL FREEMAN, JR., BENJAMIN GOODHUE, GEORGE LEONARD, SAMUEL LYMAN, WILLIAM LYMAN, JOHN READ, THEODORE SEDGWICK, GEORGE THATCHER, JOSEPH B. VARNUM, and PELEG WADSWORTH.

From Rhode Island.—BENJAMIN BOURNE, and FRANCIS MALBONE.

From Connecticut.—JOSHUA COIT, CHAUNCEY GOODRICH, ROGER GRISWOLD, ZEPHANIAH SWIFT, and URIAH TRACY.

From Vermont.—ISRAEL SMITH.

From New York.—THEODORUS BAILEY, WILLIAM COOPER, EZEKIEL GILBERT, HENRY GLENN, JONATHAN N. HAVENS, EDWARD LIVINGSTON, JOHN E. VAN ALLEN, PHILIP VAN CORTLANDT, and JOHN WILLIAMS.

From New Jersey.—JONATHAN DAYTON, AARON KITCHELL, ISAAC SMITH, and MARK THOMPSON.

From Pennsylvania.—DAVID BAIRD, ALBERT GALLATIN, DANIEL HEISTER, JOHN WILKES KITTERA, SAMUEL MACLAY, FREDERICK AUGUSTUS MUHLENBERG, SAMUEL SITGREAVES, JOHN SWANWICK, and RICHARD THOMAS.

From Delaware.—JOHN PATTEN.

From Maryland.—GABRIEL CHRISTIE, GEORGE DENT, GABRIEL DUVALL, WILLIAM HINDMAN, and WILLIAM VANS MURRAY.

From Virginia.—SAMUEL J. CABELL, JOHN CLOPTON, ISAAC COLES, WILLIAM B. GILES, GEORGE HANCOCK, CARTER B. HARRISON, JOHN HEATH, GEORGE JACKSON, JAMES MADISON, ANDREW MOORE, JOSIAH PARKER, ROBERT RUTHERFORD, and ABRAHAM VENABLE.

From North Carolina.—THOMAS BLOUNT, NATHAN BRYAN, DEMPSEY BURGESS, JESSE FRANKLIN, WILLIAM B. GROVE, JAMES HOLLAND, MATTHEW LOCKE, NATHANIEL MACON, and ABSALOM TATOM.

From South Carolina.—SAMUEL EARLE, ROBERT GOODLOE HARPER, and WILLIAM SMITH.

From Georgia.—ABRAHAM BALDWIN.

And a quorum, consisting of a majority of the whole number being present,

The House proceeded by ballot, to the choice of a SPEAKER; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of JONATHAN DAYTON, one of the

Representatives for the State of New Jersey. Whereupon,

The said JONATHAN DAYTON was conducted to the chair, from whence he made his acknowledgments to the House, as follows:

GENTLEMEN: It is with real diffidence that I undertake the execution of the duties which you have done me the honor to assign to me.

In discharging them to the best of my abilities, I anticipate, on your part, a liberal and indulgent temper towards those decisions which may be required from the Chair, and flatter myself that I shall experience, upon all occasions, your co-operation and support.

The House proceeded, in the same manner, to the appointment of a Clerk; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of JOHN BECKLEY.

The oath to support the Constitution of the United States, as prescribed by the act, entitled "An act to regulate the time and manner of administering certain oaths," was then administered by ISAAC SMITH, one of the Representatives from the State of New Jersey, to the SPEAKER, and then by Mr. SPEAKER to all the members present.

The same oath, together with the oath of office prescribed by the said recited act, were also administered by Mr. SPEAKER to the Clerk.

A message was received from the Senate, informing the House that a quorum of members of that body is assembled, and the VICE PRESIDENT being absent, they have proceeded to the choice of a PRESIDENT *pro tempore*, and that HENRY TAZEWELL has been duly elected.

Ordered, That a message be sent to the Senate to inform that body that a quorum of this House is assembled, and have elected JONATHAN DAYTON their SPEAKER; and that the Clerk of this House do go with the message.

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Another message from the Senate was received, informing this House that they have appointed a committee on their part, to act jointly with such committee as may be appointed by this House, to wait on the PRESIDENT OF THE UNITED STATES, to inform him that a quorum of the two Houses is assembled, and ready to receive any communication he may think proper to make to them.

Ordered, That Mr. MADISON, Mr. SEDGWICK, and Mr. SITGREAVES, be appointed a committee on the part of this House, for the purpose expressed in the message of the Senate.

Petitions from sundry persons, praying to be appointed to the offices of Sergeant-at-Arms and Doorkeeper, were presented to the House and read: Whereupon,

The House proceeded, by ballot, to the choice of a Sergeant-at-Arms, Doorkeeper, and Assistant Doorkeeper; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of JOSEPH WHEATON, as Sergeant-at-Arms, THOMAS CLAXTON, as Doorkeeper, and THOMAS DUNN, as Assistant Doorkeeper.

Ordered, That the said JOSEPH WHEATON, THOMAS CLAXTON, and THOMAS DUNN, do severally give their attendance accordingly.

Mr. MADISON, from the joint committee appointed to wait on the PRESIDENT OF THE UNITED STATES, and notify him that a quorum of the two Houses is assembled, and ready to receive any communication he may think proper to make to them, reported that the committee had, according to order, performed that service, and that the PRESIDENT signified to them that he would make a communication to both Houses of Congress to-morrow, at 12 o'clock, in the Representatives' Chamber.

TUESDAY, December 8.

Several other members, to wit: from Maryland, SAMUEL SMITH; from Virginia, RICHARD BRENT; and from Georgia, JOHN MILLEDGE, appeared, produced their credentials, and took their seats in the House; the oath to support the Constitution of the United States being first administered to them by Mr. SPEAKER, according to law.

Ordered, That a message be sent to the Senate to inform them that this House is now ready to attend them in receiving the communication from the PRESIDENT OF THE UNITED STATES, agreeably to his notification to both Houses yesterday; and that the Clerk of this House do go with the said message.

The Clerk accordingly went with the said message; and, being returned,

The Senate attended and took seats in the House; when, both Houses being assembled, the PRESIDENT OF THE UNITED STATES came into the Representatives' Chamber, and delivered his Speech to the two Houses. [For a copy of this Speech, see the Proceedings of the Senate.]

The PRESIDENT OF THE UNITED STATES then withdrew, and the two Houses separated.

Ordered, That the Speech of the PRESIDENT OF THE UNITED STATES to both Houses be committed to a Committee of the whole House to-morrow.

WEDNESDAY, December 9.

JAMES HILLHOUSE, from Connecticut, appeared, produced his credentials, was qualified, and took his seat.

Address to the President.

The House, according to the order of the day, resolved itself into a Committee of the Whole on the Speech of the PRESIDENT OF THE UNITED STATES to both Houses of Congress, Mr. MUHLENBERG in the chair; when, the Speech being read,

Mr. VANS MURRAY moved the following resolution:

"Resolved, That it is the opinion of the committee, that a respectful Address ought to be presented by the House of Representatives to the PRESIDENT OF THE UNITED STATES, in answer to his Speech to both Houses of Congress, at the commencement of this session, containing assurances that this House will take into consideration the various and important matters recommended to their attention:"

Mr. SEDGWICK seconded the motion.

Mr. PARKER offered an amendment, which was seconded by Mr. MACON.

The substance of this amendment was, to strike out all that part of the resolution which goes before the word *assurances*; in place of which, Mr. PARKER proposed to appoint a committee, who should personally wait on the PRESIDENT, and assure him of the attention of the House, &c., and concluding as above. Mr. P. had the highest respect for the PRESIDENT, but he had always disapproved of this practice of making out Addresses in answer to these Speeches, and of the House leaving their business to go in a body to present them. Last session, the framing of this Address had cost very long debates, and produced very great irritation. Some of the most disagreeable things that happened during the session occurred in these debates. He wished unanimity and the despatch of business, and so, could not consent that any Address should be drawn up, as he preferred ending the affair at once by sending a committee with a verbal answer.

Mr. MURRAY replied, that the practice of drawing up such an Address was coeval with the constitution. It was consistent with good sense; and he did not see that any argument had been employed by the gentleman who spoke last against it. It was true that the House might send a verbal answer, and it was likewise true that the PRESIDENT might have sent them his Speech by his Secretary, without coming near them at all. He had come to Congress, and Mr. M. could perceive no impropriety in Congress returning the compliment by waiting on him.

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The committee divided on the amendment proposed by Mr. PARKER. Eighteen members rose in support of it: so it was lost. The committee then agreed to the resolution as offered by Mr. MURRAY. They rose, and the Chairman reported progress. The resolution was agreed to by the House. The next question was, of how many members the select committee should consist that were to be employed in framing a draft of the Address. The different numbers of five and three were proposed. A division took place on the former motion, when only thirty-one gentlemen rose in its favor. The motion for a committee of three members to report an Address was of course carried. Mr. MADISON, Mr. SEDGWICK, and Mr. SITGREAVES, were appointed.^[61]

It was then moved that two Chaplains should be named, as usual; which was agreed to.

THURSDAY, December 10.

FRANCIS PRESTON, from Virginia, appeared, was qualified, and took his seat.

FRIDAY, December 11.

Several other members, to wit: from Vermont, DANIEL BUCK; from New Jersey, THOMAS HENDERSON; from Pennsylvania, WILLIAM FINDLAY; and from Virginia, JOHN NICHOLAS, appeared, produced their credentials, were qualified, and took their seats.

MONDAY, December 14.

Two other members, to wit: from Pennsylvania, THOMAS HARTLEY, and from Virginia, ANTHONY NEW, appeared, produced their credentials, and took their seats.

Address to the President.

Mr. MADISON, from the select committee appointed to draft an Address in answer to the Speech of the PRESIDENT, made a report, which was read by the Clerk.

Mr. GILES moved that the usual number of copies of the Address should be printed for the use of the members.

TUESDAY, December 15.

Address to the President.

The House then resolved itself into a Committee of the Whole, Mr. MUHLENBERG in the chair, on the draft of an answer to the PRESIDENT'S Speech. The following sentence being under consideration:

"Contemplating that probably unequalled spectacle of national happiness, which

our country exhibits, to the interesting summary which you, sir, have been pleased to make, in justice to our own feelings, permit us to add the benefits which are derived from your presiding in our councils, resulting as well from the undiminished confidence of your fellow-citizens, as from your zealous and successful labors in their service."

Mr. PARKER moved to strike out the words "probably unequalled," and from the word "councils," to the end. He owned that the United States owe much to the PRESIDENT for his services on most occasions; but he had sometimes erred as other men. He could not for his own part subscribe to the expressions contained in the words which he had moved to strike out; his confidence in the PRESIDENT was diminished in consequence of a late transaction.

Mr. SHERBURNE called for a division of the question; that a question should first be put upon the words "probably unequalled," and afterwards upon striking out the latter part of the clause.

The question was accordingly put upon the words "probably unequalled," and they were struck out, 43 to 39.

Mr. MURRAY rose to make a few observations on the motion for striking out from the word "councils." As a Representative from Maryland, he said, he could not on this occasion be contented to give a silent vote. The Legislature of that State had not long since declared, that their confidence in the PRESIDENT remains undiminished; and though his single sentiment might be deemed unimportant when viewed in connection with the unanimous vote of his State, yet he was free to declare, that his confidence in the Chief Magistrate had experienced no diminution. The Legislature of Maryland, he observed, had foreseen that attempts would be made, and saw that unjustifiable attempts were actually making to diminish the confidence of the people in the PRESIDENT; they therefore resolved to give the sanction of their unanimous vote to his character, declaring that the PRESIDENT retained their confidence, and that he had merited it. Though not bound by the opinion of the Legislature of that State, he conceived it his duty not to give a silent vote on the present occasion.

Mr. GILES had hoped that nothing would have been brought before the House calculated to disturb the harmony that ought to subsist, by involving the discussion of delicate points. He had as much zeal as any man for the preservation of the PRESIDENT's fame and reputation; but he could not go the length of the expressions in the clause objected to. He could not agree to it in its present shape, because the assertion in it does not correspond with the fact. After this remark, there could not, he conceived, be any inconsistency in voting against the word and still feeling a regard for the PRESIDENT. He hoped his fame and reputation might never receive a stain, but pass unimpaired to posterity. He should vote for striking out.

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Mr. FREEMAN wished the motion might be so modified as to involve the striking out of the word "undiminished" only. Though he for himself, he observed, might say that his confidence in the PRESIDENT was undiminished, he could not utter the same sentiment in behalf of the people at large. In his opinion the confidence of a part (a very small one perhaps) of the people was diminished; though that of a majority might be unshaken.

Mr. HARPER said he had no difficulty in declaring, that his own confidence in the PRESIDENT was undiminished, but he could not go so far as to pledge himself that that of all the people was so. He never, he said, had been in the habit of worshiping the PRESIDENT. He considered him as a man, not infallible, but as a wise, honest, and faithful public servant, and he was prepared in all places and situations to declare this opinion; but he was not ready to pronounce concerning the opinion of the people of the United States. Some time hence they may become unanimous in their confidence; but he could not say that it was not diminished. He was ready to declare for himself but not for others. If called upon to declare whether a majority, whether four-fifths of the people retained their confidence in the PRESIDENT, he could declare it as his opinion in the affirmative; but the clause as it stands includes the whole, and he declared as it stood could not command his vote. He concluded by expressing his intention, when it would be in order, to introduce a modification of the clause, so as to express the undiminished confidence of the House in the PRESIDENT.

Mr. PARKER, in coincidence with the wish of Mr. FREEMAN, agreed to confine his motion to striking out the word "undiminished."

Mr. SEDGWICK doubted whether, after a division of the question, and a question being taken on the first part, a modification of the second part would be in order.

The Chairman declared it in order.

Mr. SEDGWICK viewed the present motion as even more objectionable than the first; it went directly to a denial of undiminished confidence for the PRESIDENT on the part of the House and the public. There was a time, he said, when no man could have supposed that the period would have arrived, that in the popular branch of the GOVERNMENT, the confidence of the people and their Representatives in that man could have been questioned.

Having been on the committee that framed the answer, and maturely considered the subject in every part, he would mention some of the observations that occurred to his mind particularly in favor of the part now objected to. Lest in the course of them his sensibility on this subject should betray him into some warmth of expression, he begged leave to premise that he wished to wound the feelings of no man.

It was proper, he said, to inquire into facts on which the expression now objected to was grounded. Is the confidence of the people in the services, and patriotism, and wisdom of the Chief

Magistrate diminished? His experience led him to say no; then, in the existing circumstances, is it not right for the Representatives to make the declaration to their constituents and the world? To suppose the people, who, at the present moment, enjoyed so many blessings under the PRESIDENT's administration, could feel their confidence in him impaired, would suppose a baseness of disposition unworthy of them and of the services he has rendered. Who could review the glorious conduct of our Chief during the conflict of the Revolution, his unwearied labors for the public good, his bravery, moderation, and humanity; who could observe him in his happy retirement, covered with glory, and accompanied by the blessings of his country; then forsaking his retirement, putting at hazard the mighty mass of his reputation, and be insensible of his services? Who could review the critical situation in which he preserved our peace and prosperity during a glorious administration of six years; who could review these things and not have his heart filled with gratitude and esteem? He expressed his belief, that, a late measure of the Executive was less the object of the dislike of some, than affording the opportunity for the vent of passions and feelings deep-rooted before.

As to the sense of the people of the PRESIDENT, he believed it unaltered, as to his immediate constituents, he was sure it was; and if so, it was the duty of the House to make the declaration to the world—a duty the House owed to themselves and their constituents, and the more binding from the nature of the Government the people had chosen.

Though the PRESIDENT had twice been called to the PRESIDENCY by the unanimous and unsolicited voice of his fellow-citizens; though in obedience to that voice he had made a sacrifice no other man would have made; though the only reward he has received for his services has been the approbation of his country, yet, nevertheless, licentious presses had lately teemed with infamous and scandalous abuse of him. Is this, he asked, consonant to the feelings of the House, and shall they not attempt to counteract its effects in the only constitutional manner? Shall they not declare their own and their constituents' confidence undiminished in that officer of the Government?

He has told the Legislature that he wishes to co-operate, to preserve unimpaired the blessings we enjoy. Does the House believe this? then is it wrong to express their confidence?

He believed, he said, that the efforts made to destroy the character of this first of men, instead of producing the mischief intended, would effect the contrary; and he also expressed his belief that the tide of his popularity at the present moment flowed with unusual strength.

It has been intimated, he observed, that sanctioning the vote of confidence, contemplated in the clause of the Address under consideration, would implicate an approbation of a late measure of the Executive, and would preclude the possibility of a free opinion when that measure might come under the consideration of the House. He declared, upon his honor, that he had no intention that the vote now contemplated should have that effect. He did not conceive, that the vote of undiminished confidence, which he now pressed, involved an approbation of all the measures of the Executive; it did not exclude the idea of fallibility; for what man is infallible? It is only implied, according to his conception, an approbation of the general tenor of the conduct of the Executive. When the House express their confidence in a public officer, they cannot mean that they believe him infallible, but only that his character, grounded on his general conduct, receives their approbation.

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If, when the Chief Magistrate is attacked in the manner the PRESIDENT has been attacked, he is left to be overwhelmed with unmerited abuse; what man with talents to be useful, a reputation to be injured, or feelings to be wounded—what man will hazard all to serve an ungrateful country? It will render the station of Chief Magistrate sought only by mercenaries. If confidence is denied to the Executive, it will only create vacancies in the high offices of Government to be filled by those harpies who prey upon the vitals of the State.

Another consideration, he said, should have an influence on this occasion. The fame of the Chief Magistrate's character has filled the whole world; the Americans are particularly distinguished as a people for their uniform attachment towards him. If, at this time of day, they indirectly declare their want of confidence in that man, they will justify the malignant predictions which have been uttered against our system of Government.

These considerations, he said, had weighed on his mind. If the motion for striking out prevailed, he declared it would distress him beyond any circumstance that had occurred to him during his public life, especially at this period, and under the present circumstances of affairs. He should consider the prevalence of this motion as tantamount to a declaration, that the House and their constituents did not feel their confidence in the PRESIDENT unimpaired.

Mr. LIVINGSTON lamented the situation which the drafted Address reduced the House to; but he could not give his assent to it as it stood; he should vote for striking out the word "undiminished," if a question on it should be urged. He did not conceive himself called to a seat in the House to express opinions, much less the opinions of others, but to make laws. He felt so much the delicacy of the situation which the wording of the Address had placed the House in, that he wished the dilemma of a vote might be avoided. The gentleman last up also lamented the situation, and justly observed, that striking out the word was tantamount to a declaration that the confidence reposed in the PRESIDENT was diminished. But he begged to remind him that it was the framers of the Address, and he was one of them, that involved the House in this disagreeable situation.

He declared himself so young in the parliamentary proceedings, as not exactly to know how to avoid a question on the present motion. He declared he was not prepared to say what the opinion

of his constituents concerning the PRESIDENT was. The confidence of many of them he knew was shaken; that of others was increased.

He moved, if in order, that the committee should rise, and the Address be recommitted.

This was carried, and MESSRS. FREEMAN and BALDWIN added to the committee.

Adjourned.

WEDNESDAY, December 16.

THOMAS CLAIBORNE, from Virginia, appeared, produced his credentials, was qualified, and took his seat.

Address to the President.

Mr. MADISON, from the committee to whom had been recommitted the draft of the Address in answer to the PRESIDENT'S Speech, brought in a report. The clause now added consisted of a modification of the clause objected to yesterday. On motion, the House went into a Committee of the Whole, Mr. MUHLENBERG in the chair. The amendment was unanimously agreed to. Mr. GILES then moved an amendment in the third line of the last paragraph. It was thus: for "the several interesting subjects which you recommended to our consideration will receive every degree of *it*," read of *attention*. The committee then rose, and the House agreed to the report.

It was then moved and agreed to, that the SPEAKER, attended by the House, do present the address, as amended, to the PRESIDENT, and that a committee should be appointed to wait on the PRESIDENT, to know where and when he will be ready to receive the Address of the House.

The same gentlemen, viz: Mr. MADISON, Mr. SEDGWICK, and Mr. SITGREAVES, who had been first appointed to draft the Address, were named for waiting on the PRESIDENT.

The committee that had been appointed to wait on the PRESIDENT, returned with notice that he would be ready to receive their Address, at his own house to-morrow at 12 o'clock.

The House then adjourned.

THURSDAY, December 17.

WADE HAMPTON, from South Carolina, and JOHN HATHORN, from New York, appeared, produced their credentials, were qualified, and took their seats.

Address to the President.

At twelve o'clock, the SPEAKER, attended by the House, waited upon the PRESIDENT OF THE UNITED STATES, and delivered to him the following Address, in answer to his Speech to both Houses at the opening of the session:

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SIR: As the Representatives of the people of the United States, we cannot but participate in the strongest sensibility to every blessing which they enjoy, and cheerfully join with you in profound gratitude to the Author of all Good for the numerous and extraordinary blessings which He has conferred on our favored country.

A final and formal termination of the distressing war which has ravaged our North-western frontier, will be an event which must afford satisfaction proportioned to the anxiety with which it has long been sought; and in the adjustment of the terms, we perceive the true policy of making them satisfactory to the Indians as well as to the United States, as the best basis of a durable tranquillity. The disposition of such of the Southern tribes as had also heretofore annoyed our frontier, is another prospect in our situation so important to the interest and happiness of the United States, that it is much to be lamented that any clouds should be thrown over it, more especially by excesses on the part of our own citizens.

While our population is advancing with a celerity which exceeds the most sanguine calculations—while every part of the United States displays indications of rapid and various improvement—while we are in the enjoyment of protection and security, by mild and wholesome laws, administered by Governments founded on the genuine principles of rational liberty, a secure foundation will be laid for accelerating, maturing, and establishing the prosperity of our country, if by treaty and amicable negotiation, all those causes of external discord which heretofore menaced our tranquillity shall be extinguished, on terms compatible with our national rights and honor, with our constitution and great commercial interests.

Among the various circumstances in our internal situation, none can be viewed with more satisfaction and exultation, than that the late scene of disorder and insurrection has been completely restored to the enjoyment of order and repose. Such a triumph of reason and of law is worthy of the free Government under which it happened, and was justly to be hoped from the enlightened and patriotic spirit which pervades and actuates the people of the United States.

In contemplating that spectacle of national happiness which our country exhibits,

and of which you, sir, have been pleased to make an interesting summary, permit us to acknowledge and declare the very great share which your zealous and faithful services have contributed to it, and to express the affectionate attachment which we feel for your character.

The several interesting subjects which you recommend to our consideration, will receive every degree of attention which is due to them. And whilst we feel the obligation of temperance and mutual indulgence in all our discussions, we trust and pray that the result to the happiness and welfare of our country may correspond with the pure affection we bear to it.

To the foregoing Address, the PRESIDENT was pleased to make the following reply:

GENTLEMEN: Coming as you do from all parts of the United States, I receive great satisfaction from the concurrence of your testimony in the justness of the interesting summary of our national happiness, which, as the result of my inquiries, I presented to your view. The sentiments we have mutually expressed of profound gratitude to the source of these numerous blessings—the Author of all Good—are pledges of our obligations to unite our sincere and zealous endeavors, as the instruments of Divine Providence, to preserve and perpetuate them.

Accept, gentlemen, my thanks for your declaration, that to my agency you ascribe the enjoyment of a great share of these benefits. So far as my services contribute to the happiness of my country, the acknowledgment of my fellow-citizens, and their affectionate attachment, will ever prove an abundant reward. G.
WASHINGTON.

TUESDAY, December 22.

NATHANIEL SMITH, from Connecticut, appeared, was qualified, and took his seat in the House.

THURSDAY, December 24.

CHRISTOPHER GREENUP, from Kentucky, appeared, was qualified, and took his seat.

MONDAY, December 28.

ANDREW GREGG, from Pennsylvania, appeared, produced his credentials, was qualified, and took his seat.

Robert Randall—Case of Bribery.

Mr. SMITH, of South Carolina, requested the attention of the House, for a moment, to a subject of a very delicate nature. He understood that a memorial was, this morning, to be presented from some individuals, applying for a grant of a large tract of Western territory, and as the House had referred all such applications to the committee for bringing in the Land Office Bill, of which he was Chairman; and, as it was probable that the memorial, about to be presented, would be disposed of in the same manner, he conceived it a duty incumbent upon him to disclose to the House, at this time, some circumstances which had come to his knowledge. Mr. SMITH then said that, on Tuesday evening last, a person of the name of Randall called on him, requesting an hour of confidential conversation. In the interview which took place, Randall made a communication to the following effect: He intended to present a memorial, on the Monday following, to Congress, for a grant of all the Western lands lying between Lakes Michigan, Erie, and Huron, to the amount of about twenty millions of acres. He, and his associates, some of whom were Canada merchants, who had great influence over the Indians, proposed to form a company, and to undertake the extinction of the Indian title, provided Congress would cede to them the fee-simple of the land. The property would be divided into forty shares, twenty-four of which should be reserved for such members of Congress as might favor the scheme, and might be inclined to come into it, after the adjournment of Congress, on the same terms as the original associates. Randall himself had the disposal of twelve shares, for members from the Southern States, and a colleague of his, a like number for those of the Eastern States. A certain number of shares were to be the property of those Canada merchants, who had an unbounded influence over the Indians occupying those lands, and who would, if this plan succeeded, pacify those Indians, who were the most hostile to the United States; that Gen. Wayne's treaty was a mere delusion, and that, without the co-operation of those influential persons, the United States would never have peace in that quarter. Mr. SMITH said that he communicated this overture, the next morning, to Mr. MURRAY, one of the members from Maryland, requesting his advice how to proceed on so delicate an occasion; that Mr. MURRAY recommended a disclosure to Mr. HENRY, of the Senate, and that, on a consultation with those gentlemen, it was resolved that it was Mr. SMITH's duty to make an immediate communication of the matter to the PRESIDENT, which was accordingly done.

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Mr. MURRAY rose next. He had received an application of the same nature, but having already heard of the proposal, "I was," said he, "in a state of preparation, and my virtue had not such a shock to encounter, as that of the gentleman last up." Mr. M. corroborated what Mr. SMITH had said as to the communication of this affair to himself. He added, that he had advised Mr. SMITH to give Randall another meeting, for the purpose of developing his schemes and expectations more fully. Mr. M. said that Mr. SMITH informed him on Wednesday morning; next day, in the morning,

he informed Mr. HENRY, of the Senate. Mr. SMITH, on that day, informed the PRESIDENT. On that day (Thursday,) Mr. RANDALL was introduced to him, and asked an interview at his lodging; he gave him an appointment, at five in the afternoon. Mr. HENRY and he were together when Randall came in. Randall talked about the policy of extinguishing the Indian title to the Peninsula formed by Lakes Erie, Huron, and Michigan, containing about eighteen or twenty millions of acres of very good land; and talked in terms that he might have employed from a pulpit. He did not make any corrupt overtures, till Mr. M. had carried him into his own apartment. There Randall opened his proposals, as had been before mentioned by Mr. SMITH, observing that if Congress would sell this land to him and his company, they intended to divide it into forty or forty-one shares. Twenty-four shares were to be appropriated to such members of Congress as chose to support the memorial, which would be presented on Monday. The members were to have their shares upon the same terms on which his company should obtain the land. The Company would give five hundred thousand, or perhaps a million of dollars: but on Mr. M.'s apparent acquiescence in his views, he said that the shares would be given to the members who advocated the measure, if they pleased to accept them, after they returned to their homes. Mr. M. started a difficulty about the embarrassment of land speculations, for which he, personally, had no genius; and then Randall instantly turned out the cat, and told him that if *he* did not choose the share of land, he should have cash in hand for his share. Mr. SMITH and Mr. MURRAY had resolved to disclose this to the House, lest some innocent member might offer a memorial and become liable to suspicion. Randall had hinted that larger proportions would be assigned to the more active members, and lesser ones for the small fish.

The SPEAKER then rose, and expressed a wish that some gentleman would move for an order to apprehend Randall. Upon this, Mr. SMITH again rose, and said that a warrant to this effect had yesterday been issued by the PRESIDENT, and to support which Mr. S. had made oath before a magistrate to the particulars above mentioned. He hoped that by this time the person was taken.

Mr. GILES next rose, and observed that an application from the same Mr. Randall had been made to himself. Besides a repetition of some particulars already stated, he told Mr. G. that he had already secured thirty or forty members of this House, but he wanted to secure three other members, if Mr. G. recollected right. He added, that he had already secured a majority of the Senate. When this proposal was first made, which Mr. G. thought was about ten days ago, a member from New-York (Mr. LIVINGSTON) was present. Randall had even gone so far as to say, that a written agreement was drawn out, and subscribed by a number of Eastern members, and he wished Mr. G. to extend another obligation of the same kind for the Southern members; the purport of which paper was understood to be, that the members who voted in support of the disposal of the lands, were to be secured in a stipulated share of them, without having their names mentioned in the deed. Mr. G. was solicitous to learn the names of the members who had already entered into the negotiation, but Randall assured him, that, from motives of delicacy, he durst not communicate any of the names. Mr. G. then desired a sight of the agreement, that he might be able to comprehend its meaning, before he should attempt to draw any similar paper. The man called a second time, and, as Mr. G. conceived, about four days ago, but had never produced the deed or any draft of it. Mr. G. had already communicated the proposal to several members, and, in particular, to the SPEAKER.

The SPEAKER (Mr. DAYTON) mentioned, that Mr. GILES had, some time ago, informed him of the proposal. He replied, that if an opportunity offered, he would take care to select a committee consisting of members sure to detect the guilty, if any such could exist; adding that he expected the House to believe that he would not have used such words, but on so extraordinary an occasion.

Mr. CHRISTIE said, that he was the person who had introduced Randall to Mr. SMITH and Mr. MURRAY. He had long known him, as a respectable man. Randall had mentioned to Mr. C. in general, that it was a landed speculation, and hinted that he, Mr. C., might accept of a share. In reply, Mr. C. had assured him that he could not possibly have a concern in any such transaction. Randall had not, to Mr. C., insinuated that any undue advantage would accrue to members supporting the intended purchase.

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Mr. BUCK, a member from Vermont, mentioned that a person of the name of Whitney, who appears to have been an associate with Randall, had called upon him in the country with a proposal of this kind.

Mr. MADISON said, that the person referred to had also called upon him, and told him of his having waited upon many members, and, among the rest, upon the SPEAKER. Mr. MADISON said, that the conversation was rather short, owing, perhaps, to the coldness with which the advances of Mr. Randall were received. Mr. MADISON had already learned, through his friend from Virginia (Mr. GILES,) the state in which the business was. He did not wish to alarm the person by too much abruptness, and, at the same time, he did not wish to give himself any unnecessary trouble about it, as he understood that it would be properly managed without his interference.

TUESDAY, December 29.

Case of Randall and Whitney.

A return was made by Mr. JOSEPH WHEATON, Sergeant-at-Arms to the House of Representatives. Mr. WHEATON stated that, agreeably to the order from the SPEAKER, he had taken into custody the bodies of Robert Randall and Charles Whitney, and kept them at the disposal of the House.

Mr. W. SMITH moved, that a Committee of Privileges, consisting of seven members, should be appointed, and instructed to consider and report with respect to the proper mode of proceeding in this case as to Robert Randall, and that the said committee shall have leave to sit immediately.

It was likewise moved that the name of Charles Whitney should be comprehended in the resolution, because he also was taken into custody. The resolution, as amended, was agreed to. Mr. BALDWIN, Mr. W. SMITH, Mr. MURRAY, Mr. COIT, Mr. GILES, Mr. LIVINGSTON, and Mr. GOODHUE, were named for a committee.

Randall was now brought in, by Mr. WHEATON, Sergeant-at-Arms, and the City Marshal. That part of the journals which refers to his conduct was read to him.

The SPEAKER then interrogated the prisoner, whether these charges were true or false? Randall replied that he was not prepared to answer. He hoped that time would be given him. The SPEAKER asked what time he wanted? He could not positively tell; perhaps till the day after to-morrow.

Mr. W. SMITH was disposed to give him the time required.

Mr. BLOUNT said, that he felt for his own dignity as a member of the House, and for the dignity of the House. To suffer the prisoner to go away from the bar till he had said guilty, or not guilty, when thirty or forty members are positively charged with such conduct, and we suffer the culprit to withdraw, without obliging him to explain, will excite public suspicion that guilt is here.

Randall was then ordered to withdraw, till the discussion should be over.

Mr. RUTHERFORD was for making him say yes or no, directly, as to the guilt. If he wants to have time for pleading any thing in mitigation of his punishment, that is a quite different affair. But the honor of the House was concerned in making him give an immediate answer to the queries now put.

Mr. HILLHOUSE was for bringing Randall forward directly. He ought not to be allowed time to think of an answer.

Mr. HARPER felt as much as any man for the dignity of the House, but this would not induce him to proceed in a hurry. Mr. H. enlarged on the danger of indulging passion on this subject. It would be wrong to force the prisoner to answer unprepared. What if he refuses to answer at all? Confession amounts, in this case, to conviction. He was for granting indulgence.

Mr. VENABLE felt as much as any man for the dignity of the House. At the same time, he felt himself above suspicion, and the House above it. He would not wish to trample on the rights of an individual. He saw no danger that could arise to the House from a short delay. He referred to what Mr. HARPER had said about the hardship of making any man convict himself.

Mr. CLAIBORNE was also against hurrying the prisoner. He recommended that coolness and moderation should distinguish the proceedings of the House.

The question was then put, whether the prisoner should be obliged to answer immediately. Ayes 42, noes 48.

It was then moved, by Mr. W. SMITH, that he should be allowed till twelve o'clock, to-morrow.

Mr. BLOUNT proposed the yeas and nays on the latter question. A member observed that they should rather have been put on the one immediately preceding. The motion was supported only by four or five members. A fifth part of the House are requisite for calling the yeas and nays.

Mr. BLOUNT then laid on the table a long resolution. It was, in substance, that before Randall was recommitted, he should be interrogated as to who were the thirty or forty members that had been gained to the scheme.

Mr. HARPER thought it extraordinary to bring a culprit before the House for contempt of it, and then encourage him to criminate members. He should ever protest against persons being brought to the bar for that purpose. He therefore moved to strike out from the resolution proposed by Mr. BLOUNT, the words: "And if you did, who are the members whom you considered as so secured; and what were your reasons for thinking them so secured?" This was the last clause of an interrogatory which Mr. BLOUNT proposed putting to Randall.

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Mr. BLOUNT declared that he had never meant bringing an accuser to the bar, or propounding a question that should bring forth an accusation.

Mr. HARPER replied.

Mr. BLOUNT then modified his resolution, by striking out the exceptionable words; to which Mr. HARPER then agreed.

Mr. MURRAY called upon gentlemen by their sensibility to personal dignity, and the character of the House, to arrest the motion. Its tendency certainly was to place the honor of the House, or of a very great part of it, in the power of a man of whose profligacy of principle there could now be no doubt. Will you, he observed, permit, nay, invite him, whom you arraign at the bar of this House, to be a public accuser? Will you adopt a charge against him, which is in its nature an imputation that however lightly and wickedly made, will implicate perhaps innocent men? These men, to rescue their own reputations, will be obliged to risk their characters, on the weight of their veracity, by denying this man's charge in the face of a world but too prone to suspect. By this motion, Randall's assertion to the gentleman from Virginia, (Mr. GILES,) the only member who has mentioned it, is to be alleged against Randall as an offence. That Randall said to the gentleman that there were thirty or forty members secured, he had no doubt; but he believed the fact to be that Randall was both deceived himself and attempted to deceive the gentleman. Why,

said Mr. M., the fellow told me that those thirty members were secured. Mr. M. had not thought proper to state that circumstance, because he did not so much consider it as a fact material to the detection of Randall's guilt, as it was one which, if mentioned, might possibly afford to malice an opportunity of affixing a stigma to any thirty or forty names at which personal enmity might point. No public good could result from such a disclosure; for the assertion of such a man as Randall could not, among men of honor, be deemed a sufficient ground of suspicion; and yet the malice of the world, or the rancor of personal enemies, might attach suspicion and infamy to almost the whole House, from the indefiniteness of the charge. When Randall informed him, on Thursday night, that there were thirty members who would support his measures, he had felt in the very conduct which he then was himself pursuing to detect Randall, to arrest his scheme, a principle of candor towards others, which taught him that other gentlemen to whom Randall had communicated his scheme confidentially, were probably determined as honestly as himself to crush the infamous plot against the honor of the House. He knew that he who would be wicked enough to attempt seduction, might be weak enough to use this intelligence artfully, for the purpose of leading him the more readily to accept terms of infamy; because the object was painted as easily attainable, and that Randall might wish to diminish all qualms, by exhibiting a pretended group of accomplices whose company would at least diminish the appearance of singularity. I entertained, said Mr. M., no suspicion of any man—I knew Randall to be a corrupt man from his offers to myself—I therefore placed all his intelligence to the score of flimsy art: I knew that such a man was not to be fully believed, where his interest was to magnify his success. I drew favorable auspices with respect to the corps to which I belong, from another piece of intelligence of his, which was, that he communicated to some members, one of whom he had named, and whom I knew to be a man of honor, in what he called the *general way*. This general way was a display of the sounder part of his scheme merely, and not the corrupt; consisting in developing the advantages which would result to the Union in the disposal of their lands, provided the harmony of the Indians could be secured. In this view of his plan he gave the subject an attitude far from unimposing; and I conceived that, as in proportion to the numbers engaged confidentially he must know that the hazard of detection increased, he would not communicate the corrupt view as long as he found the more honest part of the policy might appear to strike any gentleman as a measure useful to his country; I therefore did not believe Randall, in the sense he evidently intended; therefore, sir, I did not feel myself at liberty to mention the assertion which I conceived to be unavailing as a circumstance necessary to the example I wished to make, but which, if communicated, I thought might cast a stain, by the mystery that enveloped it, upon a body whose character ought to be held sacred to the confidence of the country. My duty was to bring Randall's attempt to corrupt unequivocally into light, not by repeating all the arts which he excited to corrupt; nor by exhibiting them in a way that might wound the feelings of men of honor, who, if charged even personally by Randall, would have no refuge from odium but in their characters and counter-assertion: this, though always conclusive with those who personally know them, is not a protection to minds of sensibility against the stings of calumny. The voice of fame is not composed from the voice of men of honor.

Mr. HILLHOUSE was convinced that there was not a gentleman in the House, whose character rested on so slender a foundation, as to be affected by any thing that this man could say. He felt no anxiety for the reputation of the House, for he knew that it was not in the smallest danger. The resolution went merely to make Randall confess that he had said so and so. It implied nothing to affect members. A man covered with infamy making such charges could not expect credit, or obtain it from any body. Mr. HILLHOUSE was, for these reasons, in favor of the resolution for interrogating Randall.

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The resolution was now read, as follows:

"*Resolved*, That it be made a charge against the said Robert Randall, that he declared to a member of this House, that a number consisting of not less than thirty members of this House had engaged to support his memorial."

Randall was then brought to the bar. The resolution was read to him, and he was informed that he must answer it to-morrow, at 12 o'clock.

A motion for adjourning was then made. Ayes, 26; so it was lost.

It was next moved and agreed, that Whitney should be brought to the bar. The SPEAKER then said, Is this the prisoner? Answered, Yes. What is your name? Charles Whitney. What is your usual place of residence? Vermont. What are you? I was bred to the farming business. Do you know one Robert Randall? Yes. The Clerk will read to you the charge that has occasioned your being brought here. The charge, as stated in the journal of the House, was then read to the prisoner. He was next interrogated by the SPEAKER, as follows: Are you guilty, or not guilty? Not guilty. Are you ready to speak in your defence? I am ready to tell every thing. Are you prepared to do so just now? Yes. Whitney then stated that he was connected with Randall in a plan for the purchase of eighteen or twenty millions of acres of land, lying between the Lakes Erie, Huron, and Michigan. He had come to town on the design of presenting a petition to Congress, but had no knowledge of any improper kind of applications. Randall had several times called upon him at his lodgings, at the Green Tree, in North Fourth street. He considered the scheme to be of probable advantage, and a handsome thing to the United States as well as to the prisoner himself, who repeatedly observed that he would not have engaged in it, but with a view partly to his own interest. He had wished to engage influential characters in the business. He was then asked what associates he had. He answered, Colonel Pepune and Mr. Jones, of the State of Massachusetts; and Mr. Ebenezer Allen, of Vermont. He also, upon a query from the SPEAKER, mentioned the name of another person, which was not distinctly heard. He was asked if the partners meant to divide the

land into forty shares. He answered forty-one; but this was only in speculation. They had only a rough idea of the extent of the land, which was inhabited by the Wyandots, and was of a very good soil. The land was to be divided among the proprietors. The prisoner knew, in general, from Randall, that he called on Mr. SMITH, and other members; but was not privy to, nor suspected any unbecoming overtures. He was then asked the names of the associates at Detroit. He mentioned Mr. Erskine, Mr. Robertson, Mr. Innes, Mr. Pattison, and Mr. Erskine, junior. He said that some of them were Indian traders, to a considerable extent. He had called at Mr. BUCK's, of Vermont, (a member of the House,) as he was riding by his house. He knew him to be a gentleman of character whose name would add credit to the business. He had told him that there were several other persons intending to be concerned, and that, if it was consistent with his situation as a member of Congress, he would be glad to have him engaged, but at the same time carefully noticed that this proposal was conditionally made, and only if it was proper. He was asked what Mr. Erskine was. He is called Judge Erskine, but whether he is now a judge, or only was one in some other part of the country, at a former period, the prisoner cannot tell. You say that you came to Philadelphia about a month ago. Why were you so long in presenting your petition? He had a bad cold, and had been sick, and wanted to make a personal explanation to the members before bringing the affair before the House. Have you got any new associates in this city? None. Mr. LIVINGSTON then proposed a question, Whether any of the shares had been left unappropriated by your associates and you? Answer: It was at his own option to dispose of shares as he pleased. He was asked if he could produce any written agreement between himself and his associates. He believed that he could, and that it would do him no harm to do so. It was at the Green Tree. But, as a matter of candor, he requested time to consider whether the production of it could hurt him or not. This ended the examination.

Mr. W. SMITH then made a motion, consisting of three points, that Whitney should be ordered to re-appear at the bar, at twelve o'clock, to-morrow; that he should be ordered to produce the bond; and that, till to-morrow, he should be remanded to the custody of the City Marshal. It was likewise recommended that, till to-morrow, the two prisoners be kept in separate apartments.

Mr. GOODHUE requested that Whitney might be ordered to withdraw; which was done. He then related that the prisoner had made an application to him at different times. Mr. GOODHUE told him that he knew very little of the Western country; he had always lived on the sea-coast, and land jobbing was quite out of his line. Whitney did not make any corrupt proposals to him. He believed that it was because he was very averse to wasting time in speaking at all on the matter.

Mr. SEDGWICK said that, as no direct charge of corruption had been made against Whitney, he apprehended it would be improper to detain him as a prisoner. It might be considered as a wanton act of arbitrary power.

Mr. BUCK then rose, and said that he had not yesterday told the whole of what passed between him and Whitney. Mr. BUCK had received offers plain enough to be understood. He might either have land, or money in lieu of it.

Mr. SEDGWICK said, that he had now no opposition to the resolutions; which were carried.

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WEDNESDAY, December 30.

JOHN PAGE, from Virginia, appeared, was qualified, and took his seat.

Case of Randall and Whitney.

Mr. W. SMITH moved an amendment of the journal to this effect, that the said Charles Whitney had made overtures to Mr. BUCK, to this purpose, that he should have a share in the lands to be purchased, or in money.

Mr. NICHOLAS objected to the motion. The reading of the journal was called for. It was read.

Mr. SEDGWICK said, that the original charge against the man was complete and full. He thought the amendment unnecessary.

A petition was then presented from Randall requesting that he might be indulged with a reasonable time to make his defence, and with counsel.

Mr. W. SMITH was very ready to allow the prisoner counsel for his defence, but, in so doing, he wished it to be understood, not as a matter of right but of favor. He was apprehensive that gentlemen in proceeding from one step to another, would at last reason away the privileges of the House altogether. His friend from Massachusetts (Mr. SEDGWICK) had quoted the clause of the constitution which gave a right to have counsel in all trials for crimes; but it did not apply to this case, any more than the clause which immediately followed it, declaring that all trials for crimes should be by a jury of the vicinage, and after presentment by a grand jury. The present inquiry was of a special and peculiar nature, resulting from the rights and privileges which belonged to every Legislative institution, and without which such institution could not exist. As every jurisdiction had certain powers necessary for its preservation, so the Legislature possessed certain privileges incident to its nature, and essential for its very existence. This is called in England the parliamentary law; and as from that law are derived the usages and proceedings of the several State Legislatures, so will the proceedings of this House be generally guided by the long-established usages of the State Legislatures. There would be a manifest absurdity in conforming the proceedings in this case to the ordinary proceedings at law in jury trials, for the House, instead of being able to protect itself, would be altogether dependent on the other

branches of the Government, and in every case of aggression be obliged to send the offenders to the civil magistrate. If there was any weight in such reasoning as had been heard, then the House would have to tread back all the unconstitutional steps they had been taking, and to discharge, without delay, both the prisoners; for the arrest by the Sergeant-at-Arms, under the SPEAKER'S warrant, was only justifiable on the ground he had mentioned, namely, the inherent and indispensable power of self-preservation. That the House possessed power to arrest had not been denied; but the power of commitment was incident to that of arrest, and if it possessed both these high powers, it must of consequence possess the necessary incident of trial or inquiry, in regulating which the House was only to be governed by its own wisdom and discretion. On this occasion Mr. S. said he felt, as he trusted every member did, a proper respect for the rights of individuals brought to the bar, as well as for those of the House, and he hoped that their conduct would be marked with discretion and temper; but, willing as he was to grant the prayer of the petitioner, he could not suffer the argument which had been relied on, to pass unanswered. This was the first instance, since the organization of this Government, in which it had been found necessary to resort to this high prerogative; it was right, therefore, that the principles on which it was founded should be well understood, and that the privileges of the House should stand unimpaired.

Mr. SEDGWICK moved that the prayer of the petition should be granted, and that Randall be allowed till to-morrow, to be heard at the bar.

The petition was again read.

Mr. CHRISTIE had known Randall for many years, and had never heard of any thing against him before. He had lately been at Detroit, and Mr. C. believed that he had been injured by keeping bad company. He was not the first man in the country who had been corrupted by British influence and British company. He moved that Randall should be allowed till to-morrow at twelve o'clock. This was negatived.

The SPEAKER then said, that, if agreeable to the House, he would send for Randall, and inquire what time he wanted. This was done; Randall came in, and asked till Saturday, but as the House does not sit on Saturday, Friday was appointed.

The bond or agreement between the intended purchasers of the land was then read. It was dated at Detroit, the 26th of September last. Allen, Whitney, and Randall, were to have the disposal of 36 shares out of 41.

THURSDAY, December 31.

RICHARD WINN, from South Carolina, appeared, was qualified, and took his seat.

Case of Randall and Whitney.

Mr. BALDWIN, the chairman of the Committee of Privileges, reported, in part, on the subject of the further proceedings to be had in the case of R. Randall and C. Whitney, in substance as follows:

1. That a further hearing of R. Randall should be held at the bar; that the information given by members against the said Randall be reduced to writing, signed by the informants respectively, and entered at large on the journals; that the said information should be read to the prisoner, and he be asked by the SPEAKER what he had to say in his defence. If the prisoner should desire to produce any parole evidence to exculpate himself, the same shall be heard at the bar, and the Judge of the District of Pennsylvania be requested to attend to administer an oath or affirmation to the witnesses on the part of the prisoner; that the SPEAKER shall put all questions to the witnesses. When any debate should arise, that the prisoner and his counsel be directed to withdraw; and, when he has concluded his defence and withdrawn, that the sense of the House be taken on the guilt or innocence of the prisoners, respectively.

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Mr. MADISON was of opinion that no citizen can be punished without the solemnity of an oath to the fact. Of consequence, it is needful to the information of members, if the punishment of a fellow-citizen is implicated. Perhaps it may be urged that members, having taken an oath to support the constitution, this supersedes the necessity of an oath in the present case.

Mr. GALLATIN thought it reasonable that members should be liable to be questioned upon oath. That there was no precedent for it, had little weight. There are many absurdities in the law of nations which gentlemen would not wish to introduce here.

Mr. SWIFT was against the members being subject to this regulation. The case was quite novel to him. But this was, at first view, his way of thinking. Suppose that some person in the gallery were to commit an insult on the House, before the whole members, would it be necessary that they should all swear to the offence before proceeding to punish it? This Mr. S. regarded as a parallel case.

Mr. THATCHER made a distinction when an offence had been committed in presence of the whole House, and when committed out of their view. In the former case, there could not be any use for evidence being sworn, because the whole House had the testimony of their senses. It was different when the circumstances occurred in another place; and Mr. T. was convinced that the charge ought to be sworn to. The passage under amendment was in these words: "That it should be reduced to writing;" and the dispute was about adding the words, "and sworn to." Mr. T., though for examining the members on oath as to the charge against Randall, was opposed to the amendment as useless, because the members must, in his opinion, be sworn when Randall is

brought to the bar. The mere declaration of a prosecutor, not under oath, and of a defendant in the same situation, is equally exceptionable. A phrase had been repeatedly used which Mr. T. did not understand. It was said that a member was entitled "to stand up in his place" and give information so and so. With the meaning of this expression Mr. T. was unacquainted, nor did he know any law which authorized the imprisonment of a fellow-citizen on a mere charge unsupported by oath. He did not see the use of the amendment, but he was clearly satisfied that members ought to be examined and sworn touching their accusations, as well as any other persons.

Mr. NICHOLAS was not, in this instance, for departing from the principles of common law. Instead of supporting the dignity of the House, about which so much has been spoken, he was afraid that, by arrogating too much on the side of privilege, they might lessen their dignity. He declared, upon his honor, that he thought the gentlemen concerned should, for their own sakes, insist on being cross-examined by the prisoner and his counsel. To be cross-examined implies no reflection on a witness. The imperfection of human nature requires such a precaution, and were Mr. N. a party, he would insist on being cross-examined. The proposed amendment would narrow the business too much. It would be better to lay it aside, and let the members be, as above proposed, subject to cross-examination from the prisoner.

Mr. MADISON said, that when Randall came to the bar he would possibly save all this trouble, by confessing his guilt, and casting himself on the mercy of the House. He mentioned an anecdote of a judge who had been publicly insulted. He informed his brethren of the bench, and, on his complaint, the offender was apprehended. When he was brought before the court the oath was administered to the judge. Mr. M. related this story to show the propriety of every accusation being sworn to, whatever may be the rank or situation of the accuser.

MONDAY, January 4.

Presentation of the Flag of France.

The SPEAKER informed the House, that a Message was ready to be delivered to the House, of a nature calculated to give the most pleasing satisfaction to every American breast. He suggested to the House, and the citizens in the galleries, the propriety of not suffering the fervor of enthusiasm to infringe on the dignity of the Representative Councils of the United States. He recommended that a respectful silence should be observed, as most compatible with the true dignity of the House, and the honor of the magnanimous Republic that was the subject of the Message.

The PRESIDENT'S Secretary was then introduced, with an American officer bearing the Standard of the French Republic,^[62] sent by the Committee of Public Safety, Organ of the National Convention, as a token of friendship to the United States. The Secretary presented a Message in writing from the PRESIDENT, with sundry papers accompanying it, to the SPEAKER, by whom they were read as follows:

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Gentlemen of the Senate, and of the House of Representatives:

A letter from the Minister Plenipotentiary of the French Republic, received on the 22d of the last month, covered an Address, dated the 21st of October, 1794, from the Committee of Public Safety to the Representatives of the United States in Congress; and also informed me that he was instructed by the committee to present to the United States the Colors of France. I therefore proposed to receive them last Friday, the first day of the new year, a day of general joy and congratulation. On that day the Minister of the French Republic delivered the Colors, with an Address, to which I returned an answer. By the latter, the House will see that I have informed the Minister that the Colors will be deposited with the archives of the United States. But it seemed to me proper previously to exhibit to the two Houses of Congress these evidences of the continued friendship of the French Republic, together with the sentiments expressed by me on the occasion in behalf of the United States. They are herewith communicated.

G. WASHINGTON.

UNITED STATES, *January 4, 1796.*

[TRANSLATION.]

The Representatives of the French People, composing the Committee of Public Safety of the National Convention, charged by the laws of the 7th Fructidor, with the direction of Foreign Relations, to the Representatives of the United States of America in Congress assembled:

Citizens Representatives: The connections which nature, reciprocal events, and a happy concurrence of circumstances, have formed between two free nations, cannot but be indissoluble. You have strengthened those sacred ties by the declarations, which the Minister Plenipotentiary of the United States has made, in your name, to the National Convention, and to the French people. They have been received with rapture by a nation who know how to appreciate every testimony which the United States have given to them of their affection. The Colors of both

nations, united in the centre of the National Convention, will be an everlasting evidence of the part which the United States have taken in the success of the French Republic.

You were the first defenders of the rights of man in another hemisphere. Strengthened by your example, and endowed with an invincible energy, the French people have vanquished that tyranny, which, during so many centuries of ignorance, superstition, and baseness, had enchained a generous nation.

Soon did the people of the United States perceive that every victory of ours strengthened their independence and happiness. They were deeply affected at our momentary misfortunes, occasioned by treasons purchased by English gold. They have celebrated with rapture the successes of our brave armies.

None of these sympathetic emotions have escaped the sensibility of the French nation. They have all served to cement the most intimate and solid union that has ever existed between two nations.

The citizen ADET, who will reside near your Government in quality of Minister Plenipotentiary of the French Republic, is specially instructed to tighten these bands of fraternity and mutual benevolence. We hope that he may fulfil this principal object of his mission, by a conduct worthy of the confidence of both nations, and of the reputation which his patriotism and virtues have acquired him.

An analogy of political principles; the natural relations of commerce and industry; the efforts and immense sacrifices of both nations in the defence of liberty and equality; the blood which they have spilled together; their avowed hatred for despots; the moderation of their political views; the disinterestedness of their councils; and especially, the success of the vows which they have made in presence of the Supreme Being, to be free or die; all combine to render indestructible the connections which they have formed.

Doubt it not, citizens, we shall finally destroy the combination of tyrants. You, by the picture of prosperity, which, in your vast countries, has succeeded to a bloody struggle of eight years; we, by the enthusiasm which glows in the breast of every Frenchman. Astonished nations, too long the dupes of perfidious Kings, Nobles, and Priests, will eventually recover their rights, and the human race will owe to the American and French nations their regeneration and a lasting peace.

Paris, 30th Vendemiaire, 3d year of the French Republic, one and indivisible.

The Members of the Committee of Public Safety.

J. S. B. DELMAS,
MERLIN (of Douai) &c.

OCTOBER 21, 1794.

[TRANSLATION.]

Mr. President: I come to acquit myself of a duty very dear to my heart; I come to deposit in your hands and in the midst of a people justly renowned for their courage and their love of liberty, the symbol of the triumphs and of the enfranchisement of my nation.

When she broke her chains; when she proclaimed the imprescriptible rights of man; when, in a terrible war, she sealed with her blood the covenant she had made with Liberty, her own happiness was not alone the object of her glorious efforts; her views extended also to all free people. She saw their interests blended with her own, and doubly rejoiced in her victories, which, in assuring to her the enjoyment of her rights, became to them new guarantees of their independence.

These sentiments which animated the French nation from the dawn of their revolution, have acquired new strength since the foundation of the Republic. France, at that time, by the form of its Government, assimilated to, or rather identified with, free people, saw in them only friends and brothers. Long accustomed to regard the American people as her most faithful allies, she has sought to draw closer the ties already formed in the fields of America, under the auspices of victory, over the ruins of tyranny.

The National Convention, the organ of the will of the French nation, have more than once expressed their sentiments to the American people; but above all, these burst forth on that august day, when the Minister of the United States presented to the National Representation the Colors of his country. Desiring never to lose recollections as dear to Frenchmen as they must be to Americans, the Convention ordered that these Colors should be placed in the hall of their sittings. They had experienced sensations too agreeable not to cause them to be partaken of by their allies, and decreed that, to them, the National Colors should be presented.

Mr. President, I do not doubt their expectations will be fulfilled; and I am

convinced that every citizen will receive, with a pleasing emotion, this flag, elsewhere the terror of the enemies of liberty, here the certain pledge of faithful friendship; especially when they recollect that it guides to combat, men who have shared their toils, and who were prepared for liberty by aiding them to acquire their own.

P. A. ADET.

The Answer of the President of the United States to the Address of the Minister Plenipotentiary of the French Republic, on his presenting the Colors of France to the United States:

Born, sir, in a land of liberty; having early learned its value; having engaged in a perilous conflict to defend it; having, in a word, devoted the best years of my life to secure its permanent establishment in my own country; my anxious recollections, my sympathetic feelings, and my best wishes, are irresistibly excited, whensoever, in any country, I see an oppressed nation unfurl the banner of freedom. But, above all, the events of the French Revolution have produced the deepest solicitude, as well as the highest admiration. To call your nation brave, were to pronounce but common praise. Wonderful people! Ages to come will read with astonishment the history of your brilliant exploits! I rejoice that the period of your toils and of your immense sacrifices is approaching. I rejoice that the interesting revolutionary movements of so many years have issued in the formation of a constitution designed to give permanency to the great object for which you have contended. I rejoice that liberty, which you have so long embraced with enthusiasm; liberty, of which you have been the invincible defenders, now finds an asylum in the bosom of a regularly organized Government; a Government, which being formed to secure the happiness of the French people, corresponds with the ardent wishes of my heart, while it gratifies the pride of every citizen of the United States by its resemblance to their own. On these glorious events, accept, sir, my sincere congratulations.

In delivering to you these sentiments, I express not my own feelings only, but those of my fellow-citizens, in relation to the commencement, the progress, and the issue of the French Revolution; and they will cordially join with me in purest wishes to the Supreme Being, that the citizens of our sister Republic, our magnanimous allies, may soon enjoy in peace, that liberty which they have purchased at so great a price, and all the happiness which liberty can bestow.

I receive, sir, with lively sensibility, the symbol of the triumphs and of the enfranchisement of your nation—the Colors of France—which you have now presented to the United States. The transaction will be announced to Congress, and the Colors will be deposited with those archives of the United States, which are at once the evidences and the memorials of their freedom and independence. May these be perpetual, and may the friendship of the two Republics be commensurate with their existence.

GEORGE WASHINGTON.

UNITED STATES, *January 1, 1796.*

When the reading of the Message and papers had been concluded—

Mr. GILES informed the House that, having been aware that the flag would be presented to the House this day, considering it as an additional testimony of the affection of France, and it having been the practice on analogous occasions for the House to express their sentiments independent of the other branch, he had prepared a resolution expressive of what he conceived would be their sense on the occasion. It was nearly in the words following:

"Resolved, That the PRESIDENT OF THE UNITED STATES be requested to make known to the Representatives of the French people, that this House has received, with the most lively sensibility, the communication of the Committee of Public Safety, of the 21st of October, 1794, accompanied with the Colors of the French Republic, and to assure them that the presentation of the Colors of France to the Congress of the United States is deemed a most honorable testimony of the existing sympathy and affections of the two Republics, founded upon their solid and reciprocal interests; that the House rejoices in the opportunity of congratulating the French Republic on the brilliant and glorious achievements accomplished under it during the present afflictive war, and that they hope those achievements will be attended with a perfect attainment of their object, the permanent establishment of the liberty and happiness of that great and magnanimous people."

Mr. PARKER moved an amendment as follows: "That this House has received with the most *sincere and* lively sensibility," &c. The amendment was for inserting the two words in italics, to which the House consented. The Message was then voted unanimously, and a thousand copies of the communications and resolution were ordered to be printed. A committee of two members was appointed to wait on the PRESIDENT, and inform him of the resolution agreed to by the House.

Case of Randall and Whitney.

Pursuant to the proceedings of the House on Friday last, Mr. SMITH, of South Carolina, Mr. MURRAY, of Maryland, Mr. GILES, of Virginia, and Mr. BUCK, of Vermont, delivered in at the Clerk's table their several informations in writing, subscribed with their names, respectively, in the cases of Robert Randall and Charles Whitney; which are as follow:

Mr. MURRAY declares, that, on Wednesday last, the twenty-third instant, Mr. Smith, member of Congress, of South Carolina, informed him that a man of the name of Randall, of Maryland, had, the evening before, attempted to bribe him in Western lands, on condition of his supporting an application which Randall told him he should soon make to Congress; the object of which application was, a grant from Congress of from eighteen to twenty millions of acres of land, between Erie, Huron, and Michigan. That Mr. Smith was extremely solicitous that some other gentleman should immediately be informed of the infamous proposal, and that he said he would mention it to Mr. Henry, of the Senate, and advise with him upon proper measures for the detecting of the full extent of the scheme, and crushing it: That he had no opportunity of talking to Mr. Henry on that day; but early on the morning of the twenty-fourth instant, communicated the intelligence to Mr. Henry, who recommended that Mr. Smith should immediately inform the President: that on the said day, Mr. Randall, of Maryland, was introduced to him, the informant, and requested a confidential interview at his, the informant's lodgings, which the informant readily promised him, to be at five, for the purpose of developing his scheme. That Randall came at or near five, that day last named, to wit: on Thursday, and communicated to Mr. Henry and himself, in general terms, the outline of a plan by which he, Randall, and his Canada friends, would extinguish the Indian title to all the lands between Lakes Erie, Huron, and Michigan, as marked on a map which Randall then showed, containing from eighteen to twenty millions of acres. That he, the informant, then asked Randall into his apartment, where they were alone. That Randall expatiated at first upon the public utility of his scheme, which was that Congress should grant to him and his company all the lands aforesaid mentioned, for five hundred thousand, or, at most one million of dollars; and that he would undertake, in four months, that the harmony of the Indians should be secured to the Union: or, if Congress thought proper, that the Indian tribes now on said land should be removed to the British side, or down Lake Michigan, reserving to some aged chiefs a few miles square; that his company and himself had determined to divide the lands aforesaid into forty (or forty-one) shares. That of these shares twenty-four were to be reserved for the disposal of himself and his partner, now in town, for such members of Congress as assisted them, by their abilities and votes, in obtaining the grant aforesaid. That of these twenty-four shares, his partner had twelve under his management for the Eastern members of Congress, and that he, Randall, had the other twelve shares under his management for the Southern members of Congress. That these shares were to be so divided as to accomplish the object by securing a majority of Congress. That the informant started an objection to land speculation as troublesome, and that he, Randall, said, if you (meaning the informant) do not choose to accept your share of the land, you shall have cash in hand for your share. That the informant appointed Randall to meet him in the lobby of the House, on Monday, the twenty-eighth instant. That Randall told him a memorial was to be handed in upon this subject on said Monday; but refused to inform the informant what member was to present it. That Randall told him, that he, Randall, mentioned his plan to some members in the *general way* only—meaning thereby, as he understood him, a view of the sounder part of the plan, as being conducive to public utility. That, in the early part of the confidential and secret conversation, Randall said, that the members of Congress who would behave handsomely, should come into their shares on the same terms upon which the company obtained the grant; but soon after, made proposals more openly seductive and corrupt; closing them with the offer of cash in hand as aforesaid. That the informant, on that evening, when Randall went away, told Mr. Henry of the whole of Randall's offers as aforesaid; then called on the Secretary of State, and communicated the same to him; and the next morning, early, informed the President of the transaction.

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W. V. MURRAY.

DECEMBER 29, 1795.

[Mr. William Smith, of S. Carolina, Mr. William B. Giles, of Virginia, Mr. Buck, of Vermont, and afterwards, Mr. Sedgwick, of Massachusetts, severally gave in statements corroborating that of Mr. Vans Murray.]

It was then moved that Robert Randall should be brought to the bar of the House. He was brought in accordingly. Seats were placed for the Judge of the District of Pennsylvania, and the two counsellors for Randall, Mr. Lewis and Mr. Tilghman, jr. The informations given in by Mr. W. SMITH, Mr. MURRAY, and Mr. GILES, were read over, and the SPEAKER asked the prisoner, what he had to say in his defence? I am not guilty. You declare yourself not guilty? Yes. Have you any proof to cite that you are not guilty? No. Are you ready to answer?

Mr. Lewis^[63] then rose. He observed, that these declarations had been made in the absence of the prisoner, who, as he conceived, was entitled to have been present. His request was, that the informants might now be placed in a situation to be examined by the prisoner and his counsel, and that the information may now be given in the prisoner's hearing. The prisoner and his counsel were ordered to withdraw.

Mr. JEREMIAH SMITH made the following motion:

"That the prisoner be informed, that if he has any questions to propose to the informants, or other members of the House, he is at liberty to put them, (in the mode already prescribed,) and that they be sworn to answer such questions as shall be asked, and that the informants be sworn to the declarations just read."

The words in parenthesis were an amendment suggested by Mr. GILES. The resolution and amendment were adopted by the House, and the prisoner with his counsel were again brought to the bar. The resolution above stated was read to Randall.

Mr. W. SMITH, Mr. MURRAY, and Mr. GILES, were then sworn, standing up in their places: the oath being administered by the Judge.

Mr. Tilghman^[63] then observed on the delicate situation in which the counsel stood, with which they were strongly impressed. The high character of the gentlemen who stood forth in support of the accusation, gentlemen whom Mr. T. had known personally for many years, with the odious nature of the crime charged on the prisoner, embarrassed them considerably; as they had, however, been permitted by the House to appear in this business, they were bound in duty to do every thing consistent with a fair and honorable defence. If Mr. T. were to declare his own opinion of the conduct of the prisoner, it would be thus, that his behavior was highly improper and indelicate; but Mr. Randall denied having made any offer either of lands or money, as in fact he had none to give. The disposal of the lands depended entirely on the subsequent vote of Congress.

Mr. Lewis spoke a few words. The prisoner's defence was, that he denied any proposal of a corrupt nature. The members who favored the sale of the lands, were only to have their shares on the same terms, and on paying an equal share of the expenses, as the other partners. [Pg 619]

Mr. W. SMITH was then examined upon that part of his information where he says, that those members who should be concerned with Randall, were to have shares of the lands. Mr. SMITH was asked whether the offer was that they were to be granted at an inferior rate? In reply, he understood it was to be on the same terms as other partners were to have them. Mr. GOODHUE proposed a query, whether the offer made by Mr. Randall was in order that Mr. SMITH might use his influence to forward the scheme in Congress? Mr. SMITH replied, that he certainly understood it so. The prisoner had all along referred to members of Congress, though he did not expressly name them. His phrase was, "for persons who would favor the scheme."

Mr. Tilghman then, through the SPEAKER, asked Mr. MURRAY whether he understood he was to pay for his share of land as the other associates or not?

Mr. MURRAY.—I understood him as is explained in the declaration. At first I understood, that the members who should assist in getting the thing through, might then retire to their homes, and when the scheme was in activity they might come in on the same terms as the original associates. But afterwards, I understood from Randall that I might have a share if I would accept of it, and this I understood from the whole tenor of the latter part of his conversation. The shares set apart were to be for acceptance as donations. I so understood him.

Mr. Tilghman.—Did he expressly say, that they were intended as donations, or did Mr. MURRAY collect this to be the man's meaning from a variety of circumstances?

Mr. MURRAY.—He did not say, if you will do so and so, I will give you so and so; his proposal, though more delicate, was as unequivocal as a direct offer. I so understood him.

Mr. HARPER asked Mr. MURRAY, whether Randall did not tell him, that if he did not like land, he should have money, and whether the money was not to be more than the value of the share of land?

Mr. MURRAY said, that from this part, and indeed the general tenor of the conversation, he did infer, that a donation was intended, and when he objected to land, the prisoner then said, if he did not choose to accept of a share in land, he might have cash in hand.

Mr. Lewis, counsel for the prisoner, asked Mr. MURRAY, whether he did not state to Randall his aversion to dealing in land, and whether Randall did not say that this need not be an objection, since the share might be sold, and then that he would have cash instead of land?

Mr. MURRAY.—I did not so understand it.

Mr. HARPER wished Mr. MURRAY to relate, as nearly as possible, the words of the prisoner in this important part of the conversation.

Mr. MURRAY said, that immediately after it took place, and he had communicated it to his friends, he took notes of it. It stood in this manner: "I stated objections to land speculations as troublesome: Randall then said, if I did not choose land, I might have cash in hand."

Mr. Tilghman asked, whether Mr. MURRAY did not, to get the man's whole secret from him, go beyond his views to draw him on?

Mr. MURRAY said, he affected to think well of the more sound part of the plan.

Mr. Tilghman asked what Mr. MURRAY expressed to Randall when it was proposed to him to engage in the land scheme?

Mr. MURRAY.—A strong repugnance to land speculations.

Mr. Lewis.—Then it was, he said, that if it was not convenient for Mr. MURRAY to be concerned in a share in land, he might have it in money?

Mr. MURRAY.—Yes.

Mr. S. SMITH was next sworn. There was here a motion made for adjourning.

Mr. Lewis stated that Mr. Tilghman and himself had never seen the prisoner until yesterday in the evening. They had been in Court until late on Saturday evening. They went yesterday to prison, and back again this morning. They had received a long written state of the case from Mr. Randall, but, from absolute want of time, they had not been able to read one third part of it. The motion to adjourn was negatived.

Mr. S. SMITH was then proceeding with his evidence, when Mr. SEDGWICK rose. He considered it as unfair to examine Mr. SMITH in order to prove the information given by other gentlemen. It was totally inapplicable. The offences were as distinct as any two things could be.

Mr. BLOUNT moved to put this question, whether any conversation passed between Mr. S. SMITH and Randall, which had an appearance of intending to corrupt the integrity of members of this House.

Mr. SEDGWICK objected, that this was deviating from the original specific motion. Mr. GILES was of an opposite opinion. Mr. MADISON thought the motion proper, in the strictest sense. The charge was general; and the answer to the question might be of a nature to corroborate that general charge. After a few words from some other members, the motion was carried.

Mr. SMITH, of Maryland, then on oath stated in substance as follows:

That on the 9th or 10th, Randall, whom he had known in Maryland, called on him and asked half an hour's conversation with him. He said he had a plan in view, that would be to the advantage of the United States, and turn to his own private emolument.

Randall informed Mr. S., that he was last year at New York, that he thence went to Detroit to explore the country on Lakes Erie, &c., that he contracted an acquaintance with certain influential characters with whom he had formed an association to procure the lands in question. He mentioned the outlines of the plan and dwelt on the public advantages that would arise from it. He indirectly insinuated that gentlemen in Congress who chose to be interested in the plan might have a portion of the land in contemplation. He asked Mr. S. to fix a day when he should enter more particularly into a detail of the business. Mr. S. fixed Saturday following, and then retired into the room where his fellow-lodger was, and told him that some great land-business was on foot and that he believed he might make his fortune. On Sunday Randall came with a map on which he explained the position of the land and expatiated on the richness of the soil. He detailed the particulars of the project which Mr. S. related as has been heretofore stated with some little variations. He enlarged upon the public advantages to the United States if the purchase was allowed. He said, he would be glad if Mr. S. would embark in the undertaking, and give the plan his countenance; but, that, if he did not choose to so do, it could be accomplished without his assistance, as a decided majority of both Houses were agreed to support it. Mr. S. asked him, whether in the Senate? he said, yes. He asked him for names; he objected to mentioning any. Randall explained, that members who were most active were to have larger shares, and such as only gave their assent, smaller; Mr. S. understood that he might have one of the larger. No money was offered as a temptation to engage, but he fully understood that every gentleman was to pay his full proportion of the price. He stated to Mr. S., that it would save the United States much in men and money to have the scheme accomplished, and added, that if Congress desired it, he could remove the Miami Indians to the other side of the lakes. Mr. S. asked him what he proposed should be offered for the lands. He said, that would remain in the breasts of the gentlemen in Congress. Mr. S. asked whether one dollar an acre could be afforded, he objected to that as by far too much. Mr. S. mentioned twenty-five cents, that was too much. Mr. S. then suggested that he supposed two and a half cents were contemplated. Randall answered, that if Congress fixed this price it would be well so. He offered no direct bribe to Mr. S., but proposed to take such members into the scheme at first cost as chose to embark in it. Mr. S. asked him who was to offer his memorial. He mentioned a gentleman of great weight in the House.

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Mr. SMITH, of South Carolina, asked the date of this conversation.

Mr. SMITH, of Maryland, answered, on the Sunday following the 10th, which must have been the 13th.

Mr. Lewis, through the SPEAKER, asked Mr. S., of Maryland, whether Randall had not said, that he had actually a majority in favor of his scheme; or, that he expected to get a majority?

Mr. SMITH, of Maryland, understood that he had a majority, and on this ground, he said to Mr. S. that his co-operation was not absolutely necessary.

The prisoner was remanded, and the House adjourned.

TUESDAY, January 5.

Case of Robert Randall.

After disposing of the morning business—

Robert Randall was then brought to the bar, attended by his two counsel; the Judge of the District of Pennsylvania likewise took his seat, as yesterday, at the Clerk's table. The SPEAKER then addressed the prisoner as follows: "Robert Randall, this is the day and hour, to which your farther examination was postponed; you are now at liberty to proceed with your defence."

Mr. GILES then moved that Mr. CHRISTIE should be sworn. This was done. The member then stated that he had been at Philadelphia, about the month of October last. He met with Mr. Randall, who made up to him, and observed that he had this summer been in Canada. He had missed the object for which he went; but he had met with another which he thought would prove advantageous. He at first advised Mr. Randall to apply to the Secretary of State. Mr. Randolph had just then resigned his office; and no other person was appointed in his stead. Mr. C. then advised him to lay the affair before the PRESIDENT. When he came back to town at the sitting down of Congress, Randall came again to him, and said that by good advice he had altered his plan. He complained that Mr. C. was the only member who had not been ready to assist him. A considerable majority of the House of Representatives were secured to the scheme. Mr. C. said, that he never would advise Congress to sell their lands under a dollar per acre; and as Mr. Randall wanted the lands so much cheaper, he must in the course of his duty oppose the plan. Mr. C. inquired who were his advisers. He answered, that Mr. Whitney had told him that Mr. SEDGWICK recommended this way of proceeding, and was to draw up a memorial to be laid before the House upon the subject.

Mr. SEDGWICK finding his name thus unexpectedly introduced, wished to be allowed to give oath in order that he should tell all he knew.

The oath was administered to Mr. SEDGWICK, who gave information to the following effect: He had never in his life seen Randall, till he was produced at the bar. Whitney he had seen two or three times. The Mr. Jones mentioned by Whitney, in his declaration lives within about thirty-four miles of Mr. SEDGWICK's house. Whitney, with Mr. Jones, came, a considerable time ago, to him one morning, while he was at breakfast. They asked his opinion; which was, that Government would not sell any lands, till the Indian claim was first extinguished. Mr. Jones endeavored to convince Mr. SEDGWICK of the benefits which would result to the United States from this sale. Mr. SEDGWICK accompanied them to the door of his house, where Mr. Jones asked him whether there would be any thing improper in a member of the Legislature being concerned in such a purchase? Mr. SEDGWICK said, that this would depend entirely on the mode of application. If it was to the Land Office, there would be nothing wrong in it; if to Congress, then it would be a man making a bargain with himself. Whitney, since Mr. SEDGWICK came to town, had called two or three times on him. He got his servant for more than once to deny him, as he was busy. Once, however, he did see him; the first question of Mr. SEDGWICK was, from what State did he come? He said he resided in Vermont. He then spoke of the matter in a general way; and Mr. SEDGWICK, whose object it was to shake him off, advised his calling on Mr. BUCK, a member from that State, as it would be more proper to call on him. Mr. SEDGWICK believed that he was more teased with applications of this private kind than any member in the House. During the conference with Whitney, he did not remember that Randall's name was ever introduced. Mr. SEDGWICK heard, with astonishment, the name of Colonel Pepune mentioned. He lived opposite to Mr. SEDGWICK's house, in the town of Stockbridge. He rode down from that place to New York, along with Mr. SEDGWICK, and never spoke one word of the matter to him.

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Randall had, among other stories, told Mr. SAMUEL SMITH that Mr. WM. SMITH *should* bring forward this land business, in the House. He positively said so to Mr. S. SMITH on the 13th of December, and it would be proved that he had never exchanged a word with Mr. W. SMITH, nor ever seen him till the 22d of that month, viz: *about nine days after*. This is the substance of a short explanation which took place between some of the members, after Mr. SEDGWICK had ended his declaration. Mr. W. SMITH then asked Randall, whether it was not true, that he spoke to Mr. SAMUEL SMITH before he spoke to himself? Mr. Tilghman, in reply, said that he was authorized to answer in the affirmative. This puts to rest the story related by Randall to the member from Baltimore.

WEDNESDAY, January 6.

Case of Robert Randall.

Mr. SEDGWICK laid before the House some additions to his evidence, delivered yesterday. He gave in a written copy of the whole, and wished that it might be added to the declaration already made. The paper was read, and, on motion, ordered to be inserted in the journals. Mr. SEDGWICK said he had yesterday mentioned Col. Pepune being in Philadelphia, but he had not seen him. He has since done so. The Colonel lodges at the sign of the Drover, in Third street, and is ready, when called upon by the House, to tell every circumstance which he knows about the transaction of Randall or Whitney.

Mr. W. SMITH submitted, whether it would be proper to proceed any farther in the case of Randall, till some hearing had been given to Whitney.

It was then moved by a member that the case of Randall should be postponed. After some conversation as to the point of order, the motion was negatived.

Mr. HARPER then read two resolutions. Of the first, the following is the substance:

"*Resolved*, That any attempt to influence the conduct of this House, or its members, on subjects appertaining to their Legislative functions, by motives other than the public advantage, is a high contempt of this House, and a breach of its privileges."

The second resolution was, in substance, that Randall having committed such an offence, was guilty of such a contempt, &c.

Mr. HARPER thought it proper, before deciding as to Randall, to lay down certain principles, and decide whether the offence was in itself criminal or not, before determining the conduct of the prisoner.

Mr. KITCHELL thought these resolutions unnecessary. The only thing before the House was to call on the prisoner, and pronounce him either innocent or guilty.

Mr. HARPER, in defence of his resolutions, said, that one misfortune attending privileges was, that they could not be exactly defined; but, as far as they could be ascertained, it was the business of the House to do so. If this offence is a breach of privilege, we are entitled to declare it such, that the people of the United States may be informed that it is so.

Mr. W. SMITH could not conceive how any member would vote against this first resolution. If we refuse to say that the act itself is a crime, how can we condemn Randall as criminal? We are, in every sense of the word, bound to vote for the proposition. We have declared the attempt of Randall to be a high offence and contempt. If any member thinks it not so, then, to be sure, he will vote against it. Mr. SMITH said that Legislative bodies had frequently, while a prisoner was on trial before them, laid down rules to guide them, previous to their pronouncing sentence. A former member had suggested that it was better to make the resolution a preamble to the sentence, and introduce it with a *whereas*. As it stands at present, it is agreeable to what had been done already.

Mr. NICHOLAS hoped that members were not to be bound by any thing yet done. At the first embarking of the House in this affair, he had felt doubts. His scruples had gradually augmented, and he was now of opinion that Randall should not have been meddled with at all, in the present way. The right of privilege had been given up, unless in cases of absolute necessity. He did not think that any resolution had yet passed the House, upon due consideration, whether they had a right to proceed or not. Mr. NICHOLAS recommended lenity, rather than a parade of integrity, where there was no ground of suspicion—a parade which would not have been made if there had been any real danger.

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Mr. WILLIAMS thought the resolutions altogether unnecessary. The principle is already entered on the journals. All that the House have to do is to declare Randall guilty or not.

Mr. HILLHOUSE agreed with Mr. WILLIAMS, but he was astonished at the doctrine held up by the gentleman from Virginia. We had been told yesterday, at the bar, that the offence is not punishable by the common law. We are not to do so by privilege. The consequence is, that an attempt to corrupt members cannot be punished at all. It would not be proper to tell this to the public. Any body may then come here and bid for votes.

Mr. HILLHOUSE thought that the counsel yesterday had fairly given up the point, for they admitted that improper violence without doors was a breach of privilege. Mr. H. argued that this was as great a violence as could be. He was for inflicting a punishment.

Mr. LIVINGSTON thought the wording of the first clause too broad. Any member spoken to without doors might come into the House and complain of a breach of privilege on trifling grounds.

Mr. GILES would not at present enter into the question whether there had been a breach of privilege or not. From any thing yet seen, he was doubtful. He was against the preamble. Privilege was of an insinuating nature. Mr. LIVINGSTON had taken up a thought which occurred to Mr. GILES. Any man meeting on the street a member of this House, may say to him, "Sir, by voting for such a thing in the House, you will destroy your popularity in your district." This argument was not on motives of public good, and a member might by this resolution be warranted to come into the House and complain of it as a breach of privilege. He wished for the previous question, which was taken, and by a great majority the resolution was negatived.

Mr. LIVINGSTON then read two resolutions. Their tenor was, that it appears to this House that Robert Randall has been guilty of a contempt and a breach of the privileges of this House, by attempting to corrupt the integrity of its members, in the manner laid to his charge, and that Randall should be called up to the bar, reprimanded by the SPEAKER, and recommitted to custody, till further orders from this House.

On the first resolution the yeas and nays were called for—yeas 78, nays 17.

After some conversation, the second resolution was likewise agreed to.

Randall was then brought to the bar, and in a few words reprimanded by the SPEAKER. To call his offence indiscretion, impropriety, or indelicacy, was too mild a name. His conduct was *crime*. His apparent ignorance of the nature and extent of his guilt had induced the House to be more indulgent than they otherwise would have been. The SPEAKER informed him that he was recommitted to custody till further orders from the House.

THURSDAY, January 7.

Case of Charles Whitney.

Mr. WHITNEY was now brought in. The SPEAKER addressed him as follows: "Charles Whitney, the information lodged against you on the journals of the House will now be read to you by the Clerk." This was accordingly done.

Mr. WHITNEY was next asked at what time he would be ready to proceed with his defence? He replied that he thought he could be ready to go on just now, if he had counsel. If he could get them to-morrow, he should be glad to go on then, in order to get the thing over. If counsel could not be got, he would request a delay till Monday. He was sure Mr. BUCK had mistaken his meaning. He was told that he would be called on again to-morrow, and if he had not been able to obtain counsel then, there was a probability of his being allowed a delay till Monday.

Mr. BOURNE stated the hardship of obliging the prisoner to fee counsel; no probability existing of any thing farther being brought against him. There was but little in the charge, admitting it to be true. Mr. B. made a distinction of the conversation having passed in Vermont, not in Philadelphia. It was before Mr. BUCK came to Congress at all.

Mr. GILES had yesterday expressed but little satisfaction at the mode of conducting this business, nor had his satisfaction been since augmented by further reflection. He read a motion, which was seconded, for dismissing Whitney immediately. Admitting all which stood charged, Mr. GILES did not consider it as containing any breach of privilege.

Mr. W. SMITH regarded this resolution as premature; he wished to have the regular forms of trial gone through, as in the other case. When the trial was finished, the House could then decide on the guilt or innocence of the prisoner. He thought that Mr. BUCK ought to be sworn. When the offer was made in Vermont, he was looked upon as a member of Congress, and the temptation which had been held out to him was a contempt of the House. There was not yet a sufficient explanation to justify his discharge.

Mr. HILLHOUSE supposed corruption to be equally criminal in Vermont as in Philadelphia. It would commit the dignity of the House to say that we have kept a man in jail for a week, and then have dismissed him without a trial. It implies that we never had any right to arrest him. Mr. H. had not formed his ultimate opinion on the subject. He wished the trial to be gone through, and then, if the prisoner proved innocent, dismiss him. He had made application to a member in this town, besides Mr. BUCK in Vermont. [Mr. GOODHUE, on whom Mr. Whitney called, after he came to Philadelphia.]

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Mr. BUCK objected to the immediate dismissal of Whitney. It struck him as an impropriety to dismiss the prisoner by an unqualified resolution. It would be better to state, as a reason, that the attempt to corrupt the integrity of a member had happened in Vermont, before the sitting down of Congress. Then let the question come forward and be tried.

Mr. SEDGWICK had, more than was usual with him, avoided speaking on this question. He early entertained an idea that an application to a member of Congress, before it sat, was not a breach of privilege. It was an unfortunate circumstance when the same persons were to be both judges and parties. People were apt to get into a passion when one came to them and said, "I consider you as rascals, and I want to purchase a portion of your rascality."

Mr. MADISON said, it appeared to him that the House could have no privileges, unless what arises from the necessity of the case. He differed from the opinion formed by the House, but he wished them to act in conformity to their own principle. The object at present before the House is, to keep its members free from corruption. Whether a proposal is made in town or country, if we dismiss names and circumstances, and look only to the substance of the thing, there is no distinction between the two cases.

Mr. PAGE said, that if the motion for dismissing had come on a week ago, he would have voted for it. He wished to get rid of the matter as fast as possible. He alluded, though not in direct terms, to the idea of Mr. Lewis, that it would have been better to have kicked some people down stairs, than to have made them objects of prosecution.

Mr. HARPER considered it as a material distinction between a member being attacked and beaten, for example, in Philadelphia, during his attendance on Congress, and the same accident occurring during the recess, in a distant part of the country. It was admitted that the doctrine of privilege violated the rights of the people, and could be justified only upon the plea of necessity: it being so liable to misapprehension and misconstruction, he wished to see as little of it as possible. He gave his hearty concurrence to the resolution of Mr. GILES. He had been desirous of seeing such a thing brought forward. He adverted to the delicate situation of the House, at once accusers, judges, and witnesses.

Mr. GALLATIN spoke a few words in favor of the motion.

Mr. ISAAC SMITH was persuaded that the House possesses privileges, and has a right to exert them. They are pointed out by the constitution. Mr. S. wished to dismiss the prisoner. It had been said that dismissing him without a trial, after having apprehended and confined him, would be casting a reflection on the House. No such thing! There existed probable grounds of suspicion. We have waited full time, and no proof has come forward. Then let him go, and the sooner that we do it the better.

When Mr. ISAAC SMITH sat down, Mr. GILES rose to offer a resolution, in place of his former one:

"Resolved, That it appears to this House that the information lodged against Charles Whitney does not amount to a breach of the privileges of this House, and that he therefore be discharged from custody."

Mr. FREEMAN voted yesterday in a minority for dismissing Randall. He would this day vote for discharging Whitney. As to the dignity of the House, even an outrage upon it could be as well punished by a Justice of the Peace as by ourselves. He stated the extreme difficulty of adopting, in practice, the doctrine laid down, that an improper offer made to a member when in the country, was to be punished as a breach of privilege. A member, suppose from Georgia, comes here, and tells a story of somebody in that State who has made him an unsuitable proposal: the Sergeant-at-Arms is instantly despatched a thousand miles to bring this person to the bar for contempt of the House. What kind of a business would this be?

Mr. HARTLEY thought the resolution last offered by Mr. GILES had too much narrowed the ground of dismissing Whitney. He had been taken up as an associate with Randall. The charge had not been properly supported by evidence. Dismiss him, and let the want of proof be your reason for it. Mr. H. cordially agreed with the substance of the resolution, but he objected to the wording of it.

Mr. KITCHELL pointed out the wide distinction between the cases of Randall and Whitney. It had been said that the latter must be criminal, for he was an associate with Randall. Mr. K. saw no such thing. There was no criminality in the bond. Keep a man in jail week after week upon idle suspicion! Injustice, Whitney ought to have been tried at first, when he declared himself ready for trial. Mr. K. was for discharging him this day.

Mr. HARPER now moved an amendment to the resolution before the House: it was in these words:

"Inasmuch as the proposals made by the said Whitney took place before the member to whom they were addressed had taken his seat in the House."

Mr. GILES.—If the amendment succeeded, he would vote against the whole proposition. This was a renewal of the attempt to define privilege. It was not practicable. Every case of the kind must stand upon its own merits. Mr. G. would vote against the amendment.

Mr. MACON read a resolution, that Charles Whitney be discharged from the custody of the Sergeant-at-Arms. This was, in fact, reducing the second resolution offered by Mr. GILES back into his first one.

Mr. SEDGWICK thought it an awkward thing to attempt giving any reasons. If gentlemen are willing to agree to discharge Mr. Whitney, they ought to discharge him. They assign different reasons for the same proceedings, and will not consent to it, but each in his own particular mode.

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Mr. HARPER was astonished to hear so many invincible objections to telling the motives why we agree in a measure. It had been complained that privilege was undefined; that it was an assuming, creeping monster. An attempt had been made to define it, in part, and this also had been objected to.

Mr. MACON said, that he would vote to discharge Whitney, for a particular reason alleged by Mr. GILES.

Now, replied Mr. GILES, if the gentleman is to vote for the dismissal because that is my reason, I desire him to vote against the dismissal. My reason for discharging Whitney is totally different. I argue, that all which we have entered on the journals, admitting it proved, does not amount to any breach of our privileges. That is my motive for dismissing the prisoner.

An amendment was proposed to strike out of the resolution of Mr. GILES the following words: "That it appears to this House, that the information lodged against Charles Whitney, does not amount to a breach of the privileges of this House; and." The amendment was agreed to—ayes 43, noes 41.

It was then moved to alter the remainder of the resolution, by striking out the word "he," and inserting "Charles Whitney." The amendment was adopted; and the resolution so amended, stood thus:

Resolved, That Charles Whitney be discharged from the custody of the Sergeant-at-Arms.

This, also, was agreed to.

FRIDAY, January 8.

JEREMIAH CRABB, from Maryland, appeared, was qualified, and took his seat.

Indian Trading Houses.

The House went into Committee of the Whole, Mr. MUHLENBERG in the chair, on the bill to establish trading houses for the Indian tribes.

Mr. DAYTON objected to the bill, so far as it empowers those who are to sell the goods to the Indians, to procure or purchase the goods. He considered the uniting these powers in the same persons as highly exceptionable and liable to great abuse. He moved to strike out the words "procure or."

Mr. PARKER said that the objection was misapplied, for subsequent clauses placed the business under the special direction of the PRESIDENT OF THE UNITED STATES. He should not, however, object to striking out the words. His view in rising was merely to justify the committee who reported the bill, as they had supposed that sufficient guards were provided.

Mr. GILES did not think the reason given for retaining the words sufficient. The PRESIDENT cannot

be supposed to have such cognizance of every part of this business as will enable him to secure the public, or Indians, from imposition. He was for increasing the checks against abuse.

The motion for striking out was agreed to.

In the third section, Mr. SEDGWICK objected to the words "laying aside all view of gain by the trade." They might operate disadvantageously to the people of the United States, if Government should enter into this trade on a principle that would preclude all private adventures in the same line by citizens. The words were expunged.

Mr. PARKER presented a substitute. It relates to compensation of agents and clerks to be employed. The sum of — dollars was to be appropriated. The substitute was adopted by the committee.

In the seventh section, Mr. SEDGWICK moved an amendment, providing for the forfeiture of licenses in case of contravening the provisions of the law. This motion was withdrawn in order to introduce the provision elsewhere.

Mr. MILLEDGE moved to strike out the whole of this seventh section. It appeared to him to involve provisions which would be proper in another law, but in this bill blended two different subjects.

Mr. SEDGWICK considered the provisions in this section referring to certain rules for regulating the public trade with the Indians, as proper, since similar rules would be made in regulating the trade of individuals with Indians. On this ground he was for retaining the section.

It was moved to modify the section by confining the provisions to "the agents or clerks," specially employed by the United States. This amendment was agreed to.

On the motion of Mr. SEDGWICK, the last clause of the seventh section, relative to the oath or affirmation, was expunged.

The committee then rose; the Chairman reported the bill with the amendments, which were taken up, and agreed to by the House, with one verbal amendment.

Mr. SWIFT expressed his disapprobation of the bill. He thought the object unattainable to any important extent. He disapproved of public bodies being concerned in trade. It is always managed better by individuals. Great loss and dilapidation are the consequence; nor is it possible to guard against frauds and abuses. The public have no money to spare. It is the opinion of the Committee of Ways and Means, that additional taxes will be necessary for the public service. We must not tax our constituents for the sake of trading with the Indians. He hoped not. Mr. S. concluded by a motion for striking out the first section.

Mr. PARKER supported the principle of the bill; he wished a fair experiment to be made. The plan is founded on humanity and benevolence. It has been recommended by the PRESIDENT from year to year. Mr. P., on this subject, had been in sentiment with him. It was well-known he had never lightly advocated a disbursement of public money; on this occasion, it would be a saving of public money. It will cost much less to conciliate the good opinion of the Indians than to pay men for destroying them.

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Mr. HILLHOUSE was in favor of an experiment. Much had been anticipated from the plan; a beginning had been made, and he thought it best to try it for such a length of time as would afford a fair experiment of what could be done.

Mr. SWANWICK said he was in favor of the principles of the bill, were it merely as a change from our usual system of Indian affairs. We have hitherto pursued war at an expense of a million and a half of dollars nearly annually; let us now try the fruits of commerce, that beneficent power which cements and civilizes so many nations; barbarous till they became acquainted with its influence. To encourage us, indeed, a fact has come to our knowledge on the investigation of the case of Randall. Gentlemen will remember his assertions to them, and the deed read in the House, in which so much was stated of the influence of the Canada traders over the Indians: well, let us try to balance or countervail this influence; but it has been observed, our private citizens will do this sufficiently in the way of their private trade. In general I am friendly to let commerce take its own level without Governmental interference; but the little influence our traders have yet obtained, shows plainly enough defective capital or a defective extent of trade; both are to be apprehended. So many objects of speculation offer in this country, that individuals may not pay sufficient attention to this branch, in which they have so powerful a British interest to contend with. Government, alone, can do this in the infancy of the commerce. Let the experiment be made; we can lose little by it; we may gain a great deal. It has been observed, that this act has been rejected in three different sessions of Congress already; and this is argued as a proof of its want of merit; but this has been the fate in England of the navigation act; it was hundreds of years struggling to get into existence, but was not the less acceptable when at last it succeeded. Perhaps we may find this bill, on experience, none the worse for the difficulties, which, as an untried step, it has hitherto had to encounter: it is recommended by general reasoning; let us try it; we can only repeal it if we find it does not answer the sanguine expectations entertained of it.

Mr. MACON^[64] was opposed to the bill. He thought the circumstance of the business having been so long in agitation, was a reason why it should be longer considered. The reason for delay was certainly not weakened by that. The business was highly improper for Government to embark in.

Mr. MURRAY had but one idea to suggest, as it was unnecessary to go over the general policy, which had been amply stated by other gentlemen. There appeared to him two objects; first, the securing the Indian friendship by a supply of their wants; second, the supplanting the British traders in their influence over the tribes whose hostilities might embarrass us. To the last object,

therefore, the meditated mode of supply by public agency was peculiarly well adapted. The Indians are now supplied by a great company long established, very wealthy, and possessing this influence, in which we must supplant them. We are to consider whether, if private individuals are left to be the only competitors with the Canada company, this influence and this trade will be transferred agreeably to sound policy. He thought they would not. Small capitalists, and adventurers young in this trade, would certainly prove unequal to a competition with so well established and rich a company as the Canada company. It was no uncommon thing for great companies, when they were apprehensive of what they would call interlopers, to crush all competition by making a voluntary sacrifice of a few thousand pounds sterling. By underselling, on a large scale, for a time, and even a certain loss, they secured themselves in future from competition. This great company can afford to pay this price for the perpetuity of this trade and influence. In order to meet the capital of this company, we must not trust to individual small capitalists. By a sum appropriated by Government to the object, however large the capital in competition in Canada, the Government will be able to beat down the trade of this company and place it in American hands; and in a few years after the competition has ceased, the Government may then withdraw its agency, and leave it to private capitals, to which the field will then have been rendered easy.

The motion of Mr. SWIFT was negatived; and the bill was ordered to be engrossed for a third reading.

WEDNESDAY, January 19.

Appropriations for 1796.

The House went into Committee of the Whole on the bill making appropriations for the support of Government in the year 1796.

Mr. WILLIAMS, agreeably to notice given on a former day, moved to strike out all that gross sum appropriated for the officers of the Mint.^[65]

Mr. W. SMITH said that a great proportion of the sum was for salaries established by law. They must be paid, till the law is repealed. If the gentleman means to suspend the whole appropriation bill till an inquiry is gone through with respect to the Mint, the bill may be delayed for two months, and the consequence be the greatest embarrassment in Government.

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Mr. JEREMIAH SMITH had never been much in favor of the Mint, nor had experience increased his good opinion of it. But passing this appropriation bill would not prevent a full investigation of this subject hereafter. He was for deferring any proceeding about the Mint till the select committee made their report. He opposed the motion.

Mr. SEDGWICK thought that the course which the gentleman is pursuing had never been adopted before. It is incorrect to discuss the merits of the Mint in passing this bill. We might as well take up the salary of the Chief Justice, or any other article in the bill, as the Mint. We never should have done, at this rate. We are now only to vote for the bill, as agreeable to the laws already made. Mr. SEDGWICK said that if the gentleman from New York (Mr. WILLIAMS) would bring forward any proposition for the regulation, or even the abolition of the establishment of the Mint, if it could be proved productive of public benefit, he, with every other gentleman, would give him their aid to effect the object; but that now, he conceived, it could not regularly be brought forward. He thought an appropriation bill should be conformed exactly to the state of the public engagements, and that where establishments had been formed and salaries provided, the amount of them should be the principle of calculating the amount of appropriations; and that the House ought not, by withholding appropriations, to break in upon and destroy establishments formed by the whole Legislature. That these observations had hitherto been sanctioned by the practice on this subject. He observed, that if the House was to investigate, in the discussion of an appropriation bill, the amount of salaries and the legal establishments of Government, the public service would be dangerously destroyed. He remarked, that it was to be observed that no appropriation was made, for any purpose, since the commencement of the year.

Mr. GALLATIN felt alarmed at the principle advanced by Mr. SEDGWICK, for, if admitted, it might be applied in future on some other and important occasion. The motion made by the member from New York ought not, perhaps, to be adopted; but there was certainly a discretionary power in the House to appropriate or not to appropriate for any object whatever, whether that object was authorized by law or not. It was a power which, however inexpedient on the present occasion, was vested in this House for the purpose of checking the other branches of Government whenever necessary. That such a right was reserved by this body, appeared from their making only yearly appropriations for the support of the Civil List and of the Military Establishment. Had they meant to give up the right, they would have such appropriations *permanent*. There was one instance in which this House had thought it proper to abandon the right. In order to strengthen public credit, they had consented that the payment of interest on the debt should not depend on their sole will, and they had rendered the appropriation for that object not a yearly, but a permanent one. Whenever that was not the case, and the right had been reserved, it was contradictory to suppose that the House were bound to do a certain act, at the same time that they were exercising the discretionary power of voting upon it.

Mr. SEDGWICK said that he certainly had no intention to have given occasion to the observations which had been made; but, as the general principle which he had laid down had been denied, and as it had some relation, either intimate or remote, to the subject before the committee, he would

take the liberty to repeat the principle, and say a few words in support of it.

The principle, then, which he had assumed, was, that when legal establishments were made, it was the duty of the Legislature to make appropriations conformably to the public engagements; and that neither branch had a right to withhold its assent. He observed that the whole Legislature, and not a part, were competent to form contracts, and to establish and alter compensations and salaries. The Legislature, and not either branch of it, had the power of expressing the public will, and pledging the public faith; that when a salary is ascertained, the public faith is pledged that it shall be paid, according to the stipulation; and that, therefore, the public credit is involved in making the necessary appropriations, without which it could not be paid. He asked, if, in such a case, it was competent to the House rightfully to withhold the means necessary for the performance of the public engagement?

He said he had always supposed that the power of the House, in the case of appropriations, did not give a power to yield or withhold assent on such a subject. He believed, in every such instance, the exercise of discretion was restrained. To illustrate his ideas, he could mention a similar instance. The constitution had declared that the PRESIDENT should receive a stated compensation for his services, to be ascertained by law, which could neither be diminished nor enlarged during the term for which he should have been elected. Here was a duty imposed on the Legislature, with the performance of which they could not, they had no power to dispense. Yet, after the compensation was stated, no payment could be made in consequence of appropriating. He asked, if, in this case, when the public will was expressed, the engagement and the national faith pledged, the Legislature could of right withhold the necessary appropriation? The same observations might, he said, be applied to every instance where public contracts were formed. The public faith was pledged, the necessary appropriation must be made to prevent a violation of it; and if withheld, such violation might justly be charged on the Legislature.

Mr. NICHOLAS was for the resolution. It had been urged that the House were to pass the appropriation bill as a matter of course. He thought otherwise. The House, in enacting a law, were entitled to consider all its consequences.

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Mr. GILES adverted to a fact stated by Mr. WILLIAMS, viz: that the cents are issued from the Mint at a cheaper rate than the price of the copper itself; so that, if a person chooses to melt down a pound weight of cents into a lump of copper, and takes this lump back again to the Mint, he will receive more money for it than what it was worth in cents. Thus the whole expense of workmanship is cast away. Mr. GILES described the ridiculous and wasteful effects to be looked for from such a way of coining money.

The amendment of Mr. WILLIAMS was agreed to by a very large majority.

Mr. NICHOLAS moved to strike out some of the subsequent clauses, for payments to mechanics, for stationery, &c.

Mr. ISAAC SMITH wanted to know if it was meant to stop the whole operations of the Mint.

Mr. PAGE objected to dispersing the workmen, who could not easily be collected again; at least it would require an immense expense to re-assemble them. It has been stated, in the course of this discussion, that *every cent coined in the Mint* has cost the public TEN; but if the workmen are to be dispersed, and if at any future time assembled again, the cents may come to cost *A HUNDRED CENTS* apiece. Mr. P. recited various reasons for hoping that the business of the Mint will in future be conducted with more expedition, economy, and success. He stated the immense benefit arising to the country from the plenty of copper money, and especially to the poorer classes of people. A Mint was of more consequence than gentlemen seemed to think it was. He said that private mints were reported to be setting up. He wished to refer the amendment of his colleague from Virginia to the third reading of the bill. By that time the House would be better informed.

Mr. NICHOLAS did not wish to abolish, but merely to suspend the operations of the Mint till nearer the end of the session. This amendment was negatived.

The committee rose, the Chairman reported, and the House took up the bill as reported.

The House adhered to the amendment of the Committee of the Whole.

Mr. LIVINGSTON next moved that the whole appropriation for the Mint should be struck out.

Mr. MURRAY said, that had the gentleman from New York moved for delay, for the purpose of introducing a motion to repeal the law which rendered this appropriation necessary, he would not have troubled the House with a single remark; but his motion to strike out an appropriation for the purpose of bringing the policy of the law itself into discussion, contained a principle in his mind so repugnant to the great Legislative duties of the House that he would oppose it. The object of the appropriation is not a temporary one, but a part of the machinery of our Government, under the express authority of the constitution by law. The doctrine now contended for by the gentlemen from New York and Pennsylvania (Mr. LIVINGSTON and Mr. GALLATIN) was that this House have a discretionary power of appropriating or not. To this doctrine, taken in the extent which he conceived they contended for, he could not give his support. On the contrary, he thought that in all cases where an appropriation flowed from a law to make good a contract, or to erect a permanent organ in the Government, and from any law whose object was permanent, the true doctrine was, that it was the duty of the House to vote an appropriation. A law is the will of a nation. The same powers only that formed it can repeal it. If it be a constitutional act, no power can lawfully obstruct its operation or its existence. But attending to the doctrine maintained to-day, it would follow, that though this House had not the power of repealing a law made by all the branches of Government, it may obstruct its operations and render it a dead letter; though it

cannot repeal, it may do what shall amount to a repeal, which is the assumption of a power almost equal to that of exclusive legislation. He thought he saw in this an evil of great extent, and an anarchy of theoretic principles. It appeared to him that though we originate money bills, we had no right to refuse an appropriation to existing laws that either secured a debt or any contract, or that related to objects permanent by the law that created or acknowledged them, as long as the law itself remained unrepealed. We had but a share of Legislative power. Where a law relative to such objects as he had alluded to existed, from which an appropriation followed, till the law ceased by repeal or by other constitutional means, it was obligatory upon us as well as upon our constituents, and the only powers we could exercise of a discretionary sort resolved themselves either into this mode of making good the appropriation, or of voting for its repeal. The other branches would then judge of the propriety of our proceeding; but till they who assisted in its enacting, judged with us the necessity of doing it away, a duty resulted that we should give it the energy intended by its enactment.

Mr. DAYTON conceived the question brought under discussion of too delicate a nature to be decided at the present time. He, however, expressed it as his opinion that the power of making appropriations was intended and ought to be a check on establishments.

Mr. NICHOLAS conceived the House bound to weigh the merits of every law when an appropriation was to be passed to carry it into effect, and no appropriations should obtain the sanction of the House, unless they were convinced of the propriety of the law.

Mr. GILES said he did not expect to hear a doctrine so novel broached in the House as that advanced by the member from Massachusetts, (Mr. SEDGWICK.) He had declared that he conceived the House could exercise no discretionary power when about to pass an appropriation bill.

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Mr. SEDGWICK rose to explain. The principle he advocated was, that when a law was made pledging the public faith, the House had no discretion to withhold, or not, an appropriation; at least as long as common honesty was more than a name.

Mr. GILES said that if this doctrine was admitted in its full latitude, the House would become a mere office for the registering of edicts. He contended that the House had a right, by withholding appropriations, to put an end to an institution without the concurrence of the Senate. He would not say that the present was a case that called for the exercise of that right, but they had in all cases of this nature a right to exercise their discretion.

Mr. MURRAY considered the laws of the land as depending upon two other branches of the Government besides this House, and conceived it highly improper in the House to attempt to obstruct them by withholding necessary appropriations. What would be the effect of a contrary doctrine? It must contain the seeds of governmental anarchy. While a law remained in force it was the duty of the House to do what was needful to carry it into operation. He made some allusion to the British House of Commons, who, by privilege, contend for the right of withholding supplies to be a check on the patronage of the Crown. But such a principle, he contended, could not apply here; our Government could not proceed if it were admitted. As long as a law exists, it is the duty of the House to make the needful appropriations. The whole wisdom of the Government is not in this House. The same power is required to repeal laws as to make them. It is true the constitution has given to the House the more immediate command of the purse-strings; but they were under an obligation to open them when necessity required. There is a constitutional way of repealing laws; but the House has no right to obstruct their operation while in force. A member from Pennsylvania, (Mr. GALLATIN,) he observed, appeared on a former occasion to coincide with his opinions on this subject; for he argued that the House was bound to pass such an appropriation, as a law existed giving the salary to the officer which it was meant to provide for.

Mr. GALLATIN said, in answer, that his observation had simply been, that the Committee of Ways and Means, and not the House, conceived itself bound to report an appropriation for an item established by law; but he never doubted the power of the House to pass, or not, an appropriation. In such cases the line of duty must remain to be drawn by opinion. With what degree of consistency can the House be called on for a vote if, as some members contend, they cannot have an opinion? Why are they called upon to say, yea or nay, if they are obliged to say yea?

Mr. MURRAY conceded that a member might say yea or nay, but his duty must in cases of this nature clearly point to one of the two; for he could not mistake the black and white marks in the court of conscience. He has the physical power to say yea or nay; but if he does his duty he must say yea. The contrary principle would go to this, that the House had a right to refuse an appropriation to pay a just debt.

Mr. GALLATIN observed, in reply, that each member will be the sole judge whether it was or was not his duty to say yea, or the contrary. The constitution, he said, declared that no money should be drawn from the Treasury but by appropriations made by law: this did not look as if the voting of appropriations was intended to be merely a matter of form. In the second place, the constitution declares, that no appropriation for the support of an armed force shall be made for more than two years. Thus, though a Military Establishment may be formed by enlistments for three or more years, yet the constitution provides that the question shall be submitted to the House every two years; and this surely is not as a matter of form; but in order, at such short periods, by voting on an appropriation bill, to determine whether such an establishment should exist longer or not. He conceived the power which he advocated as residing in the House of great consequence, and to be used on important occasions only.

Mr. NICHOLAS, who had risen at the same time with Mr. GALLATIN, and had given way to him, observed, that when he first rose, he was going to read the clause of the constitution which the member last up had referred to. As to the black and white marks the member from Maryland spoke of, they were differently placed in different persons; in matters of opinion men will differ; but the constitution is a guide not to be departed from. The power of appropriation was vested by that instrument chiefly in the House, and no power on earth would prevent his exercising his discretion when that power was to be put in activity.

Mr. GILES observed, that the member from Maryland had got into the doctrine of checks, and seemed to think that if the House exercised its constitutional check it would produce governmental anarchy.

Mr. MURRAY explained. He had alluded to the mode of getting rid of an establishment by refusing appropriations to carry it into effect. The constitutional mode of procuring the repeal of the law should always be had recourse to; but he insisted that the House could not, as they were bound by their duty, obstruct a law in force by refusing an appropriation.

Mr. GILES conceived that the checks provided by the constitution might be used by each of the powers of government to their full extent, limited in every particular case only by their own discretion. If the harmony of the branches was to be made an argument to prevent the exercise of checks, what, he asked, became of the checks provided by the constitution? Each branch of the government (if he understood what was meant by constitutional checks) was to exercise its own opinions and use its discretions within constitutional limits, without a reference to the opinions of other branches. He next adverted to the powers of appropriation, which he contended were in a greater degree vested in the immediate representatives of the people, to be a wholesome check. In case of an army establishment, for example, suppose the PRESIDENT or Senate were to refuse their assent to the repeal of a law establishing it? Will it be said that the clause of the constitution empowering the House to make a biennial appropriation for the object, does not vest in them a discretionary power in such instances of overturning the establishment by its own will? for it cannot be kept up without an appropriation. Is the House to be told that, for the sake of harmony, they must give up their own powers and opinions? He maintained that, in cases of appropriations, they had a discretionary power, to be exercised, as in all cases, discretionarily. Was one branch to be judges of discretion for another? No; each should judge for itself.

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Mr. MURRAY said, it was known to every one that an appropriation for the support of a military establishment could not be made for a longer term than two years; but that case was widely different from the present. It was known that, by the constitution, a military appropriation cannot exist more than two years; but the doctrine he supported was in cases of debt or obligation under a law; and, in such cases, he still contended that, though the House had the physical power to refuse an appropriation to satisfy a claim thus founded, they had not the right.

Here the debate was interrupted by a motion for adjournment; which was carried, and the House adjourned.

WEDNESDAY, January 20.

Appropriations for 1796.

The amendments from the committee being thus gone through, the bill was ordered to be engrossed for a third reading.^[66]

SATURDAY, January 30.

Stenographer to the House.

The House then went into a Committee of the Whole on the report from the stenographical committee. The report was read.

Mr. SWANWICK: then rose for the sake of asking information. He inquired whether the House were to sanction and authorize the reports of the proposed stenographer? He had very considerable apprehensions about the propriety of entering into the subject in any mode.

Mr. W. SMITH replied, that the gentleman engaged by the committee had undertaken to have his reports ready for Mr. Brown, printer of the Philadelphia Gazette, in the morning of the succeeding day.

Mr. SWANWICK rose again. He observed, that to give universal satisfaction was impracticable. So many gentlemen were to be satisfied, that it never could be accomplished. He observed that one of the principal causes of complaint against reporters was of a nature that did not admit a remedy. Gentlemen rose, in the ardor of discussion, and suffered many remarks to escape from them, which, neither in thought nor expression, were perfectly correct. If the reporter, as was his duty, took them down, and stated them exactly, gentlemen were irritated by seeing themselves exhibited in this shape, and then blame was cast on the reporter. Every degree of praise was due to the editor of a Philadelphia daily newspaper, whom Mr. S. named, and who had not only done every thing in his power to obtain the debates of the House at full length, but had frequently advertised, that if errors were committed by his reporter, they should, on application, be instantly rectified. More than this it was impossible to desire, for no mode of conduct could be more liberal or candid. But Mr. S. did not see the propriety of blending the House of

Representatives and the editor of a newspaper in this business. The stenographer is to be called an officer of the House, while he receives eleven hundred dollars from the printer of a Philadelphia newspaper. He is thus also the officer of the printer, as well as ours. If we give the gentleman the proposed salary, we are to depend on him alone, whereas at present we have different reporters, and two or three of them frequently and mutually both corroborate and correct each other. What has escaped one reporter, or what he has misunderstood, is often observed by his competitor. The error is amended, or the defect supplied. Mr. S. farther observed, that as far as he had read or heard of, such an institution as the one now proposed, was never known under any Government, or in any country, that had hitherto existed. [It was observed, in some part of the debate, that an attempt of this kind was once made by the National Assembly of France.] Mr. S. expressed himself warmly against Government making any composition of the nature now proposed with a printer, and against any attempt for giving one newspaper an advantage over another, by any preference as to the copy. If Mr. S. wanted any person to be sure of dismissal and disgrace, he could not name any other situation where that dismissal and disgrace were so absolutely certain, as to a person accepting the proposed office of stenographer. If he did his duty, gentlemen would frequently not like to see their speeches exactly as delivered. If he altered them, his utility was at an end. It would therefore be much better to let the gentleman stay at his own business.

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Mr. GILES objected particularly to the opposition made in this late stage of the business. He admitted that it was a delicate step, but he complained in strong terms of the inaccuracy of the reports now given. He observed that the object was not merely to find a stenographer who would satisfy the members of that House, but who would also give satisfactory information to the public at large.

Mr. SHERBURNE agreed with the gentleman last up, that the object of the resolution could not be merely to give satisfaction to members, but information to the public; though if it was important that the public should be informed of what was said in that House, the proposed resolution would be inadequate to its objects. But he conceived it more important for the public to be informed of what was done, and that, he observed, was not always to be inferred from what was said; as (the mind being always open to conviction) it had not been unusual in a former—he would not say the present—House, for gentlemen to argue one way, and vote another. As therefore, no certain inferences of the conduct of members would be drawn from their speeches, and as the public were more interested in their actions than their sayings, (a knowledge of which the present resolution was not, in his opinion, calculated to promote,) it would not meet his concurrence. But, Mr. S. further observed, that if the speech was to be considered as the infallible *inditium* of the subsequent conduct, as the avowed object of the resolution was to diffuse, through the various parts of the States a knowledge of that conduct, he should oppose it from a conviction that the means were not competent to the end. The resolution proposed a publication of the debates in a daily Philadelphia paper. These debates would necessarily be so voluminous as to engross the greater part of such a publication. Except in Philadelphia, New York, and one or two other large cities, there were no daily papers; in all other places, they were not published oftener than once, or, at most, twice, a week. The daily papers, in comparison with others, were few. If, therefore, a daily paper was engrossed by a detail of the debates, when would the public arrive at a knowledge of them through the more common medium of a weekly paper? The inhabitants of this, and a few other large towns, might be gratified, perhaps benefited, by a speedy perusal of them; but when would the citizens of more distant parts of the Union, through their usual weekly channels, be indulged with the like opportunities? The difference would be as one to six; and what the inhabitants of Philadelphia might become acquainted with in one year, the people of New England and Georgia would not be informed of in six years, unless they relinquished their own weekly publications for a Philadelphia paper.

Mr. SEDGWICK said, that he would candidly confess that the House had put itself in a delicate situation on this subject; yet if, on the whole, gentlemen be of opinion that the measure was improper, it ought not, by reason of any antecedent conduct, to be now further pursued to the public detriment. It was also but just to say, that if the measure was proper, a more competent and more impartial agent than the one proposed could not be obtained. He said that the printers had much merit from their endeavors to communicate to the public the debates of the House, yet it must be allowed that their endeavors had been too unsuccessful; that, in consequence, much injury had been done, not only to the characters of gentlemen as men of talents, but also in some instances, to the motives which had produced public measures. These were evils to which a remedy should be applied, if it did not involve those which would be more injurious. It ought to be remembered that the man appointed would be an officer of the House, responsible to it for his fidelity and accuracy. The debates would then be published under authority of the House, and it of consequence was responsible for his precise execution of the trust. It was impossible to conceive that at some times, with the best intention, he should not mistake, and of course misrepresent. The member in such a situation, would feel the injury, but redress would be obtained only by the interposition of the House. This would afford ground for numerous appeals, and endless litigation; and, in the end, might be ruinous to many valuable and respectable characters. It was of importance that no constraint should exist which would prevent gentlemen from expressing freely and without fear their own feelings and opinions and those of their constituents. How far the fear of misrepresentation, and the difficulty of correcting it, under such a system, would produce such an effect, gentlemen he hoped would consider before they assented to this proposition.

There was one other consideration, which had great weight on the mind. Whatever opinion we might entertain on the subject at present, all would remember the powerful influence of party

and faction, and their intimate connection with free governments. From hence it might be easy to conceive, that hereafter this might be rendered the most powerful engine of an unprincipled majority, to overawe and to prostrate and destroy a virtuous minority. For no character was so established as to withstand for any length of time constant misrepresentation supported by the authority of the House of Representatives.

Mr. HARPER rose in reply to Mr. SEDGWICK, who, immediately after he began speaking, observed that the gentleman had mistaken his meaning. Mr. H. said that he perfectly understood the member, and proceeded to recommend the object of the report. He gave credit to the present reporters for diligence and good intention, but thought them far inferior to what might be done. Great attainments had been made, he admitted, but more might be done. He thought it of the highest consequence that the speeches of members should be correctly published and disseminated among the people. As to the sum now proposed, a London newspaper would give, he had no doubt, five thousand dollars a year for such a reporter. He questioned not that Woodfall would receive ten thousand pounds a year from the printer for his reports. It had been objected that daily papers alone could hold such debates; but weekly and semi-weekly papers could select the most interesting passages of them from the daily papers. Mr. H. recommended either that this report or a similar one should be adopted, or that the business of reporting should at once be put to an end. He spoke of *atrocious* mistakes. The debates, as now published, held up the House to the scorn of the world. He would rather have the doors shut up altogether. He would, if the present resolution was rejected, make a motion to that effect. He was sorry to learn that the debates had been collected into a book, entitled "The Political Register," of which he doubted not that immense numbers would be sent to Europe, and this book he reprobated in the strongest terms.

Mr. SEDGWICK observed, if gentlemen were misrepresented, in one of the newspapers, where debates were reported, the editor of that paper had advertised that he was ready to publish any corrections which might be offered. This notice had been long and frequently given, and gentlemen had it in their power to do themselves justice.

The first resolution in the report was then read, and the question going to be put, when

Mr. BALDWIN said, that the more the House advanced into this affair, the greater was the number of difficulties which occurred. The resolutions had the less weight with him because they were hurried through at the close of last session. The institution was unprecedented in any other Government. He knew that members might be misrepresented, but this scheme would not cure the evil. He repeatedly declared, that on all great questions, where talents found an object worth exertion, the debates in that House were very well represented. He had seen many speeches, sketched by printers in this city, that he would not wish to see better done. He did not know of any recent or particular complaints about inaccuracy. We have now been in session for seven or eight weeks, and there has not occurred much interesting matter, to make any remarkable debate out of. He said that the debates, if taken at full length, would far exceed the limits of any newspaper. As to the expense of printing, that of the laws of this session would cost twenty thousand dollars, and he conjectured that to print the speeches, would require a hundred thousand dollars; and even after they were printed, it would be necessary to pay people for being at the trouble to read them, for otherwise nobody would go through a perusal of every word spoken in the House.

Mr. NICHOLAS said, that the reports at present published were full of notorious falsehoods, and the characters of members with their constituents would have been sunk, if it had not been known that this kind of things deserved no credit. He was in favor of the report. He complained that even when pieces were sent to the printers, they were embodied in the sketch, by which means the reporter got the full credit of them, which had pernicious consequences. One of his objections to the present mode of reporting was, that the speeches of members were often much improved. He mentioned an instance from his own experience. A speech was once made for him by a person who reports in this House, and who has a very good style of writing. The style, said Mr. N., was above mine. There was not a sentiment in it which I would have disavowed. It was a better speech than mine; but, in an entire column, there was nothing that I said. As for sending corrections to the printers, Mr. N. was above it.

Mr. HILLHOUSE was against the report. The loss of four thousand dollars would be a much greater harm to the public than any injury arising from inaccurate reports. He did not see that the characters of members with their constituents depended on these publications.

Mr. SWANWICK.—The gentleman from Virginia last up has suggested that the House have somehow committed themselves to appoint a stenographer, by their previous resolution on this subject; but that resolution goes only to the committee receiving proposals. It therefore remains with this House whether to accept them or not when made. As to the gentleman who is the subject of the resolution, if I have more strenuously than usual opposed the motion, it is from a desire to keep him from quitting the lucrative situation he is said to find himself in, to embark on the stormy sea he is contemplating. To be the organ of the members of this House to their constituents is indeed a very delicate task; one for which, considering the danger he might be in of an Orpheus's fate—that of being torn to pieces—the salary is but a poor compensation. He is to do justice to the eloquence of some members; he is to clothe in an elegant dress the uncouth, yet well-meaning expressions of others; but what will he do with the silent members, who never speak at all? What will their constituents think of them? Indeed, sir, if he has the idea I have formed of his danger, he will not undertake it at all. Faction and party have been mentioned: happy stenographer, if he can keep clear of these! If he fall into their power, insensibly he will represent one side in clouds and darkness, the other as ornamented with the brightest beams of light. How will he please

both? Misrepresentation is complained of: alas, sir, how quick is error—how slow is the progress of truth in almost all things! Our stenographer must indeed be a wonder-working man, if he can revert this tide, and make every where light and correct reasoning prevail. The best mode of informing our constituents is, by the yeas and nays on our acts; this truly shows, as a gentleman from new Hampshire has observed, our doings, which are much more interesting to them than our abstract reasonings; these our constituents will easily form to themselves ideas of, when they know our votes; as the celebrated Dr. Johnson is said to have written speeches for members of Parliament whose general political sentiments he knew; by knowing these he applied arguments pretty accurately, as he supposed them to bear on every question offered. But, it has been observed, if we do not agree to have an official stenographer, a motion will be made to clear the House of those who now take down debates. These persons are tolerated only on the principle that our galleries are open. Woodfall, a celebrated printer, took down debates from memory: could we prevent this being done here? Or should we drive all printers from us who take notes, for the inaccuracies of some? I hope not. The liberty of the press has great title to respect. How can we agree by a miscellaneous union, the most strange, to commute with Mr. Brown, the printer, the salary of four thousand dollars, so as to possess him first of the proof-sheets, without supposing other printers will become rivals of this business, and complain if they are thwarted in an equal pursuit of their own livelihood? The best way is, to leave this business, like others, to regulate itself. Mr. Brown, by his labor in this way, has already widely extended the circulation of his paper—evident in his present overture—and, by the by, this is no mean proof of correctness on the whole in his success; he or others will still go on to improve the business, if left to themselves. If he or they fall into errors, they are their own. Members may correct them, or write their own speeches out, if they please. But what has the House to do with this; or why should it become the censor and promulgator of the speeches of its own members? Our time is wasted often, already, by too many long discussions on unimportant objects; but what would it be if we were to be every morning saluted with motions to correct the performances of the stenographers of the preceding day? All the advantage of the motion is to obtain more accuracy; but, it is said, the House means not to pledge itself for this accuracy: if so, why employ an officer under its authority for this purpose? On the whole, sir, we shall in vain seek to escape abuse and misrepresentation; these are by far too much in vogue. All the consolation left is, what I usually apply in such cases—that is, the consciousness of not deserving them.

Mr. GILBERT was against the report. He thought the publication of the laws and the yeas and nays, a sufficient means to communicate the proceedings of the House.

Mr. WM. LYMAN said that the debates in one of the newspapers (he either named or plainly alluded to the Philadelphia Gazette) had, for the two last sessions, been altogether exceptionable. He was sorry to learn, that these debates had been collected by a person who comes here, so that they would now, perhaps, descend to posterity. If they were as incorrect in the volume (the Political Register) as they were in the newspaper, they were a libel on that House, and would disgrace it with the world. If this resolution was rejected, it would be advisable to send all the printers to the gallery.

Mr. KITCHELL was entirely against the object of the report.

Mr. GILES said, that he might have taken up wrong impressions, but he thought the matter worth trying. It was a thing of experiment, by which he believed that the printer would make money. He acknowledged that, for some time past, several of the reports had been pretty correct. It is better to let them go out as they are, than to stop them altogether. He would not wish to press the motion, if it was to meet with opposition from several gentlemen who had this day spoken against it. He moved that the committee should rise, and the further consideration of the report be deferred till Monday.

Mr. W. SMITH said, it was admitted on all sides, that it was highly important for the people to receive the most accurate information of the proceedings of the House, and that the debates were, in general, extremely misrepresented. Was it not, then, the duty of the House to remedy this evil, and to adopt such measures as would transmit to the people in every part of the United States the most accurate information of the conduct of their Representatives? The House had now an opportunity of obtaining the services of a gentleman peculiarly distinguished for the rare talent of reporting with accuracy public debates; the compensation which would be adequate to such useful and laborious service, was beyond the ability of any printer; the House ought therefore to contribute towards it; the sum required was a trifle, when compared with the advantages; it was no object. The only question, then, was, whether the stenographer ought to be an officer of the House; in that capacity he certainly would be more easily restrained from the commission of any wilful misrepresentation. Mr. S. did not feel the force of the objections against the report. It had been said that, although the members were now misrepresented, yet, they had it in their power to publish corrections; but these corrections were often overlooked, while the misrepresentation was operating very injuriously to the character of the member; this was generally the case in places remote from the seat of Government; the mangled account of a debate was republished in a distant paper, and the correction, if it reached the distant printer, was generally disregarded. Among the opponents to this report, Mr. S. said he was surprised to find the gentleman who represented this city, (Mr. SWANWICK,) who, more than any other member, should have withdrawn his opposition to the measure proposed; that gentleman's constituents had it in their power, at any time, to hear the debates of Congress; they were on the spot; ought he not, then, in candor, to assist in facilitating to the remote citizens the means of obtaining the best knowledge of the proceedings, and the most correct statement of the discussions of the House? Ought they, from their remoteness, to be kept in the dark, or to be furnished with such

light as would only mislead? Had they not a claim on the House to adopt such means as would enable the citizens in every State to judge of the propriety of public measures? The member from this city had another exclusive advantage; if misrepresented, he could correct the error, and the correction would be read; that was not the case with the members from the remoter States, whose reputation might be injured by misrepresentation, without a similar advantage: the member from this city was in the midst of his constituents; he had daily opportunities of setting right any misstatement by personal explanation.

Mr. SMITH said, he did not agree with some gentlemen, that it was sufficient for the people to know what laws were passed, without knowing the previous discussions; he thought, on the contrary, the favorable or unfavorable impression of a law on the public mind, would depend, in a great degree, on the reasons assigned for and against it in debate, and the people ought to know those reasons. When a law passes, imposing a tax, would not the people be reconciled if they saw, from the discussions of the House, that such tax was unavoidable, and that the particular mode of taxation was the best which could be devised? And ought this information to depend entirely on the caprice or convenience of the reporters, who attended when it pleased them, and who published just as much of the debate as they found leisure or patience to accomplish? Mr. S. said he was convinced that the errors which had excited so much complaint, were not the effect of design, but merely of inadequacy to the task. Very few were competent to such a business, which required peculiar skill in stenography, very laborious application, and a clear comprehension of the subject-matter of debate. It could not be expected that persons thus qualified would devote their whole time to this business, without an ample reward. The report was objected to because there was novelty in the plan; it was true the House of Commons of England had no such officer, but their practice was not a fit precedent for us on this occasion, for they admitted no person to write down, in the House, their proceedings; their debates were taken from memory. This House, on the contrary, had, from its first institution, facilitated, by every accommodation, the reporting their proceedings. The thing was not altogether, however, without precedent. During the existence of the National Assembly of France, there were officers of the House who composed a daily work called the Logography, which was an exact account of the debates of that body. It had been asked, what control the House were to have over this officer? He answered that the stenographer would be liable to be censured or displaced, if he should be guilty of wilful misrepresentation. It would be always easy to discriminate between a casual inadvertence and a criminal misstatement; the officer's character and talents, his responsibility to the House, and his oath to report with impartiality, would be a sufficient pledge of his accuracy. Mr. S. seriously believed that the character of the House had suffered from the erroneous statements which had gone abroad. He wished to guard against this evil in future; he was willing, for himself, that every syllable he uttered within those walls should be carried to every part of the Union, but he deprecated misrepresentation. He was anxious that the truth should be known in relation to every act of the Government; for he was as satisfied that the affection and confidence of the people in this Government would increase with the promulgation of truth, as that whatever it had lost of that affection and confidence, was owing altogether to the propagation of detraction and calumny. It was under these impressions that he had originally brought forward the proposition and that he now recommended the report, and having heard no reasons to change his sentiments of the expediency of the measure, he should persist in supporting it.

The motion by Mr. GILES was agreed to. The committee rose, and, a few minutes after, the House adjourned to Monday.

MONDAY, February 1.

Indian Trading Houses.

The engrossed bill for establishing trading houses for the Indian tribes was taken into consideration. The first blank was for the gross sum to be appropriated for the general objects of the bill. It was moved to fill this blank with \$150,000.

Mr. WILLIAMS spoke in favor of the bill.

Mr. PARKER supported the general provision of the bill, and urged the necessity of an immediate attention to the subject. He calculated on a surplus in the appropriation for the War Department to provide for this object.

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Mr. HARPER moved that the bill should be recommitted. He then entered into a general consideration of the principles of the bill, which he reprobated altogether. Alluding to the general objects of commerce, he said that public bodies never manage these matters without loss. He adverted to the repairs of roads, construction of canals, &c.; all these objects prosper under private individual direction, but when entered into by public bodies nothing is ever brought to perfection, and the public money is lost. He applied these ideas to the plan of the bill. Persons at fifteen hundred or two thousand miles distance, are to be intrusted with public property to a large amount. It is not in human wisdom to guard against frauds and impositions; no check or control can be devised which will be found adequate to repressing private rapacity. Mr. H., therefore, wished the bill recommitted, for the purpose of an entire new modification. If the motion should obtain, he should then move a resolution providing for a loan to individuals for the purpose.

Mr. SWANWICK supported the general principle of the bill, and reprobated the idea of loans to individuals; he considered such a plan as one of the worst kind of sinking funds. The plan is an

experiment; it is not, perhaps, possible to predict what will be the result; but the object is worth the trial and worthy the attention of the Legislature. He considered the objections against the plan of the bill as applying with greater force against the proposed substitute.

Mr. S. SMITH said, when the gentleman from South Carolina made his motion for a recommitment, he had supposed he would have accompanied the motion with some reasons; but since he had heard what he offered as reasons, he found himself confirmed in his opinion of the inexpediency of his motion. Mr. S. said, the only reason for the commitment was, that the principle of the bill might be changed, by individuals being substituted for the Government, that is, by loaning the money to private persons for the purposes of the trade. He was entirely opposed to this principle. Public debtors are the worst kind of citizens. These persons, after having expended or lost the money, will be coming forward with their petitions to be released from their bonds. He did not wish to increase the business of the Committee of Claims.

Mr. SWIFT enlarged on the idea suggested by Mr. HARPER. He thought it infinitely preferable to leave the business to the enterprise and resources of individuals.

Mr. HARPER rose in reply to Mr. SMITH. He entered into a further consideration and defence of the plan he had proposed as a substitute.

Mr. DEARBORN objected to Mr. HARPER'S idea; he saw no sufficient reason to support the preference that gentleman gave to a loan to individuals. He was in favor of the general principle of the bill; he thought it economical to appropriate money for the object of cultivating good understanding and harmony with the Indians, but should vote for the bill only on the condition of a reduction of the Military Establishment.

Mr. GILES entered more largely into a consideration of the principle of the bill. He had no opinion of governmental bargains—he believed they always turned out losing bargains.^[67] The clause which provides that the original stock shall not be diminished, he conceived, would operate against the general object of the bill, if adhered to; but this he did not contemplate; he supposed that it would terminate in an annual provision. Mr. G. alluded to the PRESIDENT'S Speech, a clause of which had been recited; he did not consider that, or a former recommendation of this matter, as binding on the House. If the PRESIDENT'S Speech is considered as the political Bible of the Government, the case is different; but he presumed no person was disposed to assert this. He considered the House as perfectly free to adopt or reject the proposition. With respect to the effects of the measure, gentlemen had differed in their predictions. Predictions which were the nearest to the effects produced, may be considered as the result of the greater political sagacity. He would venture to predict that the whole sum proposed to be appropriated would be sunk in three years. With respect to the fund contemplated from the surplus of the War Department appropriation, he considered it as altogether illusory; there is no such surplus, none had heretofore been found, and he presumed none ever would. For though the number of troops voted had never been raised, yet the whole of the money appropriated was always expended.

Some further remarks were made by several members, and then the motion for recommitting the bill being put, was lost—52 to 34.

Mr. SWIFT then renewed his motion for a postponement. This, after a few remarks from that gentleman, and a short reply from Mr. GILBERT, in support of the bill, was negatived.

The motion for filling the blank with \$150,000, was then put and agreed to, fifty-six members rising in the affirmative.

On reading the section in which the blank for the penalty is included, Mr. VENABLE moved for a partial recommitment of the bill, for the purpose of new-modifying the section. This motion gave rise to a variety of observations, in the course of which the motion was extended to a general commitment. This motion being put, was lost.

The motion then was, to recommit the second, fourth, and sixth sections. The second section was recommitted. The fourth section provides that the capital stock of the United States embarked in this business shall not be diminished. Mr. VENABLE'S object was to have the section so modified as to blend the interest of the individual who is to conduct the business with that of the public. Mr. S. SMITH said the motion went to destroy the bill, for no person would engage in the business on such a plan. The motion for committing the fourth section was lost. The sixth section assigns the sum of \$150,000 to be appropriated for the general objects of the bill. The motion to recommit this section was negatived.

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The House then resolved itself into a Committee of the Whole on the second section, Mr. MUHLENBERG in the chair.

Mr. VENABLE moved that the section should be altered to read, that the agent should give bonds to the amount in value of the goods committed to his charge.

Mr. J. SMITH supposed that the sum should be sufficient to cover the amount of the goods which may at any time be found in the hands of the agents; from ten to fifteen or twenty thousand dollars, he supposed, might be sufficient for this purpose.

Mr. DEARBORN suggested the idea of leaving this part of the business to the PRESIDENT OF THE UNITED STATES. He moved to amend the clause accordingly.

Mr. VENABLE'S motion was lost. Mr. DEARBORN'S motion was agreed to.

The committee then rose, and the Chairman reported the amendment, which was adopted by the House. It was then ordered that the bill be again engrossed and read the third time to-day.

[The bill was subsequently read a third time and passed—58 members rising in the affirmative.]

TUESDAY, February 2.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and of the House of Representatives:

I transmit herewith the copy of a letter, dated the 19th of December last, from Governor Blount to the Secretary of War, stating the avowed and daring designs of certain persons to take possession of lands belonging to the Cherokees, and which the United States have, by treaty, solemnly guaranteed to that nation. The injustice of such intrusions, and the mischievous consequences which must necessarily result therefrom, demand that effectual provision be made to prevent them.

G. WASHINGTON.

UNITED STATES, *February 2, 1796.*

The said Message and letter were read, and ordered to be referred to the Committee of the whole House, to whom is committed the bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.

WEDNESDAY, February 3.

LEMUEL BENTON, from South Carolina, appeared, was qualified, and took his seat.

MONDAY, February 8.

Compensation of Members.

The House resolved itself into a Committee of the Whole, on the bill for allowing a compensation to the members of both Houses, which proposes an annual salary of one thousand dollars to each member, instead of six dollars per day.

Mr. GILES moved that the word "annually" be expunged from the bill. He thought the present mode of compensating the members of the Legislature a good one, and could not conceive why an alteration should be made. Such a mode of payment as was now proposed ought to be sanctioned only upon the maturest deliberation.

Mr. GOODHUE explained the reasons which induced the committee to propose an annual instead of a daily payment to members, which was, that members might be induced to greater despatch in business, and to do away an idea which had gone abroad amongst many people, that, being paid by the day, the members of that House protracted their session to an unreasonable length.

Mr. GILES thought there ought to be no pecuniary inducement to members to push forward business in too rapid a manner, or to shorten their sessions. An annual salary would doubtless have this effect, and business, in consequence, would most certainly be neglected. It would be an evil of the greatest importance; it would be a constant temptation to members to neglect their duty; it would tend to embarrass all their deliberations. Indeed, it was a perfectly new mode of requiring Representatives, and would be supposed to be introduced for the purpose of advancing their pay—an idea which he did not wish to prevail, as he thought the present allowance sufficient. He therefore hoped the principle would not be agreed to.

Mr. SWANWICK was against the bill, and said, that to pay members in the way proposed would be to offer them a bounty to neglect the business of the Legislature.

Mr. HILLHOUSE was in favor of the bill. He said, that the constitution had provided that Congress should meet once a year, and that more time was spent during their sitting than was taken up by the Circuits of the Judges. Yet the Judges had a salary allowed them, and it was not found to have any bad effect. Complaints are now made out of doors that their sessions are protracted for the sake of the daily allowance paid to them. Persons who said this, said he, do not know that we are all the time deeply engaged in business, which is much lengthened by clashing interests of different States. A yearly salary would do away this idea, without making any real difference in the amount paid by the Treasury for their services. If he thought the mode of payment would cause members to neglect their duty, as has been observed, he too would be against the adoption of it; but surely it cannot be supposed that members would not sit as long as business should require them. He observed, they had now been in session two months, and but very little important business had been done. He thought the mode proposed would tend to remedy this evil: it was an experiment at least worth trying.

Mr. FINDLAY did not object to the bill merely as a novelty, but because it offered no advantage. Many persons, no doubt, would think one thousand dollars a year too much; but he believed it best for members to do their duty, without regarding the misapprehensions and prejudices of they know not whom. He did not think the pay of members influenced their sittings. The greatest difficulty, towards the close of the session, was to keep members together. If, indeed, members would attend better at the beginning of a session, and take up less time in speaking, sessions might be shorter; but there must, however, be full liberty given to every member to express his sentiments in his own way. No law can regulate people's conceptions. He thought it best that the

members should be paid by the day. He should never boast of passing laws in a short time, but of passing good laws.

Mr. NICHOLAS was in favor of the present mode of compensating members, as the period of their sessions was uncertain, and wherever salaries were paid, they were for certain business. Give members one thousand dollars, and he did not doubt but some of them would wish to return home sooner than if they had been paid in proportion to the time spent in business. Water, though insensibly, wears away stones; and such an influence, he feared, would have a tendency to undermine the integrity of members. It was better to be slow than too hasty in business. He hoped this bill would not pass as an experiment, for the effect must be corruption; and when once this enemy of all governments is suffered to take root, it is difficult to eradicate it. Indeed, this bill would be supposed by many as a cover to advance the pay of members. If there were any such view, he wished members to propose the measure openly. He thought the present pay too much, and if the people thought it influenced the length of their sittings, they were of the same opinion.

Mr. WILLIAMS was against the bill, though he believed it to be brought in by the committee from the best of motives. It was their opinion it would shorten the sessions, and, if carried into effect, it might do so. If our wages were lowered, the measure would shorten our sessions. Every penny beyond expenses is too much: a medium salary was desirable. If the pay of members was increased, officers of Government will do the same. At present, it was true, all the necessaries of life were at a high price; but when the war in Europe ceases, the case will be different. Whenever we adjourn our sessions, (said he,) much business is necessarily left unfinished; and if members were paid by the year instead of by the day, all those whose business was not completed would be ready to say that members were hastened away to enjoy their salary at home.

Mr. SEDGWICK did not think the business before the House important. He was inclined, however, to favor the bill, not that he would grant a larger amount in that way than the amount of the present allowance per day. The argument of novelty, he said, would not apply: we are in the business of experiment. He would observe a fact well known, that every member in the House was deprived of the opportunity of pursuing his occupations at home, and of the emoluments arising therefrom, by his attendance to public business. He did not believe a yearly allowance would shorten the sessions, but it would remove the charge brought against members of protracting the sessions for the sake of their pay. Whether it is necessary to increase or diminish the present pay is not the question.

Mr. LIVINGSTON expected stronger motives for the bill than he had heard. It is acknowledged a perfect novelty. This, though by no means decisive, is an objection against the measure, and there is nothing else to recommend it. It has, indeed, been said, it will shorten our sessions; but would this be a benefit? If to continue in session be an evil, why are we here? If it could have been proved that expense would have been saved by the measure, that would have been a real advantage; but this has not been hinted at. It has, indeed, been said, it will remove from our constituents a suspicion that we are living here too long. It has been said, that an idea has gone abroad that we receive six dollars a day through the year. Few, he believed, were so ill informed; but this bill, if passed, will cause much more discontent than the present pay occasions. Deliberation in a Legislative body is necessary. The dearest interests of the people, he said, were committed to their charge, and he trusted they would watch over them, and never suffer them to be injured; and then, it was his opinion their constituents would not think much of their pay.

Mr. BALDWIN said, that it was a disagreeable business to be employed in discussing the subject of paying themselves for their services: it would be a desirable thing to supersede the necessity of doing so. The committee doubtless thought one thousand per annum would be an improvement upon the present mode of paying members, but he could not think so. He thought it best that the allowance should be paid in the old way.

Mr. GILBERT was willing to try the experiment of the bill proposed. He did not believe that either the present daily allowance lengthened, or that an annual salary would shorten, the sessions. He thought to say the contrary was a base insinuation.

Mr. BOURNE never heard it was the wish of their constituents that their payment should be annual instead of per day. He had heard it complained that their pay was too high; but now, since the price of living is so much advanced, he believed the people were satisfied. He saw no advantages from the proposed change. It cannot be thought that the pay is an inducement to members to prolong their sessions: he had not heard such a complaint. He was in favor of striking out the word "annually," and for recommitting the bill.

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Mr. MADISON observed, that the present bill proposed no alteration with respect to the amount of money to be drawn from the Treasury, and it can make but little difference to members. What had been mentioned as the advantages of this bill, in his opinion, would operate against it. A novelty, he said, always called for hesitation.

Mr. SWANWICK thought, if they enacted good laws—laws that should encourage agriculture and commerce—their constituents would not trouble themselves about their salary.

Mr. GILES rose to remark upon an expression which fell from Mr. GILBERT, viz: that, to say members were likely to be influenced by the proposed salary, was a vile insinuation. He declared that it was a recommendation of the bill in the committee, that it would tend to shorten their sessions.

Mr. GILBERT explained, and justified the expression.

The motion for striking out the word "annually" was called for, and passed.^[68]

TUESDAY, February 9.

FISHER AMES, of Massachusetts, appeared, was qualified, and took his seat.

THURSDAY, February 11.

Post Roads from Maine to Georgia.

Mr. MADISON moved that the resolution laid upon the table some days ago be taken up, relative to the survey of the post roads between the province of Maine and Georgia; which, being read, he observed that two good effects would arise from carrying this resolution into effect; the shortest route from one place to another would be determined upon, and persons, having a certainty of the stability of the roads, would not hesitate to make improvements upon them.

Mr. BALDWIN was glad to see this business brought forward; the sooner it could be carried into effect, the better. In many parts of the country, he said, there were no improved roads, nothing better than the original Indian track. Bridges and other improvements are always made with reluctance whilst roads remain in this state, because it is known as the country increases in population and wealth, better and shorter roads will be made. All expense of this sort, indeed, is lost. It was properly the business of the General Government, he said, to undertake the improvement of the roads, for the different States are incompetent to the business, their different designs clashing with each other. It is enough for them to make good roads to the different seaports; the cross roads should be left to the government of the whole. The expense, he thought, would not be very great. Let a surveyor point out the shortest and best track, and the money will soon be raised. There was nothing in this country, he said, of which we ought to be more ashamed than our public roads.

Mr. BOURNE thought very valuable effects would arise from the carrying of this resolution into effect. The present roads may be much shortened. The Eastern States had made great improvements in their roads, and he trusted the best effects would arise from having regular mails from one end of the Union to the other.

Mr. WILLIAMS did not think it right for the revenues of the Post Office to be applied to this end. He acknowledged the propriety of extending the post roads to every part of the Union; he thought the House had better wait for the report of the committee to which business relative to the Post Office had been referred, which was preparing to be laid before the House.

Mr. MADISON explained the nature and object of the resolution. He said it was the commencement of an extensive work. He wished not to extend it at present. The expense of the survey would be great. The Post Officer, he believed, would have no objection to the intended regulation.

After some observations from Mr. THATCHER, on the obtaining of the shortest distance from one place to another, and the comparing old with new roads, so as to come at the shortest and best, the resolution was agreed to, as follows:

Resolved, That a committee be appointed to report a bill authorizing the PRESIDENT OF THE UNITED STATES to cause to be examined, and, where necessary, to be surveyed, the general route most proper for the transportation of the mail between —, in Maine, and —, in the State of Georgia, and to cause to be laid before Congress the result of such examination and survey, with an estimate of the expense of rendering such route fit, in all its parts, to be the established route of the post; the expense of such examination and survey to be defrayed out of the surplus revenues of the Post Office.^[69]

Ordered, That Mr. MADISON, Mr. THATCHER, Mr. BALDWIN, Mr. HENDERSON, and Mr. SHERBURNE, be appointed a committee pursuant to the said resolution.

MONDAY, February 22.

Washington's Birth-Day.

Mr. W. SMITH moved that the House adjourn for half an hour.

This motion occasioned a good deal of conversation upon its propriety. In favor of it, it was said, that it had been a practice ever since the commencement of the Government, for that House to make a short adjournment on that day in order to pay their compliments to the PRESIDENT, and that several members were absent, from an idea that the House would adjourn at 12 o'clock as usual. On the other hand, it was objected that it was the business of the members of that House first to do their duty, and then attend to the paying of compliments; that just at that time the house of the PRESIDENT was filled with militia and others; and that, therefore, it would be better, upon the whole, to wait upon the PRESIDENT after the business of the day was finished.

Mr. GALLATIN moved that the words "half an hour" be struck out.

The sense of the House was first taken on the amendment, which was lost, without a division. The motion was then put and negatived, being 38 for it, and 50 against it.

FRIDAY, February 26.

Compensation to Members.

Mr. GILES moved that the bill for allowing compensation to the members of the Senate and House of Representatives, and certain officers of both Houses, be taken up, which being agreed to, the House resolved itself into a Committee of the Whole; and the bill being read,

Mr. SWIFT wished to strike out the words making the Speaker a greater allowance than other members.

Mr. GILES thought a larger allowance ought to be made to the Speaker than to other members, as his duty was double that of any other member; but if gentlemen wished to do away the incidental expenses of the office, he had no objection.

Mr. SWIFT consented to vary his motion according to the ideas of the member from Virginia. If the Speaker had more duty to perform than other members, he should be willing to make him a greater allowance, but he doubted it.

Mr. W. SMITH hoped no alteration would be made in the allowance heretofore made; he saw no reason for it.

Mr. GOODHUE said, he voted against the additional pay allowed the Speaker when the act first passed, as he saw no necessity for the Speaker to give dinners to the members of that House; but though he objected to this, he was willing to allow him recompense for his additional services. He hoped, however, the gentleman who now so ably filled the office, would not consider any thing said on this subject as alluding personally to him.

Mr. SEDGWICK was willing to give the money to the Speaker which had heretofore been paid him, and for the same purpose, although he and his colleague were both against the measure when it originally passed.

Mr. DAYTON wished the business might be discussed without reference to him personally. Indeed he believed he should not be materially affected by any regulations which might be agreed to, as, if he might judge by his present feelings, his health would not permit him to remain in the chair after this session.

Mr. GILES was confident that no one meant to hurt the feelings of the gentleman who now filled the chair. The member from Massachusetts had said, when the measure passed, he was against it, but now he was in favor of it. He could see no ground for this change of sentiment. Mr. G. said, he was against the money being paid for incidental expenses, but not against making the Speaker ample allowance for his services.

Mr. KITCHELL was also for striking out the words, but for making ample compensation to the Speaker.

Mr. BOURNE did not suppose that the incidental expenses of the Speaker were confined to the dinners which he gave them; he was put to more expense in receiving company than other members. He did not think six dollars a day too much for this.

Mr. MADISON said, it was customary in all the State Governments to make the Speaker a greater allowance than other members: his services were far greater; they were uninterrupted. Besides, it was necessary to do so to invite men of talents to accept of the office; and every one knew the advantages arising from having a man of talents as Speaker. Without inquiring whether the compensation was too large or too small, he doubted whether it was constitutional to make any alteration in it which might affect the present Speaker. To support his opinions he read a clause of the constitution.

Mr. HILLHOUSE was of opinion that nothing in the constitution extended to the present question. He hoped they should agree to strike out the words alluded to, as the sooner the practice of feasting was abolished, the better. If members wished to form social acquaintances, it was far preferable to visit each other at their lodgings. He said, this was the first time the law had come under review since it had passed, and it was proper to have the matter settled. He wished to allow a reasonable sum for the services of the Speaker, but no more. He did not think there was any weight in the observation, that a large compensation was necessary to induce men of talents to accept of the chair—he thought the honor was a sufficient inducement.

Mr. WILLIAMS said there was no office appertaining to the Speaker which included expense; the words ought therefore to be struck out.

Mr. PAGE was in favor of striking out the words, as he did not understand their meaning, but in favor of keeping the allowance of the Speaker the same as usual. The Speaker, he said, ought to be placed in an independent situation, by a handsome salary. His duties were fourfold to those of any other member. Indeed, said he, nothing but a sense of duty could induce a man to undertake such an office.

Mr. GILES said, if it was agreed to strike out the words *for the incidental expenses of his office*, he should move to introduce in their place, "*on account of extra services annexed to his office.*"

Mr. JEREMIAH SMITH liked the words proposed better than those in the bill, but did not think it of the importance it was made.

The motion for striking out was put and carried.

Mr. GILES then proposed his motion.

Mr. HILLHOUSE was against the introduction of these words.

Mr. VARNUM hoped the motion would prevail. The services of the Speaker are extraordinary and laborious. The State Legislatures, he said, always allowed their Speaker double the pay of other members.

Mr. MURRAY hoped the words would not obtain. He considered the Speakership of that House as a very elevated situation. In certain contingencies he believed he was the Chief Executive of the United States. He thought the calculation of pay too mechanical. The dignity of the office was sufficient, without extraordinary compensation; the duties of it were well known.

The question was put, and negatived.

Mr. GILES moved to fill up the blank for the daily allowance of members of the Senate with six dollars.

Mr. PAGE proposed seven; when, after a few observations from Mr. WILLIAMS in favor of six, the sense of the House was taken, which was in favor of six dollars—only twenty-one members rising in favor of seven.

The allowance of the Speaker again coming into consideration, Mr. SWIFT wished an inquiry might be made into the duties of the office. It was his opinion that many members upon committees performed greater services than he; and if the Speaker had an extra allowance, they ought to have an extra allowance also. Some gentlemen thought, on the score of dignity, a high salary ought to be paid. He thought differently. Can it be supposed it would be necessary, said he, to give any member of this House double pay to accept of the office? No such thing. Being now discharged from any obligation to treat members, he could not agree to allow him the usual sum. He should not object to two or three dollars a day extra, but no more.

Mr. GILES thought the duty of the Speaker three times as arduous as that of any other member of the House.

Mr. CRABB voted for striking out the words, but he was not for diminishing the salary of the Speaker.

The motion for the usual allowance was put and carried, and the other blanks of the bill were filled up with the same sums as heretofore allowed to the different officers. The committee rose; the bill then went through the House, and was ordered to be engrossed and read a third time on Monday.

MONDAY, March 7.

The Treaty with Great Britain.

[The debate on the subject of the Treaty with Great Britain, and of the constitutional powers of the House with respect to treaties, having occupied the time of the House nearly every day for a month, (commencing the 7th of March and ending on the 7th of April,) it is deemed preferable, and as being more acceptable to the reader, to present the whole in one body consecutively, rather than to spread it in detached parts intermixed with other subjects, through the general proceedings of each day. This debate, as here given, possesses a character for authenticity and correctness which does not belong to the newspaper reports of the day, it having undergone the careful revision of the Speakers themselves. The debate which took place on making the provision for carrying the Treaty into effect, will be found subsequently, in the proceedings of each day as the subject came up before the House.]^[70]

On the second of March, Mr. LIVINGSTON, after stating that the late British Treaty must give rise in the House to some very important and constitutional questions, to throw light upon which every information would be required, laid the following resolution upon the table.

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"*Resolved*, That the President of the United States be requested to lay before this House a copy of the instructions to the Minister of the United States, who negotiated the Treaty with the King of Great Britain, communicated by his Message of the first of March, together with the correspondence and other documents relative to the said Treaty."

MARCH 7.—Mr. LIVINGSTON said he wished to modify the resolution he had laid on the table, requesting the PRESIDENT to lay before the House sundry documents respecting the Treaty. It was calculated to meet the suggestions of gentlemen to whose opinions he paid the highest respect, and was founded in the reflection that the negotiations on the twelfth article were probably unfinished; and therefore, he said, a disclosure of papers relative to that or any other pending negotiation, might embarrass the Executive. He wished, therefore, to add, at the end of his former motion, the following words: "Excepting such of said papers as any existing negotiation may render improper to be disclosed."

The motion of Mr. LIVINGSTON was then taken up.

Mr. TRACY requested gentlemen in favor of the resolution to give their reasons why the application for papers was to be made.

Mr. LIVINGSTON said, he had no wish to conceal his intentions. The motives that impelled him to make the motion, were not such as to make him wish to conceal them, or such as he ought to blush at when discovered. The gentleman from Connecticut wished to know why he had brought this resolution before the House? He did it for the sake of information. That gentleman wished to know to what point this information was to apply? Possibly to all the points he had enumerated. It

was impossible, however, to say to which or how many of these points without a recurrence to those very papers. He could not determine now, he said, that an impeachment would be deemed advisable; yet, when the papers are obtained, they may make such a step advisable. It was impossible to declare an impeachment advisable, without having the necessary lights as to the conduct of officers. The House were, on every occasion, the guardians of their country's rights. They are, by the constitution, the accusing organ of the officers employed. The information called for they ought to possess, as it would tend to elucidate the conduct of the officers. His principal reason, however, for proposing the measure, was a firm conviction that the House were vested with a discretionary power of carrying the Treaty into effect, or refusing it their sanction.

Mr. MURRAY said, that he was against the resolution for two reasons, which then struck his mind forcibly. The first was the want of a declared object within the acknowledged cognizance of the House; the other was because he believed it was designed as the groundwork of a very dangerous doctrine, that the House had a right to adjudge, to adopt, or to reject Treaties generally. Had the gentlemen stated the object for which they called for the papers to be an impeachment, or any inquiry into fraud, as a circumstance attending the making of the Treaty, the subject would be presented under an aspect very different from that which it has assumed. He considered a Treaty, constitutionally made, to be the supreme law of the land. The Treaty in view has been negotiated and ratified, he thought, agreeably to the constitution. It has been issued, by the PRESIDENT's proclamation, as an act obligatory upon the United States. If the House mean to go into the merits of that instrument, and the information be called for with that view, he should feel himself bound by the constitution to give it every opposition.

Mr. BALDWIN thought the resolution so unexceptionable that he had expected it would have been agreed to without debate. The PRESIDENT has sent the House the Treaty; petitions have come forward on the subject; the House must act in the business. It is yet unaccompanied with any documents to throw light upon it. No person concerned in the negotiation has a seat on the floor of the House; so that no oral information can be expected. Implicit faith was not to be reposed, he imagined, in public officers. It would be unfair to take up the subject naked and unexplained.

Mr. GALLATIN said, he should not now enter into the merits of the question, but merely state that certain powers are delegated by the constitution to Congress. They possess the authority of regulating trade. The Treaty-making power delegated to the Executive may be considered as clashing with that. The question may arise, whether a Treaty made by the PRESIDENT and Senate, containing regulations touching objects delegated to Congress, can be considered binding, without Congress passing laws to carry it into effect. A difference of opinion may exist as to the proper construction of the several articles of the constitution, so as to reconcile those apparently contradictory provisions. But all those questions would occur in future discussions. What is now wanted is information on the subject, to elucidate the different views which may be taken of the Treaty. It must do good to obtain it, and could do no harm to ask for it. If it would be improper to communicate any part of the information on the subject, the PRESIDENT will say so. He had hoped, he said, that the resolution would have passed without objection. He concluded by observing, that the House were the grand inquest of the nation, and that they had the right to call for papers on which to ground an impeachment; but he believed, that if this was intended, it would be proper that the resolution should be predicated upon a declaration of that intention. At present, he did not contemplate the exercise of that right.

Mr. MADISON admitted that every proposition, however distantly related to a question on the Treaty, drew from the importance of that subject considerable importance to itself. In a discussion of this subject, he felt strongly the obligation of proceeding with the utmost respect to the decorum and dignity of the House, with a proper delicacy to the other departments of Government, and, at the same time, with fidelity and responsibility for our constituents. The proposition now before the House, he conceived, might be considered as closely connected with this important question. It was to be decided whether the general power of making Treaties supersedes the powers of the House of Representatives, particularly specified in the constitution, so as to take to the Executive all deliberative will, and leave the House only an Executive and ministerial instrumental agency?

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Mr. SMITH (of South Carolina) said, that he had listened attentively to the reasons advanced in favor of this resolution, and that he had heard nothing to convince him of its propriety. The PRESIDENT and Senate have, by the constitution, the power of making Treaties, and the House have no agency in them, except to make laws necessary to carry them into operation; he considered the House as bound, in common with their fellow-citizens, to do every thing in their power to carry them into full execution. He recognized but one exception to this rule, and that was, when the instrument was clearly unconstitutional. In this case, he remarked, it had not been said that the Treaty was unconstitutional. When the resolution was first brought forward, it had indeed been observed, that the discussion might involve certain constitutional points, and, therefore, the papers called for by the resolution were necessary; but it was obvious, the question of constitutionality should be determined from the face of the instrument, and that a knowledge of the preparatory steps which led to its adoption, could throw no light upon it; that ground was therefore abandoned even by the friends of the resolution, and others were resorted to.

He was surprised that gentlemen who displayed such zeal for the constitution should support a proposition, the tendency of which went indirectly to break down the constitutional limits between the Executive and Legislative Departments. The constitution had assigned to the Executive the business of negotiation with foreign powers; this House can claim no right by the constitution to interfere in such negotiations; every movement of the kind must be considered as an attempt to usurp powers not delegated, and will be resisted by the Executive; for a concession

would be a surrender of the powers specially delegated to him, and a violation of his trust. The proposition calls upon the PRESIDENT to lay before the House the instructions given to Mr. Jay, and the correspondence between him and Lord Grenville; and for what purpose? Is this House to negotiate the Treaty over again? Has the constitution made this House a diplomatic body, invested with the powers of negotiation? Is not this House excluded? for, if the maxim that "the expression of one is the exclusion of another," applies to this case, the assignment of the Treaty-making power to the PRESIDENT and Senate, is a manifest exclusion of this House. This call, then, on the PRESIDENT, is an attempt to obtain indirectly what the constitution has expressly assigned to others.

After Mr. S. had sat down, it was moved by Mr. GILES, to take the resolution up in Committee of the Whole for the purpose of more ample discussion.

This motion was agreed to; sixty-one members rising in the affirmative.

The House immediately resolved itself into a Committee of the Whole, on the resolution.

Mr. NICHOLAS remarked, that the member from Connecticut, first up, when inquiring for the reason of a call for papers, had suggested two. The one, relating to the merits of the instrument; the other, an inquiry into the conduct of officers concerned. On the latter ground, gentlemen conceded that the House had a right to require the papers, and yet seemed willing to adhere to that, on which they conceived a call could not be, with propriety, grounded, as the one that influenced the conduct of the friends to the resolution. All gentlemen admitted, that the House had the superintendence over the officers of Government, as the grand inquest of the nation; but persisted that the resolution calling for papers, if intended for the purpose of exercising that authority, must be predicated on an expression of the intention.

He took a view of the prominent features of the arguments of the members up before him. It had been said that, if the power of the PRESIDENT and Senate, as to Treaties, was complete, then the House had no right to claim a participation; this could not be denied; but the question was, whether the Executive had that right unqualifiedly, in all cases. In the present case, he contended, the House had a voice. To elucidate: Suppose that, in the constitution of the United States, which has been so guarded about the expenditure of money, a clause had been inserted, positively declaring that the House have a control over the money matters stipulated in a Treaty; would not this constitute a qualification of the powers of the PRESIDENT and Senate with respect to Treaties? The constitution, on this head, he contended, though less explicit than his supposed case would make it, was not the less positive, if tested by all the fair rules of construction; and if compared with the practice of the government from which we had borrowed, with many other matters, this part of our constitution. In England, the country alluded to, their House of Parliament had exercised a control over the moneyed articles of Treaties; and he contended, the House of Representatives had an equal authority here, as chief guardians of the purse-strings. It was unnecessary, at this time, he said, to touch on the other parts of the Treaty which clashed with the constitutional powers of the House.

He again adverted to the power of control that the House of Commons have over Treaties; and contended, that that provision of the British constitution had been accurately copied in our own with this deviation only, that the Senate have the power of making amendments to money bills here, which the House of Lords there have not. He could show, from the best authority, the acknowledgment of the British Crown officers themselves, that the Parliament has a right to discuss and decide on Treaties which involved moneyed stipulations.

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The same power, he argued, resided in the House here; for shall it be said, that we have borrowed only the form from Great Britain, and not touched the substance? Shall it be said, that the House have a discretion as to appropriations, and yet they must make them as directed by a Treaty? If the House have no discretion to use in the business, they are the most unfit body to regulate money-matters; for complete regularity in so large a body must be one of the least of their valuable properties. But, with the power of appropriating money, the House have certainly the right to judge of the propriety of the appropriation. The constitution explains itself fully on this head. He instanced the specific power in the constitution, with respect to appropriations for the army, to explain from that instrument its meaning in other parts.

The constitution says, that no appropriations for the support of armies shall be for more than two years; this is, no doubt, that the House may periodically have before them the question of the propriety of supporting an armed force, with all its consequences, and that they may, by refusing or granting an appropriation, determine on its existence. The power thus cautiously lodged must have been for some purpose, and that he had suggested could alone explain this clause of the constitution. This will show what was expected of this House in appropriating money; that they should judge of the usefulness of the expenditure. In the case of the army, the constitution does not say that we may disband an army by withholding money; but for the purpose of investing us with the same power, only requires that the appropriation should recur every two years; taking it for granted, that in this as well as in every other Legislative act, we will duly weigh every consequence.

Having thus explained from the constitution itself the true meaning of this power of appropriation, he proceeded to elucidate it by a reference to the practice of the Government. He found an instance in the permanent appropriations made for the payment of the public debt. If the House in this and analogous cases, could exercise no discretion as to appropriations, why this permanent provision, in preference to an annual appropriation? The permanency of the provision took its rise from the idea, that the House possessed a discretionary power as to appropriations. Thus, he had shown that the practice of the Government, the provisions of the constitution, and

the example of the British, from whom we had exactly copied the control over money transactions, all proved a discretion in the House as to appropriations. This must be considered as a sufficient answer to the gentleman from South Carolina, when he said, that the PRESIDENT and Senate possessed the Treaty-making power; for they possessed it with qualification, in matters of money; and unless the House chose to grant that money, it was so far no Treaty.

It was said, that if the Treaty was not the law of the land, the PRESIDENT should be impeached for declaring it as such. Parts of the Treaty the PRESIDENT and Senate had, no doubt, a right to make without any control of the House—those parts he might be considered as proclaiming; he proclaims it, limited as his authority, and under the qualifications provided by the constitution. It was said, that no instance of such a call as that now contemplated could be produced. No; nor of such a Treaty, he answered.

Mr. SWANWICK expressed his sense of the importance of the subject before the House, and the pleasure which he experienced at observing the calmness and temper with which the discussion had been carried on. He had not conceived, however, that the decision of the present question involved the sense of the House as to the merits of the Treaty; the object of the resolution was only to obtain that knowledge necessary for an enlightened decision; it had been observed, that the Treaty had been censured by assemblages of people with precipitancy, and without proper information. They did this on the best information that could by them be obtained. But if the House should go into a Committee of the Whole, to take into consideration the Treaty, without obtaining all the information in their power, they would be justly to blame.

He adverted to the constitution; according to that instrument, the Legislative power is completely vested in Congress. By the 8th section of the 1st article, not only a certain specification of powers are granted to Congress, to lay and collect taxes, regulate commerce, &c., but the very extensive further power, not only to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, but, also, all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof. If, then, Congress have the power to pass laws to carry into execution all powers vested by the constitution in the Government of the United States, or in any department or officer thereof, how is it possible that there can be any authority out of the purview of this general and extensive Legislative control? Is the Treaty-making power not a power vested by the constitution in the Government of the United States, or in a department or officer thereof? If it is, is the conclusion not obvious, that Congress have power to pass laws for carrying these powers into effect? But in the power to pass laws, discretion is necessarily implied; of course, this House must judge when it is to act; whether it will, or will not, carry into effect the object in question. It is a power, it is true, of great delicacy and responsibility, but it is not less a power constitutionally given.

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The member from South Carolina construed this part of the constitution in a different way, and insisted that, as the PRESIDENT and Senate had the power of making Treaties, the House were divested of the right of exercising their judgment upon the subject. If this doctrine prevails, to what a situation would the Representatives of a free people be reduced? The constitution especially gives them the power of originating money bills; but to what purpose would this power be granted, if another authority may make a contract, compelling the House to raise money? Suppose that authority were in this way to grant millions upon millions, must the House, at all events, be compelled to provide for their payment? In this case the House become mere automatons, mere mandarine members, like those who nod on a chimney-piece, as directed by a power foreign to themselves.

Great stress is laid upon the constitution declaring Treaties laws of the land. This article has often been quoted partially, but not at large. It is in these words: "This constitution, and the laws of the United States, which shall be made in pursuance thereof, and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land." Had the clause stopped here, there might have been some plea for the gentlemen's doctrine; but, unfortunately for them, the article goes on to say: "And the Judges in every State shall be bound thereby, any thing in the constitution or laws of any State, to the contrary notwithstanding." Hence, it is obvious that the supremacy of the law is over the constitution and laws of the separate States, which was necessary to prevent these interfering with those. But it does not affect the powers of this House, as a component part of the General Legislature, and authority of the United States. It is also worth while to notice the gradation in the article.

First. This constitution.

Secondly. The laws which shall be made in pursuance thereof, clothed with the highest sanction of the nation, the consent of the three branches.

Thirdly. Treaties. How absurd the doctrine, then, that these last, third in order, can repeal the second: at that rate, all power whatever would remain vested in two branches only of the Government; the third, with all its powers of originating bills for raising revenue, would be dwindled into a mere board of assessors.

The gentleman from Vermont said, yesterday, that if the PRESIDENT and Senate were to make a Treaty, and that House were to refuse to make due appropriations for carrying it into effect, it would become a nullity, and no foreign nation would in future treat with such an uncertain Government. Mr. S. observed, that that gentleman would probably be surprised, when he was told, that the British House of Commons possesses the same power which he reprobates in the Legislative Assembly of the United States. This, Mr. S. proved, by reading the King's Speech to both Houses of Parliament, in which he informs them of this Treaty, and promises to lay it before them when ratified, in order that they might judge of the propriety of making provision to carry it

into effect. What, judge of the propriety of passing laws to carry into effect a Treaty ratified! And shall it be said, exclaimed he, that the Representative Assembly of the United States does not possess a privilege enjoyed by an English House of Commons! He hoped not.

Mr. HARPER said, that it had not been his intention to trouble the committee, in this stage of the debate at least; nor should he now depart from his resolution on that head, had he not observed that the discussion was turning more and more on points, which it appeared to him unnecessary to decide. He did not conceive that the powers of the House respecting Treaties were necessary to be considered; the question appeared capable of a satisfactory decision on different grounds.

When the motion was first proposed, he thought it innocent at least, and was in doubt whether it might not be proper, because he was in doubt how far these papers might be necessary for enabling the House to exercise that discretion on the subject of Treaties, which he admitted it to possess; but on a more accurate and extensive view of the subject, and after carefully attending to the discussion which had already taken place, he was thoroughly persuaded that these papers were no way necessary, and, that being unnecessary, to call for them was an improper and unconstitutional interference with the Executive department. Could it be made to appear that these papers are necessary for directing or informing the House on any of those Legislative questions respecting the Treaty which came within its powers, he should propose to change the milk-and-water style of the present resolution. The House, in that case, would have a right to the papers; and he had no idea of requesting as a favor what should be demanded as a right. He would demand them, and insist on the demand. But, being persuaded that no discretion hitherto contended for, even by the supporters of the resolution themselves, made these papers necessary to the House, to call for them would be an unconstitutional intermeddling with the proper business of the Executive.

It had been said, that this motion was of little consequence; that it was only a request which might be refused, and that the privileges of that House were narrow indeed, if it could not request information from the Executive department. But it would be observed, he said, that requests from bodies like that, carry the force of demands, and imply a right to receive. Legislative bodies often make the most formidable expressions of their will in the shape of requests. It would be further observed, that an honorable member from Pennsylvania, (Mr. GALLATIN,) after declaring that this indeed was only a request which might be refused, had added, that in case it were refused, it would then be proper to consider how far we ought to make the demand, and insist on receiving these papers as a matter of right. After this avowal of the system, after this notice that the present request is no more than a preliminary measure, a preparatory step, and in case of a refusal, is to be followed up by a demand, could it be wondered that they who think the measure improper, should oppose it in the threshold?

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Mr. GALLATIN conceived that, whether the House had a discretionary power with respect to Treaties, or whether they were absolutely bound by those instruments, and were obliged to pass laws to carry them fully into effect, still there was no impropriety in calling for the papers. Under the first view of the subject, if the House has a discretionary power, then no doubt could exist that the information called for is proper; and, under the second, if bound to pass laws, they must have a complete knowledge of the subject, to learn what laws ought to be passed. This latter view of the subject, even, must introduce a discussion of the Treaty, to know whether any law ought to be repealed, or to see what laws ought to be passed. If any article in the instrument should be found of doubtful import, the House would most naturally search for an explanation, in the documents which related to the steps which led to the Treaty. If one article of the Treaty only be doubtful, the House would not know how to legislate without the doubt being removed, and its explanation could certainly be found nowhere with so much propriety as in the correspondence between the negotiating parties.

Gentlemen had gone into an examination of an important constitutional question upon this motion. He hoped this would have been avoided in the present stage of the business; but as they had come forward on that ground, he had no objection to follow them in it, *and to rest the decision of the constitutional powers of Congress on the fate of the present question*. He would, therefore, state his opinion, that the House had a *right* to ask for the papers proposed to be called for, because their co-operation and sanction was necessary to carry the Treaty into full effect, to render it a binding instrument, and to make it, properly speaking, a law of the land; because they had a full discretion either to give or to refuse that co-operation; because they must be guided, in the exercise of that discretion, by the merits and expediency of the Treaty itself, and therefore had a *right* to ask for every information which could assist them in deciding that question.

One argument repeatedly used by every gentleman opposed to the present motion was, "That the Treaty was unconstitutional or not; if not, the House had no agency in the business, but must carry it into full effect; and if unconstitutional, the question could only be decided from the face of the instrument, and no papers could throw light upon the question." He wished gentlemen had defined what they understood by a constitutional Treaty; for, if the scope of their arguments was referred to, it would not be found possible to make an unconstitutional treaty. He would say what he conceived constituted the unconstitutionality of a treaty. A treaty is unconstitutional if it provides for doing such things, the doing of which is forbidden by the constitution; but if a treaty embraces objects within the sphere of the general powers delegated to the Federal Government, but which have been exclusively and specially granted to a particular branch of Government, say to the Legislative department, such a Treaty, though not unconstitutional, does not become the law of the land until it has obtained the sanction of that branch. In this case, and to this end, the Legislature have a right to demand the documents relative to the negotiation of the Treaty,

because that Treaty operates on objects specially delegated to the Legislature. He turned to the constitution. It says that the PRESIDENT shall have the power to make Treaties, by and with the advice and consent of two-thirds of the Senate. It does not say what Treaties. If the clause be taken by itself, then it grants an authority altogether undefined. But the gentlemen quote another clause of the constitution, where it is said that the constitution, and the laws made in pursuance thereof, and all Treaties, are the supreme law of the land; and thence, they insist that Treaties made by the PRESIDENT and Senate are the supreme law of the land, and that the power of making Treaties is undefined and unlimited. He proceeded to controvert this opinion, and contended that it was limited by other parts of the constitution.

The power of making Treaties is contended to be undefined, then it might extend to all subjects which may properly become the subjects of national compacts. But, he contended, if any other specific powers were given to a different branch of the Government, they must limit the general powers; and, to make the compact valid, it was necessary that, as far as those powers clashed with the general, that the branch holding the specific should concur and give its sanction. If still it is insisted that Treaties are the supreme law of the land, the constitution and laws are also; and it may be asked, which shall have the preference? Shall a Treaty repeal a law or a law a Treaty? Neither can a law repeal a Treaty, because a Treaty is made with the concurrence of another party—a foreign nation—that has no participation in framing the law: nor can a Treaty made by the PRESIDENT and Senate repeal a law, for the same reason, because the House of Representatives have a participation in making the law. It is a sound maxim in Government, that it requires the same power to repeal a law that enacted it. If so, then it follows that laws and Treaties are not of the same nature; that both operate as the law of the land, but under certain limitations; both are subject to the control of the constitution; they are made not only by different powers, but those powers are distributed, under different modifications, among the several branches of the Government. Thus no law could be made by the Legislature giving themselves power to execute it; and no Treaty, by the Executive, embracing objects specifically assigned to the Legislature without their assent.

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To what, he asked, would a contrary doctrine lead? If the power of making Treaties is to reside in the PRESIDENT and Senate unlimitedly: in other words, if, in the exercise of this power, the PRESIDENT and Senate are to be restrained by no other branch of the Government, the PRESIDENT and Senate may absorb all Legislative power—the Executive has, then, nothing to do but to substitute a foreign nation for the House of Representatives, and they may legislate to any extent. If the Treaty-making power is unlimited and undefined, it may extend to every object of legislation. Under it money may be borrowed, as well as commerce regulated; and why not money appropriated? For, arguing as the gentlemen do, they might say the constitution says that no money shall be drawn from the Treasury but in consequence of appropriations made by law. But Treaties, whatever provision they may contain, are law; appropriations, therefore, may be made by Treaties. Then it would have been the shortest way to have carried the late Treaty into effect by the instrument itself, by adding to it another article, appropriating the necessary sums. By what provision of the constitution is the Treaty-making power, agreeably to the construction of the gentlemen, limited? Is it limited by the provisions with respect to appropriations? Not more so than by the other specific powers granted to the Legislature. Is it limited by any law past? If not, it must embrace every thing, and all the objects of legislation. If not limited by existing laws, or if it repeals the laws that clash with it, or if the Legislature is obliged to repeal the laws so clashing, then the Legislative power in fact resides in the PRESIDENT and Senate, and they can, by employing an Indian tribe, pass any law under the color of Treaty. Unless it is allowed that either the power of the House over the purse-strings is a check, or the existing laws cannot be repealed by a Treaty, or that the special powers granted to Congress limit the general power of Treaty-making, there are no bounds to it, it must absorb all others, repeal all laws in contravention to it, and act without control.

To the construction he had given to this part of the constitution, no such formidable objections could be raised. He did not claim for the House a power of making Treaties, but a check upon the Treaty-making power—a mere negative power; whilst those who are in favor of a different construction advocate a positive and unlimited power.

He read a quotation from *Blackstone*, page 257, vol. i., to show that the power of Treaty-making in England is as extensively vested in the King, as it can possibly be said to be here in our Executive.

The following is the passage alluded to:

"II. It is also the King's prerogative to make Treaties, leagues, and alliances with foreign States and Princes. For it is, by the law of nations, essential to the goodness of a league, that it be made by the sovereign power, and then it is binding upon the whole community; and, in England, the sovereign power, *quo ad hoc*, is vested in the person of the King. Whatever contracts, therefore, he engages in, no other power in the kingdom can legally delay, resist, or annul."

After such a latitude as this clause gives, it would be supposed that there could be no check reserved upon this power; yet it will be found that Parliament have a participation in it. And the apparent inconsistency is easily reconciled, by observing that the power given generally to the Executive of making contracts with other nations, does not imply that of making Legislative regulations, but that when the contract happens to embrace Legislative objects, the assistance of the Legislature becomes necessary to give it effect.

He proceeded to show the operation of this limitation of the Treaty-making power in England by

the practice of Parliament. It was always considered as discretionary with Parliament to grant money to carry Treaties into effect or not, and to repeal or not to repeal laws that interfere with them. In citing instances of the exercise of this power, he should not go further back than their Revolution.

He then read several extracts from *Anderson's History of Commerce*, vol. iii. pages 269, '70, '71, '72. They are so much in point that we transcribe the most material passages:

"But we could not omit our animadversions on the eighth and ninth articles, as they were so extraordinary in themselves, and as they occasioned so great a stir and uneasiness at that time, as to have brought the whole Treaty of Commerce to miscarry then and ever since.

"ART. IX. That within the space of two months after a law shall be made in Great Britain, whereby it shall be sufficiently provided that not more customs or duties be paid for goods and merchandise brought from France into Great Britain than what are payable for goods and merchandise of the like nature, imported into Great Britain from any other country in Europe; and that all laws made in Great Britain since the year 1664 for prohibiting the importation of any goods or merchandise coming from France, which were not prohibited before that time, be repealed, the general tariff in France, on the 18th of September, in the said year 1664, shall take place there again, and the duties payable in France by the subjects of Great Britain for goods imported and exported, shall be paid according to the tenor of the tariff above mentioned.

"When the said two articles came to be known by the merchants of Great Britain, they were received with the utmost surprise and indignation, and the clamor was loud and universal.

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"That the complying with those two articles would effectually ruin the commerce we carried on to Portugal—the very best branch of all our European commerce. That the said eight articles did, in general terms, put France on an equal footing with Portugal or any other of our best allies, in point of commerce."

"This is, in brief, the sum of this mercantile controversy, which when brought into Parliament, it was so apparent that our trade to France had ever been a ruinous one, and that if, in consequence of accepting the said eighth and ninth articles, the British Parliament should consent to reduce the high duties and take off the prohibitions so prudently laid on French commodities, it would effectually ruin the very best branches of our commerce, and would thereby deprive many hundred thousand manufacturers of their subsistence; which was also supported by petitions from many parts of the kingdom: that, although a great majority of that House of Commons was in other respects closely attached to the ministry, *the bill for agreeing to the purport of the said two articles was rejected by a majority of nine voices*, after the most eminent merchants had been heard at the bar of that House, to the great joy of the whole trading part of the nation, and of all other impartial people."

Thus it must be clearly seen, that the consent of Parliament was not only deemed necessary to the completion of the Treaty, but that that consent was refused, and that in consequence the Treaty fell to the ground, and was not revived for a period of near eighty years, and all notwithstanding the plenitude of the Treaty-making power, said by the best English authority, *Blackstone*, to be vested in the King; which was, however, he repeated, necessarily checked by the special powers vested in Parliament; for none but they could grant money, or repeal the laws clashing with the provisions of Treaties.

He cited another instance of the exercise of this controlling power in Parliament of even a later date, viz: in the year 1739, in the case of a Treaty between Spain and Great Britain, which was sanctioned by a very small majority indeed in Parliament. He cited a third example from *Anderson*, vol. vi., page 828, in the case of the Treaty of Commerce between France and Great Britain, to show that the practice of the Parliament's interfering in Treaties is not obsolete.

The following is an article of the said Treaty, which Mr. GALLATIN read:

"XIV. The advantages granted by the present Treaty to the subjects of His Britannic Majesty shall take effect, as far as relates to the kingdom of Great Britain, as soon as laws shall be passed there, for securing to the subjects of His Most Christian Majesty the reciprocal enjoyment of the advantages which are granted to them by the Treaty.

"And the advantages by all these articles, except the tariff, shall take effect with regard to the kingdom of Ireland, as soon as laws shall be passed there, for securing to the subjects of His Most Christian Majesty the reciprocal enjoyment of the advantages which are granted to them by this Treaty: and, in like manner, the advantages granted by the tariff shall take effect in what relates to the said kingdom, as soon as laws shall be passed there for giving effect to the said tariff."

Upon this principle, founded on almost immemorial practice in Great Britain, did the Minister of that kingdom, when introducing the late Treaty with Prussia into Parliament, tell the House that they will have to consider the Treaty and make provision for carrying it into effect. On the same principle, when the debate took place on that instrument, it was moved to strike out the sum

proposed to be voted, which would have defeated it, and afterwards to strike out the appropriation clause, which would have rendered the bill a mere vote of credit, and would also have caused the Treaty to fall to the ground. On the same principle, the King of Great Britain, when he mentioned the American Treaty, promised to lay it before them in proper season, that they might *judge of the propriety* of enacting the necessary provisions to carry it into effect.

It remains to be examined, said Mr. G., whether we are to be in a worse situation than Great Britain; whether the House of Representatives of the United States, the substantial and immediate Representatives of the American people, shall be ranked below the British House of Commons; whether the Legislative power shall be swallowed up by the Treaty-making authority, as contended for here, though never claimed even in Great Britain?

In Great Britain, he remarked, the Treaty-making power is as undefined as in America. The constitution here, declares that the PRESIDENT and Senate shall make Treaties; there, custom says as loudly, that the King shall make them. In Great Britain, however, the power is limited, by immemorial custom, by the exercise of the Legislative authority by a branch distinct from the regal; in the same manner is it limited here, not however merely by custom and tradition, but by the words of the constitution, which gives specifically the Legislative power to Congress; and he hoped this authority would be exercised by the House with as much spirit and independence as any where.

If this doctrine is sanctioned, if it is allowed, that Treaties may regulate appropriations and repeal existing laws, and the House, by rejecting the present resolution declare, that they give up all control, all right to the exercise of discretion, it is tantamount to saying, that they abandon their share in legislation, and that they consent the whole power should be concentrated in the other branches. He did not believe such a doctrine could be countenanced by the House. If gentlemen should insist upon maintaining this doctrine, should deny the free agency of the House, and their right to judge of the expediency of carrying the Treaty into effect, the friends to the independence of the House will be driven to the necessity to reject the Treaty, whether good or bad, to assert the contested right. If the gentlemen abandoned this ground, then the policy of the measure could be weighed on fair ground, and the Treaty carried into affect, if reconcilable to the interests of the United States.

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MARCH 10.—In Committee of the Whole, on Mr. LIVINGSTON'S resolution, Mr. HARTLEY delivered his sentiments as follows:

As I was not present when this subject was first introduced, it cannot be expected that I should take any great share in the debate; but some observations I have heard, chiefly from the gentleman last up yesterday from Pennsylvania, have induced me to show a few grounds for my vote.

That gentleman has strongly combined this resolution with the Treaty, and wishes that every one who holds that there should be a co-operation of this House respecting that instrument, should vote for the resolution. I think differently.

The gentlemen who contend for the mighty power of the Executive and Senate, as well as those who argue for the great authority of this House, perhaps are on extremes; but the Treaty ought not now to be so largely under consideration. I am willing, if it is thought proper, to take it up at an early day, and, after a full hearing, will vote as I hold right.

The gentleman I referred to, from Pennsylvania, argued most strenuously that the laws and customs of Great Britain and the Constitution of the United States were analogous—nay, that the powers were precisely the same.

The gentlemen who hold this doctrine have made researches, and have quoted several authorities; but why have not those ingenious gentlemen discovered a single instance where the British House of Commons have had the instructions given by the Executive to the negotiating Minister laid before them. If there was such a power, no doubt that body would at some period have exercised it; for no men on earth have extended the power of privileges which they had further than the members of the House of Commons of Britain.

As those gentlemen who contend for the likeness—indeed, sameness of the Treaty-making powers of both countries—can show no precedent, it may be fairly contended, that no such right exists as is contemplated by the resolution.

Treaties are made under the Executive in almost all countries, and when the Ministers have gone through their part of the business, the Treaty is commonly laid before the nation. If any national act is further necessary, it would pass in conformity to the principles of good faith; if any thing is necessary (consistent with the constitution) on the part of the House, it will be the discussion of another day.

Mr. GRISWOLD said, that the resolution on the table appeared at first view to be perfectly innocent, and, he might add, of very little importance. It amounted to no more than a request to the PRESIDENT to furnish the House with papers relating to the negotiation with Great Britain, which he might either satisfy or reject. But the discussion which had taken place in the committee, had given the subject a very serious aspect, and involved a question of the first importance; and although some gentlemen had thought that the committee had prematurely involved itself in the examination of the question, he could not see how the discussion could have been avoided. For gentlemen would not say that any resolution—more particularly a resolution calling on the PRESIDENT for documents belonging to the Executive Department—was to pass the House without a conclusive reason, much less without any reason for its passing. On this principle gentlemen

had been called on at an early period for the reasons on which they grounded the resolution. They had attempted to assign reasons, but those reasons had been generally abandoned; and it could not at that time be seriously contended that the objects of general information or publicity, which had been first mentioned, could justify the House in calling on the PRESIDENT for papers relating to the British Treaty, or that those papers were necessary to enable the House to judge of the constitutionality of the Treaty. The friends of the resolution, aware of this, had at last come forward and assigned a new and a very important reason. It had been now said, that the House of Representatives have a right to judge over the heads of the PRESIDENT and Senate on the subject of Treaties; that no Treaty can become a law until sanctioned by the House; and, in fine, that the House of Representatives is a constitutional part of the Treaty-making power.

If these facts and the principles which grow out of them are true, he could not say that the resolution was improper; and although he did not know to what part of the Treaty the papers would particularly apply, yet, if the House were to take this extensive view of the Treaty, and ultimately to sanction or reject it, it would seem that the papers relating to the negotiation ought to be laid before them. But if these facts are not true, and the House is not a constitutional part of the Treaty-making power, and the Treaty is already a law without its sanction, then the reason falls to the ground, and the resolution ought to be rejected.

This inquiry into the powers of the House of Representatives must be confined, and the question arising out of it must be decided by a fair construction of the constitution. The powers of each branch of the Government are there limited and defined, and an accurate understanding of that instrument would enable gentlemen to decide the question.

In comparing these questions with the constitution, gentlemen were not, however, to inquire whether that constitution was a good or a bad one; whether too much power had been given to this or to that branch of the Government. The question will only be, what powers has the constitution given, and to what departments have the same been distributed?

To render the subject as clear and distinct as possible, he thought it would not be improper to take an abstract view of those two powers in all governments having foreign relations which are immediately connected with the inquiry, viz: the Legislative and the Treaty-making power. And if gentlemen can clearly fix in their minds the limits of each, they will become better enabled to see their operation, and to decide on the powers of the House in the exercise of them.

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The Legislative power in all governments is extremely broad; it occupies the most extensive ground; it extends to every object which relates to the internal concerns of the nation; it regulates the life, the liberty, and the property of every individual living within its jurisdiction; it can control commerce within its jurisdiction; govern the conduct of the nation towards aliens, in whatever capacity they may appear; and, in short, as certain English writers have said of the British Government, its power is almost omnipotent. Thus broad and extensive are the general powers of legislation, subject, however, to such particular restrictions as are prescribed by forms of government, or which occasionally arise from the nature of government itself, and limit the objects of its operation.

It is easy to see, that in the exercise of these Legislative powers, it will frequently happen that laws are enacted, which, in their operation, will embarrass the intercourse of two nations. Such are always the effect of retaliating laws, and aliens within the limits of a foreign jurisdiction are frequently, by those regulations, subjected to great and unreasonable embarrassments.

The Treaty-making power operates in a very different manner; its power is limited and confined to the forming of Treaties with foreign nations; its objects are to facilitate the intercourse between nations; to remove by contract, those impediments which embarrass that intercourse, and to place the same on a fair and just foundation. In the exercise of this power, it will unavoidably happen that the laws of the Legislature are sometimes infringed. The Legislature, for certain causes,—perhaps to compel a foreign nation to form a treaty on terms of reciprocity,—may prohibit all intercourse, or embarrass that intercourse with regulations so burdensome as to produce the same effect; the foreign nation finally becomes willing to treat, and to establish an intercourse on equitable terms. If, in this case, the Treaty power cannot touch the laws of the Legislature, the object which gave rise to those very laws can never be attained; no Treaty can be formed, because it will oppose existing laws; those laws cannot be repealed, because the object for which they were enacted has not been attained. Such a construction of the Treaty power would defeat every object for which that power was established; and instead of possessing an authority to remove embarrassments in a foreign intercourse, it cannot touch them; and, although expressly created for the attainment of a single object, it can never attain it.

From these considerations, he contended that, in the exercise of that power which related to the intercourse with foreign nations, the Treaty-making was paramount to the Legislative power; and that the positive institutions of the Legislature must give place to compact.

On this construction, a perfect harmony is introduced into the departments of Government. Both the Legislative and the Treaty power are necessary, on many occasions, to accomplish the same objects. The Legislative power to establish regulations, or declare war, for the purpose of compelling a nation to agree to a reasonable compact; and the Treaty power, when that nation is compelled to agree to such reasonable compact, to remove by Treaty those very regulations, and the war itself, on fair and equitable terms.

Mr. MADISON said, that the direct proposition before the House, had been so absorbed by the incidental question which had grown out of it, concerning the constitutional authority of Congress in the case of Treaties, that he should confine his present observations to the latter.

The true question, therefore, before the committee, was, not whether the will of the people expressed in the constitution was to be obeyed, but how that will was to be understood; in what manner it had actually divided the powers delegated to the Government; and what construction would best reconcile the several parts of the instrument with each other, and be most consistent with its general spirit and object.

On comparing the several passages in the constitution, which had been already cited to the committee, it appeared, that if taken literally, and without limit, they must necessarily clash with each other. Certain powers to regulate commerce, to declare war, to raise armies, to borrow money, &c., are first specially vested in Congress. The power of making Treaties, which may relate to the same subjects, is afterwards vested in the PRESIDENT and two-thirds of the Senate; and it is declared in another place, that the constitution and the Laws of the United States, made in pursuance thereof, and Treaties made, or to be made under the authority of the United States, shall be the supreme law of the land. And the judges, in every State, shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding.

The term *supreme*, as applied to Treaties, evidently meant a supremacy over the State constitutions and laws, and not over the Constitution and Laws of the United States. And it was observable, that the judicial authority, and the existing laws, alone of the States, fell within the supremacy expressly enjoined. The injunction was not extended to the Legislative authority of the States, or to laws requisite to be passed by the States for giving effect to Treaties; and it might be a problem worthy of the consideration, though not needing the decision of the committee, in what manner the requisite provisions were to be obtained from the States.

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It was to be regretted, he observed, that on a question of such magnitude as the present, there should be any apparent inconsistency or inexplicitness in the constitution, that could leave room for different constructions. As the case, however, had happened, all that could be done was to examine the different constructions with accuracy and fairness, according to the rules established therefor, and to adhere to that which should be found most rational, consistent, and satisfactory.

He stated the five following, as all the constructions, worthy of notice, that had either been contended for, or were likely to occur:

I. The Treaty power, and the Congressional power, might be regarded as moving in such separate orbits, and operating on such separate objects, as to be incapable of interfering with, or touching each other.

II. As concurrent powers relating to the same objects; and operating like the power of Congress, and the power of the State Legislatures, in relation to taxes, on the same articles.

III. As each of them supreme over the other as it may be the last exercised; like the different assemblies of the people, under the Roman Government, in the form of centuries, and in the form of tribes.

IV. The Treaty power may be viewed, according to the doctrine maintained by the opponents of the proposition before the committee, as both unlimited in its objects, and completely paramount in its authority.

V. The Congressional power may be viewed as co-operative with the Treaty power, on the Legislative subjects submitted to Congress by the constitution, in the manner explained by the member from Pennsylvania (Mr. GALLATIN) and exemplified in the British Government.

The objection to the first construction is, that it would narrow too much the Treaty power, to exclude from Treaties altogether the enumerated subjects submitted to the power of Congress; some or other of this class of regulations being generally comprised in the important compacts which take place between nations.

The objection to the second is, that a concurrent exercise of the Treaty and Legislative powers, on the same objects, would be evidently impracticable. In the case of taxes laid both by Congress and by the State Legislatures on the same articles, the constitution presumed, that the concurrent authorities might be exercised with such prudence and moderation as would avoid an interference between their respective regulations. But it was manifest that such an interference would be unavoidable between the Treaty power and the power of Congress. A Treaty of Commerce, for example, would rarely be made, that would not trench on existing legal regulations, as well as be a bar to future ones.

To the third, the objection was equally fatal. That it involved the absurdity of an *imperium in imperio*, of two powers, both of them supreme, yet each of them liable to be superseded by the other. There was, indeed, an instance of this kind found in the government of ancient Rome, where the two authorities of the *comitia curiata*, or meetings by centuries, and the *comitia tributa*, or meetings by tribes, were each possessed of the supreme Legislative power, and could each annul the proceedings of the other. For, although the people composed the body of the meetings in both cases, yet, as they voted in one, according to wealth, and in the other, according to numbers, the organizations were so distinct as to create, in fact, two distinct authorities. But it was not necessary to dwell on this political phenomenon, which had been celebrated as a subject of curious speculation only, and not as a model for the institutions of any other country.

The fourth construction, is that which is contended for by the opponents of the proposition depending; and which gives to the Treaty power all the latitude which is not necessarily prohibited by a regard to the general form and fundamental principles of the constitution.

In order to smooth the way for this doctrine, it had been said that the power to make Treaties

was laid down in the most indefinite terms; and that the power to make laws, was no limitation to it, because the two powers were essentially different in their nature. If there was ingenuity in this distinction, it was all the merit it could have; for it must be obvious that it could neither be reduced to practice, nor be reconciled to principles. Treaties and laws, whatever the nature of them may be, must, in their operation, be often the same. Regulations by Treaty, if carried into effect, are laws. If Congress pass acts relating to provisions in a Treaty, so as to become incorporated with the Treaty, they are not the less laws on that account. A Legislative act is the same whether performed by this or that body, or whether it be grounded on the consideration, that a foreign nation agrees to pass a like act, or on any other consideration.

It must be objected to this construction, therefore, that it extends the power of the PRESIDENT and Senate too far, and cramps the powers of Congress too much.

He did not admit that the term "Treaty" had the extensive and unlimited meaning which some seemed to claim for it. It was to be considered as a technical term, and its meaning was to be sought for in the use of it, particularly in governments which bore most analogy to our own. In absolute governments, where the whole power of the nation is usurped by the governments, and all the departments of power are united in the same person, the Treaty power has no bounds; because the power of the sovereign to execute it has none. In limited governments, the case is different; the Treaty power, if undefined, is not understood to be unlimited. In Great Britain, it is positively restrained on the subjects of money and dismembering the empire. Nor could the Executive there, if his recollection was right, make an alien a subject by means of a Treaty.

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But the question immediately under consideration, and which the context and spirit of the constitution must decide, turned on the extent of the Treaty power in relation to the objects; specifically and expressly submitted to the Legislative power of Congress.

It was an important, and appeared to him to be a decisive, view of the subject, that if the Treaty power alone could perform any one act for which the authority of Congress is required by the constitution, it may perform every act for which the authority of that part of the Government is required. Congress have power to regulate trade, to declare war, to raise armies, to levy, to borrow, and to appropriate money, &c. If, by Treaty, therefore, as paramount to the Legislative power, the PRESIDENT and Senate can regulate trade, they can also declare war, they can raise armies to carry on war, and they can procure money to support armies. These powers, however different in their nature or importance, are on the same footing in the constitution, and must share the same fate. A member from Connecticut (Mr. GRISWOLD) had admitted that the power of war was exclusively vested in Congress; but he had not attempted, nor did it seem possible, to draw any line between that and the other enumerated powers. If any line could be drawn, it ought to be presented to the committee; and he should, for one, be ready to give it the most impartial consideration. He had not, however, any expectation that such an attempt could succeed; and, therefore, should submit to the serious consideration of the committee, that, although the constitution had carefully and jealously lodged the power of war, of armies, of the purse, &c. in Congress, of which the immediate Representatives of the people formed an integral part, yet, according to the construction maintained on the other side, the PRESIDENT and Senate, by means of a Treaty of Alliance with a nation at war, might make the United States parties in the war. They might stipulate subsidies, and even borrow money to pay them; they might furnish troops to be carried to Europe, Asia, or Africa; they might even attempt to keep up a standing army in time of peace, for the purpose of co-operating, on given contingencies, with an ally, for mutual safety or other common objects. Under this aspect the Treaty power would be tremendous indeed.

The force of this reasoning is not obviated by saying, that the PRESIDENT and Senate would only pledge the public faith, and that the agency of Congress would be necessary to carry it into operation. For, what difference does this make, if the obligation imposed be, as is alleged, a constitutional one; if Congress have no will but to obey, and if to disobey be treason and rebellion against the constituted authorities? Under a constitutional obligation with such sanctions to it, Congress, in case the PRESIDENT and Senate should enter into an alliance for war, would be nothing more than the mere heralds for proclaiming it. In fact, it had been said that they must obey the injunctions of a Treaty, as implicitly as a subordinate officer in the Executive line was bound to obey the Chief Magistrate, or as the Judges are bound to decide according to the laws.

As a further objection to the doctrine contended for, he called the attention of the committee to another very serious consequence from it. The specific powers, as vested in Congress by the constitution, are qualified by sundry exceptions, deemed of great importance to the safe exercise of them. These restrictions are contained in section 9 of the constitution, and in the articles of amendment which have been added to it. Thus, the "migration or importation of such persons as any of the States shall think proper to admit, shall not be prohibited by Congress." He referred to several of the other restrictive paragraphs which followed, particularly the 5th, which says, that no tax shall be laid on exports, no preference given to ports of one State over those of another, &c. It was Congress, also, he observed, which was to make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble, &c. Now, if the Legislative powers, specifically vested in Congress, are to be no limitation or check to the Treaty power, it was evident that the exceptions to those powers could be no limitation or check to the Treaty power.

Returning to the powers particularly lodged in Congress, he took notice of those relating to war, and money, or the sword and the purse, as requiring a few additional observations, in order to show that the Treaty power could not be paramount over them.

It was well known that, with respect to the regulation of commerce, it had long remained under the jurisdiction of the States; and that in the establishment of the present Government the question was, whether, and how far, it should be transferred to the general jurisdiction. But with respect to the power of making war, it had, from the commencement of the Revolution, been judged and exercised as a branch of the general authority, essential to the public safety. The only question, therefore, that could arise, was whether the power should be lodged in this or that department of the Federal Government. And we find it expressly vested in the Legislative, and not in the Executive department; with a view, no doubt, to guard it against the abuses which might be apprehended, from placing the power of declaring war in those hands which would conduct it when declared; and which, therefore, in the ordinary course of things, would be most tempted to go into war. But, according to the doctrine now maintained, the United States, by means of an alliance with a foreign power, might be driven into a state of war by the PRESIDENT and Senate, contrary both to a sense of the Legislature, and to the letter and spirit of the constitution.

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On the subject, also, of appropriating money, particularly to a military establishment, the provision of the constitution demanded the most severe attention. To prevent the continuance of a military force for a longer term than might be indispensable, it is expressly declared, that no appropriation for the support of armies shall be made for more than two years. So that, at the end of every two years, the question, whether a military force ought to be continued or not, must be open for consideration; and can be decided in the negative, by either the House of Representatives or the Senate's refusing to concur in the requisite appropriations. This is a most important check and security against the danger of standing armies, and against the prosecution of a war beyond its rational objects; and the efficacy of the precaution is the greater, as, at the end of every two years a re-election of the House of Representatives gives the people an opportunity of judging on the occasion for themselves. But if, as is contended, the House of Representatives have no right to deliberate on appropriations pledged by the PRESIDENT and Senate, and cannot refuse them, without a breach of the constitution and of their oaths, the case is precisely the same, and the same effects would follow, as if the appropriation were not limited to two years, but made for the whole period contemplated, at once. Where would be the check of a biennial appropriation for a military establishment raised for four years, if, at the end of two years, the appropriation was to be continued by a constitutional necessity for two years more? It is evident that no real difference can exist between an appropriation for four years at once, and two appropriations for two years each, the second of which, the two Houses would be constitutionally obliged to make.

It had been said that, in all cases, a law must either be repealed, or its execution provided for. Whatever respect might be due to this principle in general, he denied that it could be applicable to the case in question. By the provision of the constitution, limiting appropriations to two years, it was clearly intended to enable either branch of the Legislature to discontinue a military force at the end of every two years. If the law establishing it must be necessarily repealed before an appropriation could be withheld, it would be in the power of either branch to keep up an establishment by refusing to concur in repeal. The construction and reasoning, therefore, opposed to the rights of the House, would evidently defeat an essential provision of the constitution.

The constitution of the United States is a constitution of limitations and checks. The powers given up by the people for the purposes of Government, had been divided into two great classes. One of these formed the State Governments; the other, the Federal Government. The powers of the Government had been further divided into three great departments; and the Legislative department again subdivided into two independent branches. Around each of these portions of power were seen also exceptions and qualifications, as additional guards against the abuses to which power is liable. With a view to this policy of the constitution, it could not be unreasonable, if the clauses under discussion were thought doubtful, to lean towards a construction that would limit and control the Treaty-making power, rather than towards one that would make it omnipotent.

He came next to the fifth construction, which left with the PRESIDENT and Senate the power of making Treaties, but required at the same time the Legislative sanction and co-operation, in those cases where the constitution had given express and specific powers to the Legislature. It was to be presumed, that in all such cases the Legislature would exercise its authority with discretion, allowing due weight to the reasons which led to the Treaty, and to the circumstances of the existence of the Treaty. Still, however, this House, in its Legislative capacity, must exercise its reason: it must deliberate; for deliberation is implied in legislation. If it must carry all Treaties into effect, it would no longer exercise a Legislative power; it would be the mere instrument of the will of another department, and would have no will of its own. Where the constitution contains a specific and peremptory injunction on Congress to do a particular act, Congress must, of course, do the act, because the constitution, which is paramount over all the departments, has expressly taken away the Legislative discretion of Congress. The case is essentially different where the act of one department of Government interferes with a power expressly vested in another, and nowhere expressly taken away: here the latter power must be exercised according to its nature; and if it be a Legislative power, it must be exercised with that deliberation and discretion which is essential to the nature of Legislative power.

Mr. W. SMITH (of South Carolina) said, he would not at that time go into an extensive review of the arguments of the gentleman from Virginia, (Mr. MADISON,) but would only notice some points which he had dwelt on. Before he went into a consideration of the subject, he would call the

attention of the committee to the true question now before them; for though it was originally only a call for papers, it had now assumed a very important shape, and was nothing less than this, Whether that House had a concurrent power with the PRESIDENT and Senate in making Treaties? The gentleman last up had followed others in referring to the practice under the British constitution; but had concluded his remarks on that argument with allowing, that, after all, our own constitution must be our sole guide. He heartily joined in that sentiment, and was satisfied that the merits of the question should be tested by that alone. In order to show that the Treaty power was solely delegated to the PRESIDENT and Senate by the constitution, Mr. S. said, he should not confine himself to a mere recital of the words, but he should appeal to the general sense of the whole nation at the time the constitution was formed, before any Treaty was made under it, which could, by exciting passion and discontent, warp the mind from a just and natural construction of the constitution. By referring to the contemporaneous expositions of that instrument, when the subject was viewed only in relation to the abstract power, and not to a particular Treaty, we should come at the truth. He would then confidently appeal to the opinions of those who, when the constitution was promulgated, were alarmed at the Treaty power, because it was by the constitution vested in the PRESIDENT and Senate, and to its advocates, who vindicated it by proving that the power was safely deposited with these branches of the Government. The discussions which took place at the time of its adoption by the Convention of the several States, proved, beyond a doubt, that the full extent of the power was then well understood, and thought, by those who approved of the constitution, to be sufficiently guarded. He would further appeal to the amendments which had been proposed by the discontented. The Convention of Virginia had proposed an amendment, which of itself overturned all the reasonings of the gentleman. It was, "that no commercial Treaty should be valid, unless ratified by two-thirds of all the Senators." This was the only check which that State required, and was a conclusive evidence of their opinions: had that State conceived that the check which is now contended for existed in the constitution, they could not have been guilty of such an absurdity as the amendment would involve. All the possible dangers which might ensue from the unlimited nature of the Treaty power were well considered before the constitution was adopted, and Virginia required no further check than the one above recited. All, therefore, that they required had, in the present case, been done, for the Treaty was ratified by two-thirds of all the Senators.

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Mr. S. said, he could refer to many further proofs derived from a similar source. He would not, however, fatigue the committee at this time with reading them. He would only recall the recollection of some gentlemen present to the protest of the Pennsylvania minority, where the same ideas and amendments were contained, and to the proceedings of a meeting at Harrisburg, which the gentleman from Pennsylvania (Mr. GALLATIN) must well remember, (having been one of the meeting,) where, after stating objections to the extensive powers delegated by the constitution, the following amendment was proposed, as necessary to limit and restrain the powers: "Provided always, that no Treaty which shall hereafter be made, shall be deemed or construed to alter or affect any law of the United States, or of any particular State, until such Treaty shall have been laid before and assented to by the House of Representatives in Congress." This amendment was the most satisfactory evidence that the proposers of it did then believe that, without that amendment, such Treaty would be valid and binding, although not assented to by this House, and that they had, at that day, no idea that there existed in the constitution the check which is now discovered by this *ex post facto* construction.

Having stated the general opinion of the public, as manifested by the friends as well as the enemies of the constitution, Mr. S. said he would proceed to show that the practice of Congress had, from the commencement of its existence, been conformable to that opinion. Several treaties had been concluded with Indian tribes under the present constitution. These Treaties embraced all the points which were now made a subject of contest—settlement of boundaries, grants of money, &c.; when ratified by the PRESIDENT and Senate, they had been proclaimed by the Executive as the law of the land; they had not even been communicated to the House; but the House, considering them as laws, had made the appropriations as matters of course, and as they did in respect to other laws. The Treaties were never discussed, but the requisite sums, as reported in the annual estimates, were included, as matters of course, in the general mass of moneys voted for the War Establishment in the item of Indian Department. It was not pretended that the constitution made any distinction between Treaties with foreign nations and Indian tribes; and the clause of the constitution which gives to Congress the power of regulating commerce with foreign nations, and on which the modern doctrine is founded, includes as well Indian tribes as foreign nations.

That this House considered a Treaty, when ratified by the PRESIDENT and Senate, as the law of the land, was further evident from a resolve of the House, of the 4th of June, 1790, in these words;

"Resolved, That all Treaties made, or which shall be made and promulgated under the authority of the United States, shall from time to time be published and annexed to their code of laws, by the Secretary of State."

In consequence of this resolution, the several Secretaries of State had annexed the Treaties which had been made to the code of laws, as soon as they were ratified by the PRESIDENT and Senate, and promulgated by the PRESIDENT.

Mr. S. repeated his former assertion, that there were cases where that House had not the right of withholding appropriations; if they had the power, indeed, they might stop the proceedings of Government altogether; and so, individuals had the power of resisting the laws. Gentlemen had said, that if this doctrine prevailed, the House would lose its capacity of judging. He denied it; they would still retain, in such cases, a discretion, guided by morality, good faith, and the

constitution; the members were as much bound by the laws in their Legislative, as in their individual capacity; if an existing law (or Treaty, which was a law of the highest nature) prescribed a certain duty, they were bound to perform it, and their discretion could only be called in to regulate the mode and circumstances of discharging that duty; it could not be a matter of discretion whether or not they should perform that duty. Thus, unless they intended to arrest the operations of Government, their discretion could not be requisite to determine whether they should appropriate the moneys necessary for its support; but out of what fund, and when the moneys shall be paid, and other matters of detail. So, when a Treaty was concluded, and became a compact binding the nation, the discretion of the House (unless it was intended to violate our faith) could not determine whether the moneys contracted for should be paid, but the mode, the fund, and such questions of detail, would alone be considered. The distinction, which was an obvious one, between power and right, had not been attended to. The House had certainly the power to do many things which they had not the right to do; they had the power to do wrong, but they certainly had not the right to do wrong; and whether the wrong was committed by acting where they ought not to act, or refusing to act where they ought, was immaterial; both were equally reprehensible. It had been boldly said, that there was no case which could possibly come before them, where they would not be at liberty to answer aye or no: he would produce a case—by the constitution, on the application of a certain number of States, wishing for amendments, Congress must call a Convention; where is this boasted discretion, of which so much has been said? Could the House, in this case, exercise its discretion, whether or no a Convention should be called? Why not? Because the constitution says it must call a Convention: and does not the constitution say, "Treaties made by the PRESIDENT and Senate are laws, and that laws must be obeyed?" The same injunctions of the constitution are imposed in both cases; and as in the first, all this House could do, would be to regulate the time and place of holding the Convention; so, in the latter, their discretion would be limited to the mode, and fund, and other details. The gentleman had mentioned the article in the constitution respecting appropriations for military services—they were to be limited to two years; this article proved itself that appropriations might be unlimited in every other case. When a Military Establishment was instituted, it was known that an appropriation law for that purpose could not be in force more than two years; no inconvenience, then, could result. But there was no such limitation in respect to any other branch of expenditure; from custom, appropriations for the support of Government were annual; appropriations even for pensions were annual, and yet no one doubted that, as the pension was a contract, the appropriation for it was always a thing of course; no discretion could be exercised, in respect to the payment, without a breach of faith.

MARCH 11.—In Committee of the Whole, on Mr. LIVINGSTON'S resolution.

Mr. GILES said, he expected, when the present motion was made, that it would not be opposed. The expected agency of the House respecting the Treaty, or some subjects relating to it, made him imagine that the propriety of having the papers called for could not be denied. The Treaty has been referred to a Committee of the Whole, surely in order to act on it in some shape or other. Indeed, the PRESIDENT, in his Speech, at the opening of the session, expressly says, that he will lay the subject before them. This he considered as full evidence, that the PRESIDENT conceived it must come under the notice of the House. If the papers could serve to explain any point relative to that instrument, surely the possession of them was desirable.

The right of the House to consider of the expediency of Treaties, so far as the provisions of them clash with their specific powers, had been indirectly brought in in considering the present motion. He regretted that this important constitutional question should be about to be decided indirectly; but, this being the situation of the debate, he should state his reasons why he conceived the argument on this ground ought not to be considered as of sufficient strength to cause a negative of the motion before the committee.

The question is, whether there be any provisions in the constitution by which this House can in any case check the Treaty-making power; and, of consequence, whether it can question the merits of Treaties under any circumstances?

Various considerations had been advanced to show that the House cannot question the merits of a Treaty. Some of these considerations had grown out of the subject extrinsically, others from the provisions of the constitution. Though at first he had intended to have stated simply his own opinion of the constitution on the important question now in view, yet, as gentlemen had gone fully into the question in that shape, and others had stated a variety of objections to the construction the friends of the motion contended for, he should proceed to answer them, and suffer his opinion of the meaning of the constitution to be incidental.

The gentleman from South Carolina had referred to the opinions of the Conventions of the States at the time of adopting the constitution. As to Virginia, the gentleman had stated that that State had considered the checks as provided by the constitution as inadequate, and proposed an amendment, purporting to require two-thirds of the whole number of Senators, instead of two-thirds of the number present. This was true, he believed; but how would it apply in the sense the gentleman wished? The objection of that State was, that the check in the Senate, provided in the Treaty-making power, was not sufficient, and they proposed a greater: from which he would argue that they conceived the Treaty-making power to be a subject of extreme delicacy, and that they wished additional checks consequently added. How this was to prove that the Convention of Virginia did not construe the present clauses of the constitution under debate as the friends of the present motion did, he was at a loss to determine. The gentleman who cited this instance had not quoted any part of the proceeding on the subject, or of the reasons that led to the amendment. He had merely mentioned the result to the House.

The practice of the House had been referred to yesterday by the member last up, (Mr. SMITH, of South Carolina.) He had remarked that the House had passed a general resolution directing the Clerk to place in the code of laws of the United States Treaties made under the authority of the United States. Was this, he asked, an exposition of the meaning of the constitution? He believed the resolution a very proper one, and would vote now for its adoption, if it was yet to be passed. It is certainly proper, when a Treaty is concluded under the authority of the United States, that it should be annexed to their code of laws; but this could not weigh against the exercise of discretion in the House on important Legislative subjects.

The practice of the House, with respect to appropriation laws, in the cases of Indian Treaties, had been mentioned by the member from South Carolina. In the first place, observing upon this, he would remark, that he always conceived there was a distinction between an Indian Treaty and a Treaty with a foreign nation. The English had always made a distinction when we were Colonies. The constitution establishes an express difference. He should not, however, found his objections to the inference of the gentleman upon this, but would examine it unconnected with this distinction. Provisions had been made by this House to carry Indian Treaties into effect; but why? No doubt because the House conceived it wise so to do, not because they had not a right to use their discretion in the business. Suppose, on any of those occasions, a motion had been made to strike out the sum proposed to be appropriated, would it have been said that the motion was out of order? A similar motion was made lately with respect to the Mint, and it was not considered as out of order. If, on that occasion, it had been the opinion of the House that the Mint was an improper establishment, by refusing the appropriation they could have defeated the law. It was certainly the opinion of the House that they could exercise their discretion in the business, for it was not even hinted that the motion for striking out was out of order.

On another head the gentleman appeared to plume himself much. He had asked, why, since the PRESIDENT had proclaimed a Treaty as the law of the land, which was not the law of the land, why he was not impeached? This question, the member exultingly remarked, had not been answered, because, he imagined, it could not be answered.

Suppose I should tell the gentleman, said Mr. G., that I could not now give him an answer, would it show that the House had not the authority contended for by the friends of the present motion? Why was the subject mentioned? Not with a view, I believe, to the discovery of the truth. I fear it is calculated to produce an opposite effect—to check investigation. It is too often the case that the names of persons are brought into view, not to promote the development of principles, but as having a tendency to destroy freedom of inquiry. I will go further with the gentleman, and admit for a moment (a position, however, I shall by and by controvert) that the PRESIDENT conceived that he had a right, after the exchange of ratifications, to promulgate the Treaty as the supreme law of the land; what would this amount to? Why, only that this was his opinion; but is that authority here? In any other case rather than the present, I should be inclined to pay a greater respect to opinions from that source; but now, when the question is about the division of powers between two departments, are we to be told of the opinions of one of those departments, to show that the other has no right to the exercise of power in the case. Such appeals are not calculated to convince, but to alarm.

Having examined the objections to the construction contended for by the friends of the motion, drawn from collateral sources, he should turn his attention next, he said, to the intrinsic meaning of the constitution. He would attempt to interpret the constitution from the words of it. It was a misfortune the clauses were not more clear and explicit, so far as to force the same meaning upon every mind, however they might differ in opinion in other respects. However, from the imperfection of language, it was no wonder, he observed, that on an instrument providing for so many different objects, and providing such a variety of checks, various opinions as to construction should arise; but he considered the present clauses of as plain import as any part of the instrument. The construction contended for by the opposers of the motion is, beyond denial, the most dangerous in its effects, and the least probable, as he thought, in its meaning. It is contended by them that the Treaty-making power is undefined in its nature, unlimited as to its objects, and supreme in its operation; that the Treaty-making power embraces all the Legislative powers; operates by controlling all other authorities, and that it is unchecked. When he had asserted this power, as contended by the gentlemen to be unlimited in its objects, he meant, however, that they had confined it only within the limits of the constitution; but even admitting it in that extent, is certainly a doctrine sufficiently alarming. When the gentlemen contend for its supremacy, they also admit in this point some qualifications; according to their doctrine, it is not to be supreme over the head of the constitution, but in every other respect they contend that it shall be unlimited, supreme, undefined. Gentlemen who insist that Treaties are supreme, next to the constitution, must also grant that there is no necessity for the House to trouble themselves with making laws.

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The construction contended for by the friends of the resolution is derived from two sources—from the constitution, and the nature of things. The constitution says, the PRESIDENT, with the advice and consent of two-thirds of the Senators present, shall make Treaties. Perhaps, if there was no other clause, the Treaty-making power might be considered as unlimited. Another clause declares that the constitution, the laws made under it, and Treaties, shall be the supreme law of the land. Here the gentlemen, when they quote this clause, stop, as if there were no other words in it; and from all this it would appear that the people had, in fact, delegated an unchecked power. But, if we go on, it will be found that the last-mentioned clause adds that the judges in the respective States shall cause them to be executed, any thing in the constitution or laws of the individual States to the contrary notwithstanding. From the jealousy which individual States

showed under the Old Confederation for the preservation of their powers, and the inconveniences which were experienced in consequence, it was found necessary, when organizing a new Government, to declare, explicitly, that their constitutions and laws must yield to the *Constitution, laws and Treaties* of the United States, and for this purpose this clause was introduced.

The checks on the Treaty-making power he considered as divisible into two classes; the first, consists in the necessary concurrence of the House to give efficacy to Treaties; which concurrent power they derive from the enumeration of the Legislative powers of the House. Where the Treaty-making power is exercised, it must be under the reservation, that its provisions, so far as they interfere with the specified powers delegated to Congress, must be so far submitted to the discretion of that department of the Government. The PRESIDENT and Senate, by the constitution, have the power of making Treaties, Congress the power of regulating commerce, raising armies, &c.; and these, he contended, must form so many exceptions to the general power. Gentlemen had said that the constitution was the exposition of the will of the people, and, as such, that they would obey its injunctions. There could be no difference of opinion on this ground; for his own part, he confessed if he adored any thing on earth, it is that will. But the question is, what is that will, as expressed in the constitution? That instrument, to his mind, explained this question very clearly. It enumerates certain powers which it declares specifically vested in Congress; and where is the danger to be apprehended from the doctrine laid down by the friends of the resolution? The contrary construction must produce the most pernicious consequences; agreeably to that, there would remain no check over the most unlimited power in the Government. The gentlemen contend, that the House must remain silent spectators in the business of a Treaty, and that they have no right to the exercise of an opinion in the matter; they must then abandon their constitutional right of legislation; they must abandon the constitution and cling to Treaties as supreme.

The other check over the Treaty-making power, he noticed, was the power of making appropriations, the exercise of which is specifically vested in Congress. He begged leave to call the particular attention of the committee to this part of the subject. The constitution says, that no money shall be drawn from the Treasury, but in consequence of appropriations made by law. This is no doubt intended as a check in addition to those possessed by the House. It is meant to enable the House, without the concurrence of the other branches, to check, by refusing money, any mischief in the operations carrying on in any department of the Government. But what is a law? It is a rule prescribed by competent authority. The word law in the clause of the constitution he had last noticed, was not meant in reference to the Treaty-making power; but in reference to Congress. A law prescribes a rule of conduct; it is the expression of the will of the proper authority; it is the result of discretion. Legislation implies deliberation. If a law is the expression of the will, must not an appropriation law be equally so? But gentlemen had found out a new-fashioned exposition of the word discretion, and, according to their definition in fact, it was no discretion at all. They had mentioned a part of the constitution which provides that the salaries of the Judicial Department shall be fixed; and asked, whether the House should conceive itself at liberty to use a discretion in appropriations for that department? Before he could consider this case, and that before the House, now parallel, he must beg gentlemen would point out any part of the constitution that declared the House should not exercise their discretion when called upon to make appropriations to carry into effect a Treaty. He could find nowhere, that, in this case, the right of opinion of the House is constrained.

The uniform practice of the British Government had been cited to have been, in the case of Treaties, the same as that contended for by the friends of the present motion. The greatest security for the liberties of the people established in that Government, depends on the control which their Parliament has over the purse-strings. In England, this power rests merely on custom; here, the House are expressly intrusted with it; what is custom in England, is reduced to writing in our constitution. Then, if this power is in England a ground for Parliament to judge of Treaties, it is a fair inference that it ought to be exercised here. The practice of the British Government, he observed, had often been quoted here, in support of doctrines very different from those in aid of which it is now cited; it has been deemed orthodox when it favored Executive prerogative. He confessed, he never did expect that, as early as 1796, a reference would be made to practices, under the British Government, in support of the rights of the popular branch of our Government. It was painful to be obliged to have resort to that Government on such an occasion; but the authority of that Government should not be rejected for once, because its practice could be quoted in favor of the popular branch. The ground of the practice in England, and of the right claimed here, rests upon the sound maxim, that all public money is from the pockets of the people, and that it should be expended by none but their Representatives. No maxim had been more instrumental than this, in preserving the remnants of British freedom; and thus early is the House called upon to abandon it here.

Treaties are contended to be paramount to the laws; the PRESIDENT and Senate make these Treaties, and when made and proclaimed as the supreme law, there is a predestinated necessity in the House to make the requisite provisions for carrying them into effect. The danger of this doctrine, he said, could not be better exemplified, than by a reference to the circumstances that attended the late Treaty in its progress. Three years ago, a difference took place between the different branches of Government, as to the policy that should obtain in reference to the conduct of one foreign nation. The House were unwilling to trust solely to the magnanimity of the King, and wished to make some exertions themselves for self-protection. With this view several measures were proposed, viz: commercial restrictions, non-importation, embargo, sequestration, or rather arrestation upon the ground of the *status quo*. One of the measures passed the House

by a respectable majority, but was rejected in the Senate by the casting vote of the VICE PRESIDENT. The PRESIDENT appointed an Envoy Extraordinary, who entered into certain stipulations, which, being sanctioned by two-thirds of the Senate, it is now contended, are to operate the destruction of the powers specifically vested in the House.

If the above was a true statement, he said, and he did not see in what particular it could be contradicted, then the Executive had been exerted as a check upon the Legislative power, for the negotiation necessarily foreclosed any further Legislative proceedings. It did more than this; the Executive legislated against legislation, and overruled them on the subject in contest. He should not advert at this time, he said, to the collateral circumstances which attended this business, nor go further in detail; he wished only to remark generally on the dangerous operation of the doctrines contended for. Now, it is said, the House have nothing to do but to obey, to appropriate the necessary money, leaving all deliberation aside.

If the PRESIDENT, said Mr. GILES, can, by the assistance of a foreign power, legislate against the rights of the House to legislate, and his proceedings are to be binding on the House, it necessarily destroys their right to the exercise of discretion. If he can by Treaty declare, that commerce shall not be regulated, that property shall not be sequestrated, and that piracies shall be judged and punished as he thinks fit; if he is to exercise the unlimited Treaty-making power contended for, what security have we that he may not go further when the negotiations are renewed with Great Britain, agreeably to the stipulations of the present Treaty? What security have we that he will not agree with Great Britain, that if she will keep up an army of ten thousand men in Canada, he will do the same here? How could such a stipulation be got over by the House, when they are told that in matters of Treaty they must not pretend to exercise their will, but must obey? How will this doctrine operate upon the power of appropriation? A military establishment may be instituted for twenty years, and as their moral sense is to prevent their withholding appropriations, they can have no power over its existence.

Gentlemen had gone so far as to declare, that an attempt to examine the merits of the Treaty was rebellion, was treason against the constitution. What justifies these harsh epithets? Such assertions could only create ill-will, and could not tend to the investigation of truth. Another argument of the same nature had been used. It was said, that the attempt at exercising a control over the Treaty-making power was disorganizing the Government. He believed the contrary would be found to be the case. The doctrine advocated by the friends to the motion, only goes to claim a negative voice in the business of Treaty-making; whereas the doctrine of its opposers claims the exercise of a power, that would supersede the specific authority delegated to the Legislature in all cases whatever.

Mr. SEDGWICK said, that, after the length of time which had been consumed, and the talents which had been so ably exerted in the discussion of this subject, he should not think himself authorized to call the attention of the committee to any observations of his; but, that he considered it in principle, and in its consequences, as the most important question which had ever been debated in this House. It was no less than whether this House should, by construction and implication, extend its controlling influence to subjects which were expressly, and he thought exclusively, delegated by the people to another department of the Government. We had heretofore been warned emphatically against seizing on power by construction and implication. He had known no instance in which the caution that warning enforced, deserved more attention than on the present occasion.

It would be taken for granted, and it would be conceded on all hands, that we were to resort to the constitution, to know the extent and limits of our power, and if we found not there a clear evidence of its existence, we ought to abandon the exercise. It was certain we had not any express delegation to make or to control the public will in any of our relations with foreign nations. On the other hand, we found it declared, that the PRESIDENT should have power to make Treaties by and with the advice and consent of the Senate, provided two-thirds of the Senators present concurred. Treaties, to attain the ends for which they were designed, were, from their nature, supreme laws; but the constitution had, in another place, declared, Treaties made under the authority of the United States should be supreme laws. Gentlemen had said, that it was not declared that Treaties made by the PRESIDENT and Senate should have this effect; but those made under the authority of the United States. The question then recurred, what Treaties were made under the authority of the United States? The true answer undoubtedly was, Treaties made by those to whom the people, by their constitution, had delegated the power. The PRESIDENT, qualified as had been mentioned, had expressly, and none else had such power. If we were to rest the subject here, it would seem to follow irresistibly, and to be incapable almost of higher proof, that whenever a compact was formed by the PRESIDENT with a foreign nation, and had received the advice and consent of the Senate, if it was of such a nature as to be properly denominated a Treaty, all its stipulations would thereby, and from that moment, become "supreme laws."

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The power of treating between independent nations might be classed under the following heads: 1. To compose and adjust differences, whether to terminate or to prevent war. 2. To form contracts for mutual security or defence; or to make Treaties, offensive or defensive. 3. To regulate an intercourse for mutual benefit, or to form Treaties of commerce. Without the first, war and contention could only be terminated by the destruction of one of the parties; without the second, there could be no defence, by means of union and concert, against superior force; and without the last, a profitable and beneficial intercourse could not be arranged on terms of reciprocity. Hence, then, it must be evident to every unprejudiced mind, that by a grant of power to make Treaties, authority was given to bind the nation by stipulations; to preserve peace or terminate war; to enter into alliances, offensive and defensive, and to form commercial Treaties.

This power, he held, unlimited by the constitution, and he held, too, that in its nature, to the extent he had mentioned, it was illimitable. Did a serious difference exist with a foreign nation, in determining on the nature and extent of the stipulations which might be necessary to adjust it, the cause of injury, national rights and honor, the evils of war, and all circumstances of relation between the two countries, must be taken into account. In forming alliances, the threatened pressure, your own and your enemy's relative strength, the objects of acquisition or defence, must be considered. And, in adjusting an equitable intercourse for commercial purposes, a thousand circumstances present themselves for nice calculations. A thousand circumstances of foreign relations would occur in the history of every country, under which nothing short of unlimited powers of negotiation would be adequate to a prevention of enormous, perhaps ruinous evils.

But it might be objected that a power so enormous, and comprehending such essential interests, might be abused, and thence asked, where is the remedy? To this he answered, that a national association required, for the great purpose of preservation, an unlimited confidence on many subjects. Hence, not only this, but perhaps every other national government, had delegated to it an unlimited control over the persons and property of the nation.

It might, by the express power given to it of raising armies, convert every citizen into a soldier, and, by a single assessment of a tax, it might command the use of all the property in the country.

The power to raise armies and taxes was limited in its exercise by nothing but the discretion of the Legislature, under the direction of its prudence, wisdom, and virtue. Was there no security against a wanton abuse of these enormous powers? Yes, it was to be hoped that the people, in electing the members of this House, and the States in choosing those of the other, would not select characters, who, regardless of the public good, would wantonly impose on their constituents unnecessary burdens. It would be an additional security, that the interests of the rulers were inseparably connected with those of the people; that they could impose no burdens in which themselves did not equally participate. But, should all these guards be insufficient, was there no dependence to be placed in the PRESIDENT?—the man elected by a refined process, pre-eminent in fame and virtue as in rank! Was there no security in the watchful guardianship of such a character? Responsible by every thing dear and valuable to man—his reputation, his own and his fellow-citizens' happiness—was there no well-founded reliance on all these considerations, for security against oppression? If not, we had not the requisite materials by which to administer a republican government, and the project might be abandoned. After all, however, should the unlimited powers he had mentioned (and such powers must always be unlimited) be wantonly abused, was there no remedy? Yes, in the good sense and manly independent spirit of the people. If intolerable burdens were wantonly imposed; if necessary to defeat the oppression, opposition and insurrection would not only be authorized, but become a duty. And if any man could honestly lay his hand on his heart, and in sincerity declare, that a compliance with any existing Treaty was worth more than our Government, our constitution, our Union, and the liberty protected by them; to that man he was ready to declare, that opposition had become a duty. But, in every instance of opposition, whether in defeat of a Legislative act, or of a Treaty, the right of resistance resulted not from the constitution itself, for it had declared no such right; no constitution could declare it. It existed in original principles, and never could be exercised but by resorting to them.

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The gentleman from Virginia (Mr. MADISON) had stated five different constructions which possibly might be given to the constitution on this subject; three of which, (and for none of them to Mr. S.'s knowledge had any man ever contended,) the gentleman had proved to be unfounded. The fourth, that which he had given to the constitution, if admitted, and it should be abused, might produce mischievous effects. Was not this true of all the great and essential powers of government? If the controlling influence of this House was added, would the power be less? And if, under these circumstances, abused, would the injury be more tolerable? In short, was not this a kind of argument infinitely more tending to the production of prejudice than to the discovery of truth?

The gentleman has really given no decisive opinion what was the true construction. He had, however, seemed to incline to a belief that to the stipulations of a Treaty relative to any subject committed to the control of the Legislature, to give them validity, Legislative co-operation was necessary. Of consequence, if this was withheld, the operation of the Treaty would be defeated. That it was at the will, and within the discretion, of the Legislature to withhold such co-operation, and of course the House might control and defeat the solemn engagements of the PRESIDENT and Senate.

The gentleman who had suggested this opinion was well known to the committee, and throughout America. Mr. S. could not but observe that it was perfectly unaccountable to his mind, that that gentleman had yet to form an opinion to whom was delegated that power, the nature, extent, and effects of which he had so strongly and perspicuously detailed. The capacity of that gentleman's mind, long exercised on political subjects, his known caution and prudence, would authorize a request that he or his friends would explain how it was possible, if such as he states should have been the intention of those who framed the constitution, that the true meaning should not have been expressed in the instrument? That when the gentleman went from the Assembly which framed the constitution, immediately afterwards, to one of those which ratified it, he should have admitted an opposite construction? As Mr. S. would undertake, by and by, to prove that, in the Convention of Virginia, he did admit the very construction for which we now contended, he would take the liberty further to inquire, how it happened, that, if such was really the intention of the instrument, that such was the meaning of the people, no man had heard of it until the discovery was produced by the British Treaty? Strange national intention, unknown for years to every

individual!

As the gentleman had been pleased to dwell on the idea of a co-operation between the powers of the Government, he would take the liberty to state, what had been ably explained by other gentlemen, that the power of making Treaties was wholly different from that of making ordinary laws; originating from different motives; producing different effects, and operating to a different extent. In all those particulars, the difference had been perfectly understood. For instance, the ordinary legal protection of property, and the punishment of its violation, could never be extended beyond your own jurisdiction; but, by Treaty, the same protection could be extended within the jurisdiction of a foreign government. You could not legislate an adjustment of disputes, nor a peace with another country; but, by Treaty, both might be effected. Your laws, in no instance, could operate except in your own jurisdiction, and on your own citizens. By Treaty, an operation was given to stipulations within the jurisdiction of both the contracting parties.

It had been said that Treaties could not operate on those subjects which were consigned to Legislative control. If this be true, said he, how impotent in this respect is the power of the Government! What, then, permit me to inquire, can the power of treating effect? I will tell you what it cannot do; it can make no alliances, because any stipulations for offensive or defensive operations, will infringe on the Legislative power of declaring war, laying taxes, or raising armies, or all of them. No Treaty of peace can probably be made, which will not either ascertain boundaries, stipulate privileges to aliens, the payment of money, or a cession of a territory, and certainly no Treaty of commerce can be made.

Was it not strange, that, to this late hour, it should have been delayed, and that now, all at once, it should have been discovered, that no power was delegated to any person to regulate our foreign relations? That, although a power was granted to the PRESIDENT and Senate to form Treaties, that yet there were such reservations and restrictions, that there remained nothing on which this power could operate? Or was it true, that this power was competent to treat with every government on earth but that of Great Britain? Might he not be permitted further to inquire, if this Treaty had been formed with any other power, with the precise stipulations it now contained, whether there ever would have existed this doubt of constitutionality.

MARCH 14.—In Committee of the Whole on Mr. LIVINGSTON'S resolution:

Mr. SAMUEL LYMAN said he rose only to make a few observations. He was against the resolution now on the table, as involving a doctrine, in his opinion, not only inconsistent with the principles of the constitution, but also inconsistent with the laws of nations. In debating the merits of this resolution, an exceedingly important abstract constitutional question had arisen, viz: How far that House had a right to exercise their Legislative discretion and judgment relative to carrying a Treaty into effect. In order to answer this question, he would raise two premises. And, first, by the constitution, the Legislative powers of that House, in co-operation with the other branches of the Legislature, extend to all objects within the reach of their sovereignty, excepting the reservations to the distinct sovereignties of the several States which compose the Union; but beyond those boundaries their powers could not extend. Secondly, there is, by the constitution, attached to the Legislature a subordinate kind of power, of a limited and ministerial, or Executive nature. At present, it did not occur to him that this subordinate power was to be exercised in its simplicity, excepting in two instances, viz: 1st, for calling a Convention under certain circumstances to amend the constitution; and, 2dly, for carrying into effect Treaties which are constitutionally made; for these two purposes, the people, who are the source of power, had stripped that House of all Legislative authority, and made them only the executors of their will; therefore, upon these premises he answered, if a Treaty was unconstitutional, they had an undoubted right to exercise a Legislative discretion and judgment relative to carrying it into operation, for they were sent there as the guardians of the rights of their fellow-citizens, and, for that purpose, are sworn to support the constitution; but if the Treaty was constitutional, they had not a right to exercise that discretion; for, without their intervention, it becomes the supreme law of the land, and virtually repeals all laws which are repugnant to it; and in that case that House is bound to obey it, and to carry it into complete execution; for, by the constitution, the power of making Treaties is vested solely and exclusively in the Executive Department. In the former case, they have a right to exercise a deliberative or Legislative power, but not in the latter case; they could there only exercise a ministerial or Executive power. So that herein, said he, lies the true distinction, and it arises from the nature and principles of the constitution.

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He had not the least doubt of the constitutionality of a treaty, when the stipulations in it were of such a nature as not to respect objects of legislation, but only objects which lay beyond the bounds of their sovereignty; for beyond those limits their laws could not extend as rules to regulate the conduct of subjects of foreign Powers; and although some stipulations in a Treaty may respect objects which were within the reach of their sovereignty, yet it may be in such manner as to be strictly constitutional; for such stipulations may be not only pertinent, but absolutely necessary in forming the Treaty. This conclusion, he thought, was the natural and necessary result of a fair and liberal construction of the principles of the constitution, and especially of that paragraph which vests the power of making Treaties in the Supreme Executive, with the advice of the Senate.

Mr. L. said he was sensible he had been delivering an unpopular doctrine, but that he was deeply impressed with its truth, its reality, and its importance; and that the obligations of an oath had prevented his silence on the occasion.

Mr. BALDWIN said he had before expressed his opinion, in general terms, in favor of this question. It must have been observed that he had been for several days noting the debates, and preparing

to take part in them. He had intended to have introduced the debate on Friday morning last, but a singular incident prevented him, which he felt it to be his duty to take this earliest opportunity to state to the House. Mr. B. then said: about five minutes before I expected to rise on the question, I was called out of the House by a person then unknown to me, who said his name was FRELINGHUYSEN, and whom I found to be a Senator of the United States. After a number of interviews, he observed, with great expressions of pain and regret, that he was at last obliged to the unwelcome office of delivering me that letter, which I opened and found to be a challenge directed to me from JAMES GUNN, who is also a Senator of the United States. The pretext for this transaction was, to extort from me some private letters which I had received early in the session from a number of my constituents, expressing their wish that I would endeavor to prevent any thing being done in Congress to validate the Mississippi Yazoo Land Speculation before the meeting of the State Legislature. There was no complaint of any personal indecorum or disrespect at all; whether they were actuated in their conduct solely by interest in Yazoo speculations, I will not pretend to judge. The revival of a transaction of so old a date at that particular moment, was to me surprising. Not knowing their degree of relation to this question between the two Houses, and not knowing the cast of character but of one of them, I am left only to conjecture. It was so peculiarly timed, and the professed object also of so peculiar a nature, to interrupt the channels of confidence for free communication between me and my constituents, that I have thought it my duty not to let the treatment of it depend on my own individual discretion. I consider it as in the discretion of the House. Mr. B. also observed that he felt himself under the necessity of using this as an apology for the apparent neglects of Friday, after the particular attention he had before appeared to pay to the discussion; and for his not being able to notice any of the proceedings in the debate of Friday, he had supposed he had lost the opportunity of offering his opinion, but was glad to find the question had not been taken, as he was unwilling to suffer this, or even a greater interruption, to prevent him from declaring his opinion, as he had before intended.

He said, it was remarkable that several gentlemen rose with very different expressions which had been said to contain the subject in discussion. It was certainly important to agree exactly on that point. The least variation in the point of departure would soon diverge till they were out of sight of each other, and yet each one keep a straight direction. One gentleman had stated, that the question was, whether this House should feel itself at liberty to judge over the heads of PRESIDENT and Senate on the subject of Treaties without restraint: his reasoning seemed to be built on that proposition. Another gentleman had said that the question was, whether the power of making Treaties was given by the constitution to the PRESIDENT and two-thirds of the Senate, or to the PRESIDENT and both branches of the Legislature. He might mention several others, but he called the attention of the House to the fact, to settle the point, that they might at least agree what they were talking about. The question, said he, on the table is, to request of the PRESIDENT papers respecting the Treaty: the objection is, you ought not to ask for the papers, because you have no right to touch the subject. He begged leave then to ask, with the utmost candor and respect, whether the real question now depending and brought into dispute by this motion, is not whether all questions relating to this subject are not so definitely and perfectly settled by the constitution, that there was nothing for that House to deliberate upon on the occasion, but only punctually to provide the funds to carry the Treaty into effect. If it were allowed that there might be any possible or extraordinary cases on the subject of Treaty-making, in which it might ever be proper for that House to deliberate—as, for instance, offensive Treaties which might bring the country into a war—subsidies and support of foreign armies—introduction of an established religion from a foreign country, or any other of those acts which are by the constitution prohibited to Congress, but not prohibited to the makers of Treaties; if it were allowed that there might possibly exist any such case, in which it might ever be proper for Congress to deliberate, it would seem to be giving up the ground on which the discussion of the present question has been placed; what agency the House should take, and when, would be other questions. Whether a case would probably occur once in a hundred years that would warrant the House in touching the subject, is of no consequence to the debate. The right is denied in the largest sense. The assertion is, that the House has no right to deliberate or to look into any papers on the subject; that the people have, by the constitution, reposed the whole of their confidence on this subject elsewhere; that, to attempt to deliberate upon it, or to ask for any papers respecting it, is treason and anarchy.

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If this ground were once given up, he should be infinitely less anxious what the House might do in any particular case: these would rest on their individual merits. For his own part, he was by no means disposed to carry the interference of the House to any extreme; but he could not express his abhorrence of the doctrine in the extent to which some gentlemen have carried it in this discussion. He begged leave to entreat gentlemen again candidly to review the few words in the constitution on which they rested so much, and to ask whether they appeared to be such labored expressions as they supposed—so apt and definite as to mean exactly what they contend for, and nothing else; and whether all the words may not well be satisfied without, and stand more harmoniously connected with the other parts of the constitution.

How much they intended to incorporate with this power of Treaty-making, under cover of contract with foreign nations, he had not heard any one attempt to explain; it seemed designed to stand distinguished as an indefinite, uncontrolled branch of the Government, the extent of whose powers was to be known only by its own acts. Its definition was to be, that it was indefinite—like what is said of some branches of the powers of Parliament; that no one has pretended or ought to pretend to know their extent; that they are not to be submitted to the judgment of any one but themselves; and that they never develop them but by the particular exercise of them; that they were to be left in this state, because, if they were defined, they might be eluded. However this

might be found respecting a foreign constitution, it is making a monster of our own. There was not another part or lineament in it which appeared to be in the same mould or proportion.

Mr. B. then undertook to state his own view of the subject, and what he thought ought to be done. Much, he said, depended on the words "make Treaties and supreme law of the land;" as to the words supreme law of the land, he had not much doubt for what purpose solely they were introduced. The words were satisfied, and he thought most naturally, by not suffering them to disturb the balance of the Federal Constitution, for that is not the subject which the section where these words are used is speaking of; but to consider them as giving to the Treaty-making power the same paramount authority over the laws and constitutions of the several States, that they give at the same time to the Constitution and laws of the United States. The words appear to be introduced for the express purpose of making the Constitution, laws, and Treaties of the United States, paramount to the constitutions and laws of the several States, and for no other purpose; this is all that the section appears to be speaking of; it satisfies the words, is the most obvious and natural meaning, and leaves the other parts of the constitution harmonious and undisturbed. As to the words "power to make Treaties," it was more difficult to ascertain precisely what the constitution meant to give by them. It had been argued that from the nature of governmental powers, the Treaty-making power must be paramount, and from the nature of contract it must be paramount. The truth is, the Treaty-making power must be what the constitution has made it. He did not hesitate to say, that the most natural meaning to give these words, was to consider them as borrowed from former use, and to give them the meaning which they had always before given them. Gentlemen had said that nothing useful could be derived from English books and explanations on these terms. This seemed to him an unreasonable assertion. It might as well be said that they could not use an English Dictionary to ascertain the meaning of words. In many sciences, said he, there are definite and appropriate phrases as well as definite and appropriate words; and, in fact, books which are dictionaries of phrases, ascertain the meaning of phrases with as much precision as dictionaries ascertain the meaning of words. It is exceedingly useful that it should be so. When such a precise meaning is fixed to a phrase, and publicly known, it is apt to remain a long time exact, as it is frequently employed, and is very useful as a medium of certainty. Many instances of this kind might be quoted, particularly from English books on law and government. He would observe further, these appropriate phrases had been for their certainty in many instances transferred into our constitution, and their meaning must be manifestly sought in those sources as in a dictionary. One remarkable instance occurred to him, and which, from the singularity of its garb, would be very discernible in the constitution—he meant the definition of treason in the third section of the third article of the constitution. The phrase is levying war, adhering to enemies, giving them aid and comfort. These are the very words of the English books, which have been so critically judged that they are not capable of the least variation in their meaning on that tremendous subject; but this meaning is to be sought from those sources; he might mention several instances, but it was unnecessary. He thought the phrase, power to make Treaties, should be ascertained in the same manner; and the English meaning, as it would naturally be understood at the time of making the constitution, should be affixed to it; that it should be considered as giving to the PRESIDENT and two-thirds of the Senate the same kind of power as the King of England possesses on the subject of Treaties, which it is known is in several cases subject to the control of Parliament. Here it is qualified by the powers specifically given to Congress.

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Mr. HOLLAND said: It is with great diffidence I rise on this important subject, to submit some considerations to this committee. As it has now become a constitutional question, not with respect to the merits of the Treaty, but with respect to the constitutional right of this House to request the Executive to furnish us with papers that related to the Treaty antecedent to its ratification.

To this it is objected that this House has no discretionary power over the Treaty, and, on that account, has nothing to do with the papers.

The question is not whether the Treaty is a good or bad Treaty, but it is whether we have a right to exercise our judgments upon it. Then, without any regard to the Treaty, we must be governed by the rational construction of the fundamental principles of government.

To illustrate which, it may be necessary to examine what has been incident to the different kinds of government, according to the histories of those nations governed by despotism, monarchs, or republics; and from the Constitution of the United States as the fundamental maxims of the Republic, draw that construction that is most rational and natural.

It will also be proper to examine which of those governments preserves the most power in the people.

First, then, of monarchy. Where has that power been placed? According to the theory of the English Government it has been lodged in the Sovereign, for it is there expressly said (nor has it been denied on this floor) that the King is the source of all power; and it is also expressly declared that the King of Great Britain has sovereign and exclusive right to make Treaties. That, when they are made, they cannot be impeded or annulled by any existing power in the kingdom. This is the theory of that Government. But what has been the practice? I answer, the contrary; for it ever has been that, when a Treaty was made, the same has been submitted to the Parliament for concurrence; and Parliament, if they thought proper, admitted and sometimes annulled them, as in the Treaty of Utrecht, and sundry instances that the history of that nation affords us. The English Government, therefore, is in practice what it is not in theory. By the construction of the constitution, as contended for, by giving uncontrollable power to twenty Senators and the PRESIDENT, our Government will be in practice what the English Government is in theory. If this

doctrine had been believed, that this was the true construction of the constitution, previous and at the time of its adoption, would the people of the United States have adopted it? If they had been informed that, by this instrument, they were ceding more power to two-thirds of the Senators and PRESIDENT, than even could be practised by the King of England, with his lords spiritual and temporal, under that impression would they have ceded that power? Or, if they had been told that the House of Representatives, under this constitution, had less power than was exercised by the House of Commons in England; that they would be less able to secure their liberties in this country against the approaches of prerogative, would they have, under that belief, accepted of this constitution? I think, Mr. Chairman, I may venture to say they would not.

With respect to the more absolute government of France, where has this power been lodged? In this, as in the monarchy of England, it was, in theory, lodged in a prince; but the theory, even in that despotic government, never could be carried into practice. According to *Vattel*, in the Treaty made by Francis I., in the Treaty of Madrid, on account of that Treaty encroaching on the fundamentals of their government, it was set aside. How was this done? It was not done by Parliament, for they had none; but the principal people of the kingdom met together at Cogniac and annulled it. I ask again, Mr. Chairman, if the people of this country possess less power than the people of that despotic Government? Or do they possess less power to withstand the usurpations of the Executive, on the subject of Treaties, in their Representatives in Congress, than has ever been maintained in the cramped situation of the people of England by the House of Commons?

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Why were these rights ever maintained and so scrupulously attended to by the people of those countries? It was because they considered them as the palladium of their remaining liberty,—they therefore, would not let them go.

Then, with respect to a Republic, the sovereign power is in the people. It therefore follows that whatever can be effected by the people in those countries can be done here—they being the source of power.

Then, with regard to the constitution, it must be construed naturally and liberally in behalf of the people. Not as giving all power that can be given, but as retaining all power and natural right that ought to be retained. It would have been extremely improper to have wantonly discarded natural privilege, or ceded more power than was essential to government; nor was any more intended to be given.

The constitution, upon the face of it, shows that this is the case—limits are prescribed to governmental power. Not so in the countries spoken of, yet the people exercise it. But it is said our constitution has not retained this privilege, and it is the law and the testimony, sacred volume, &c. The sacredness depends upon the attention to the principles that procured its adoption; when that is contravened a violence is made upon the rights of the people. If, by any construction that can be given, these rights can be preserved, it is wise to consider it as the better opinion. But it is said to be impossible that this power has been ceded, subject to no control, to the PRESIDENT and two-thirds of the Senators present; that, whatever may be the practice in other countries, it will not apply to this; that those countries have no constitution, and that we have, and must be governed by it. Unfortunate circumstance! why adopted? Was it wantonly to throw away a privilege and natural right? Certainly not, but the contrary. It was to secure natural right, and to establish a Republican form of Government.

I considered that the Executive had absolute power to make peace; as by the constitution he is declared Commander-in-chief of all the armies, his situation enabled him to be the best judge of the forces and of the force he had to contend with, and as secrecy was necessary to effecting a Treaty of Peace, that power was properly vested in him, guarded by two-thirds of the Senate. But a Treaty of Commerce presupposes an existing peace, and in those Treaties secrecy is not essential; but a competent knowledge of the produce of the respective States in all their remote situations was necessary; which would be best obtained by an association of the three branches of Government.

This is a Treaty of Commerce, and therefore has involved Legislative objects. It consequently requires Legislative sanction; a contrary construction would be a violation of the constitution and of the principles upon which it was adopted, and therefore a violation of the rights of the people.

I confess, on viewing the exception and force of the argument, that I had some doubt, that when the government became old and corrupt, that this perversion might be attempted; but had no idea that in the course of six years it would be contended for.

Mr. BRADBURY observed, that the most plausible reason that he had heard in support of the resolution under the consideration of the committee resulted from a principle advanced by a member from Pennsylvania, who spoke upon the subject last week. The principle was this; that where any articles of a Treaty were repugnant to prior existing acts of Congress, those acts must first be repealed by Congress before such Treaty can become the law of the land; and it was said some of the articles of the British Treaty were of this nature. He would not stay to examine the truth of the fact, for admitting it to be true, he altogether denied the principle; but yet he acknowledged that if it could be made out, it would afford the best reason yet given for calling for the papers. If their concurrence was necessary to give existence or legality to the Treaty, he saw not why they ought not to be favored with the papers as well as the Senate. But he asserted and would endeavor to prove, that the Treaty has already a legal existence; that it is now the law of the land; and that, therefore, no act of Congress is, or can be, necessary to make it so; and, therefore, that House could have no need of the papers, nor any right to call for them on that ground.

That the Treaty had already become the law of the land, and that no Legislative act of Congress was necessary to make it so, he argued wholly from the constitution itself, by which alone the question must at last be determined.

That instrument expressly declares, that all Treaties made under the authority of the United States shall be the supreme law of the land. He laid no stress upon the word supreme, admitting for argument's sake, that the supremacy ascribed to the constitution and laws, and Treaties made under it, meant a supremacy over the constitution and laws of individual States. All he asked to be granted him, and which he thought could not be denied, was that a Treaty made under the authority of the United States was the law of the land. If so, then all that needed to be proved was, that a Treaty made by the PRESIDENT, with the advice and consent of two-thirds of the Senate, was a Treaty made under the authority of the United States. And to prove that, he needed only to mention another clause in the constitution, which expressly declares that the PRESIDENT, with such advice and consent, shall have power to make Treaties.

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He nowhere read in the constitution that any act of Congress, in any possible case, was necessary to make a Treaty, so as that without it such Treaty could not be the law of the land. He nowhere read that prior acts of Congress repugnant to a Treaty must first be repealed before a Treaty could be a law.

But, says the gentleman from Pennsylvania, the same Treaty power is given to the King by the Constitution and laws of England, that is given to the PRESIDENT by our constitution, and yet the Parliament have the power there which he contends for in favor of Congress here; that is, they must repeal prior laws repugnant to a new Treaty, before it can be the law of the land; and why is not an act of Congress, it is asked, necessary for the same purpose, in a similar case here? He would answer, because our constitution is different from the British in this respect: it declares that a Treaty made under the authority of the United States, (and he had shown that a Treaty made by the PRESIDENT, as aforesaid, was made under such authority,) is the law of the land, and if it is a law, nothing further can be requisite to make it so. There was no such declaration in the Constitution and laws of England.

There was no arguing from the power of Parliament to the power of Congress. The Parliament must have controlled this Treaty power of the King, and stripped him of his prerogative, by use and custom. There had been in England a constant struggle between power and privilege; the prerogatives of the King were not founded in the grant of the people; they were founded on force, on the right of conquest; whatever, therefore, was gained from the King by the Commons, was considered as so much gained by the people from an adverse power.

If the PRESIDENT were an hereditary monarch, deriving his power from his predecessors by descent, a power originally founded in conquest, Congress would do well to get as much of it out of his hands as they could. It would here be, as it was there, a struggle between prerogative and privilege; it would be the people against the King. But as this was not the case, and as Congress never had in fact assumed and exercised the power of confirming, by an act of theirs, Treaties made by the PRESIDENT, this argument from analogy wholly failed.

Suppose the Parliament of Great Britain should pass a law expressly delegating the Treaty-making power to the King, with the advice and consent of two-thirds of his Privy Council, and should declare in the act, that a Treaty made under such authority should be the supreme law of the land. They claim a right to make such a law, for Judge *Blackstone* affirms, that the denial of a power in every government, even to alter every part of its constitution, is the height of political absurdity; and in England, he expressly ascribes this power to Parliament.

What would be the effect of such an act of Parliament? Would not a Treaty made under it be clearly the law of England? and would not all acts of Parliament, prior and repugnant to it, be repealed by it? He was clearly of opinion they would; and this clause, he said, was inserted in the American Constitution, probably to guard against that very construction which is now endeavored to be put upon the Treaty power; on purpose to cut off all pretence of a power in Congress to control a Treaty, by refusing to repeal any prior laws that might stand in the way of it.

But, said the same gentleman, shall a British House of Commons have this right of controlling the Treaty-making power, and shall it be denied to the Representatives of a free people? He answered, the PRESIDENT and Senate of the United States were as much the Representatives of a free people as that House was; they were as truly, though not so immediately, chosen by the people as they were. The people distributed their powers as they pleased. The PRESIDENT, said he, represents the people as their Executive agent, and is possessed of all Executive power, and the power of making Treaties. The true question, then, was, shall one constituted representative authority usurp the power and control the acts assigned by the constitution to another representative authority of the same free people? They certainly ought not. If they should attempt it, it would be opposing one authority of the people to another. It would be dividing a free people against itself. But he hoped he had said enough to show the unsoundness of that principle, and fully to establish what he first undertook to prove, that the Treaty was already completed; that it was already the law of the land; and that it did, by its own force, repeal all prior laws, if there were any standing in the way of it; and if so, they could have no need of the papers to assist them in making it a law. It had also been laid by the King before his Parliament, and he supposed the necessary appropriations had been made to carry it into effect. He did not know that any other Parliamentary provision was necessary.

But it may be said, that it is fit and proper that they should call for the papers mentioned in the resolution, even if the Treaty were law, because appropriations by act of Congress would be

necessary to carry it into effect, and they ought to have the papers to judge whether it be fit for them to make those appropriations.

He answered, whether that be fit or not, in his opinion, must depend wholly upon the Treaty or law itself, and upon nothing out of it. It was like all other laws requiring appropriations, in making which they must be governed by a sound and legal discretion, and that discretion must be governed by the instrument itself.

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Even if a question should arise and be proper for the discussion of that House, on the constitutionality of the Treaty, yet that question must be decided by the Treaty itself, and by nothing else; and there could be no need of any papers for that purpose. If general information were the object, to allay the public sensibility, he should think the better way would be to request the PRESIDENT to publish the papers in all the newspapers throughout the United States. But he believed he must be considered as the best judge in that matter. He would only add, that the correspondence between their Envoy and the British Minister was, in its nature, secret and confidential. It was communicated to the Senate because they were a part of the Treaty-making power, which the House was not; but even to them it was communicated in confidence. A request to the PRESIDENT, said he, to communicate these papers, amounts to a requirement; but there can be no right to require where there is no obligation to obey.

Mr. PAGE spoke as follows: I confess, sir, that I had wished that this House, instead of asking the PRESIDENT for information respecting the negotiation and ratification of the Treaty, at this late day of its session, had given him, as soon as possible after its meeting, fully their opinions, and that of their constituents, respecting the Treaty itself. But, as time has been afforded for deliberation, and the House has waited most patiently and respectfully till the PRESIDENT could "place the subject before them," according to his promise in his Address to Congress, I think they have shown a spirit of moderation which deserves credit. The friends of the Treaty cannot complain that it has been hastily and rudely attacked, and should not object to the request which is proposed to be made to the PRESIDENT, to furnish a statement of facts which, from what has been said elsewhere, may be supposed sufficient to silence the most clamorous opposers of the Treaty.

I think that the Treaty is constitutional, as far as relates to the powers of the contracting parties to make Treaties; and is constitutional and valid, also, as far as relates to that part of it which gives it the name of a Treaty of Amity, and which might be in a separate and distinct Treaty by itself; for the PRESIDENT, by and with the advice and consent of two-thirds of the Senators present, has an undoubted authority, under the express words in the first article of the constitution, to make Treaties. And I have no doubt that the Treaties which were in the view of the framers of that article, must have been principally Treaties of Peace, of Amity, of Neutrality, or of Alliance. This is the more probable, as the first and principal Treaties in which nations were concerned, were Treaties of Peace, or Treaties to secure the blessings of peace; and it is certain that the Treaty of Peace with Great Britain was the very Treaty which gave rise to the declaration of the constitution, that all Treaties made and to be made by the authority of the United States shall be the supreme law of the land: for the Treaty of Peace with Great Britain was said to be in a state of inexecution on account of an obstruction thrown in the way by the laws of certain States. This article, therefore, was intended to remove all obstacles, which had arisen or might arise from State Legislatures, and might, I will here remark, as easily have been extended to remove all obstructions from the General Legislature by adding to the words "any Constitution or law of the States," these words, "or the Constitution or laws of the United States notwithstanding." The power to make Treaties of Commerce and Navigation, I humbly conceive, could scarcely be within the view and design of the Convention, at least not as a primary object, when they formed the article respecting Treaties; because they knew, that the extent, situation, population, and productions of the United States, were such as would command them a sufficient share of the commerce of the world, without the aid of Commercial Treaties. They knew that almost all Europe stood in need of their productions, and that Great Britain and her islands could scarcely exist without them; they knew more, they knew this, sir, that the almost universal belief of their constituents, that giving a power to Congress to regulate commerce, which would answer every purpose of Commercial Treaties, gave existence to the very powers under which they were acting at the moment they framed that article. This mode of regulating commerce was favored by the opinion of the people, who celebrated the adoption of the constitution with so much exultation and expensive parade in the great commercial cities of the United States. They had no doubt that the new Congress would use the power with which it was invested, so as to oblige Great Britain to open her ports to them in the West Indies, and to put their trade with them upon a more equitable and stable footing. Indeed, sir, the people thought, as associations not to import certain articles from Great Britain, entered into by them when they were poor helpless Colonists, with halters about their necks, repealed the Stamp act, that acts of Congress regulating commerce, so as to retaliate on Great Britain, would at least prevent the enacting of the law by which the British King was authorized to regulate the commerce of the United States with Great Britain and her Islands.

I acknowledge, sir, that whenever a Treaty is to be made, the PRESIDENT and Senate are the proper agents to make it. I think it an excellence in our constitution that the PRESIDENT and Senate, though not allowed to declare war, have authority to put a stop to its horrors. This is a wise provision against the injury which the pride and ambition of the larger States might do to the smaller, by continuing a war. But I cannot conceive that when Congress is authorized to make all laws necessary and proper to carry into effect all the powers granted by the constitution, the Treaty-making power as well as others, and are to provide for the general welfare, which is not confided to the PRESIDENT and Senate, nor can be intrusted to them alone by the people upon any

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principle which has ever had weight in the formation of a Republican Government,—I cannot conceive, I say, that as this is the case, and the House of Representatives is composed of members proportioned to a certain ratio of the number of persons to be represented, and has the sole right to originate money bills, how it can possibly be supposed that the PRESIDENT and Senate, without their concurrence, can make regulations of commerce, which may be injurious to the general welfare, ruinous to the commerce of certain, and even the largest, States; and by a Treaty, too, which may, moreover, deprive that House, which, by the supposition of those who have defended the Treaty is at least a Committee of Ways and Means, (and, indeed, nothing more,) of the resources of revenue to which, by the constitution, they might have recourse.

But we are told, sir, that the power given to Congress by the constitution to regulate commerce cannot extend to that regulation which depends upon the will of a foreign nation or government, and which can only be regulated by compact, or by the Treaty-making or pactitious powers. Granting that this assertion be true, which, however, may be denied, as the general belief which I have alluded to, and on which the existence of the present Government was founded, seemed to contradict it; for it was almost universally believed that an act of Congress regulating the commerce of the United States with Great Britain, as had been proposed to the former Congress, or Congress under the Confederation, or as proposed to this House on the 3d of January, 1794, and well known by the name of MADISON'S propositions, or as proposed by Mr. CLARK, 7th April, 1794, would have brought about a more advantageous commercial intercourse with Great Britain than any direct negotiation with the British Minister. It was thought highly probable that the Parliament of Great Britain would (if any of these propositions had been adopted by Congress) have refused to have renewed their act, by which the trade with these United States (as if they were more degraded than Colonies) was regulated by the King's Proclamation. I say, granting, however, that assertion to be true, how does it prove, or what other assertion can prove, that Congress has not a right, under the express words of the constitution, which declares that it shall have power to regulate commerce with foreign nations, to be a party to that compact, or to have some share, either previously or subsequently, in the Treaty-making business, when it regulates the commerce of the United States with foreign powers?

I may agree that a Treaty is necessary to establish a commercial intercourse between two nations, to their mutual advantage and satisfaction, but I must affirm, that as that Treaty would be a commercial regulation, and as Congress is expressly empowered by the constitution to regulate commerce, whenever such Treaty shall be made between the United States and any other nation, Congress must either direct that the negotiation be commenced upon conditions approved, or sanction the ratification of such Treaty by some act showing that the regulation of commerce, by the Treaty, was made by the authority of Congress, in conformity to the constitution.

Besides, sir, if the PRESIDENT and Senate can regulate the commerce of the United States with one nation, they can with all nations, and if they can with all, what nation can there be with whom Congress can regulate commerce? This argument, therefore, must fall to the ground. We are told, however, that the Treaty-making power, from its nature, is competent to all the objects at least of the Treaty under consideration, and is not to be controlled or checked by this House. Let me examine this assertion. If this be true, sir, we find that although the British King, from whose tyranny we revolted, cannot force upon his subjects, against the will of their Representatives, a Treaty, which it is acknowledged, too, he has a right to make, the PRESIDENT OF THE UNITED STATES can, by his Proclamation, force upon the people who are his constituents a Treaty which their direct Representatives wish to suspend, alter, or annul. Can this possibly be a true construction of the Treaty-making power? Surely it cannot. If it be true, then, can the PRESIDENT repeal, as he has by the Treaty, the laws of Congress, although by the constitution he cannot negative them? He can oblige Congress to levy taxes; can withdraw impost and tonnage from their reach; prohibit the exportation of sundry articles, the produce of the United States, although the constitution forbids, the Senate and Representatives concurring, to lay the smallest duty on the exportation of any article; he can create offices and annex salaries thereto; destroy the rights of this House; provoke war; in short, he can do any thing; but this we are sworn to deny. The absurdity of that construction, then, must be evident, and the recollection of our oaths to support the constitution, of which we have been reminded, must force us to revolt at the thoughts of adopting such a monstrous construction of the constitution. We are reminded also of the PRESIDENT'S Proclamation. I will attend to it. I look upon it as a proper notification of the ratification of the Treaty of Amity with Great Britain, but it can have no effect on the Treaty of Commerce and Navigation, till sanctioned by the votes of Congress. The evacuation of the posts on our frontiers held by the British, if intended in consequence of the Treaty of Amity, ought to take place, or if in conformity to the Treaty of Peace; but, if intended as a compliance with conditions annexed to the Treaty of Commerce and Navigation, good faith requires that they ought not to be evacuated until the final adjustment of the differences which may arise in the course of the discussion of the merits of that Treaty, and this with me is one reason why I wish for information from the PRESIDENT respecting the Treaty. I confess too, sir, that I wish for a full and free conference with the Senate on the important subject of the Treaty.

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Mr. BOURNE said he would have given a silent vote on this question, had it not have been for some strange doctrines which had been asserted, for he did not consider the question in itself as necessarily involving any constitutional question. The doctrine, that the formal assent of the House of Representatives was essential to the legal existence of a Treaty, struck him as a perfect novelty. That the PRESIDENT and Senate had power under the constitution to make Treaties, and that these Treaties were the laws of the land, he had never heard denied until this debate. It was true he had heard it said, that the House might control the PRESIDENT and Senate in the exercise of

this power, by refusing to carry Treaties into effect by withholding appropriations of money; but he did not expect to hear the assertion, that the ratification of the House was necessary to a Treaty, before it became the law of the land.

As a Representative of a small State, he felt himself much interested in opposing the doctrine contended for. Under the former Confederation Rhode Island had an equal vote with any State in the making of Treaties. This right was thought to have been fully preserved under the present constitution. But, if the sentiments he was combating prevailed, the small States would be deprived of one of their most essential rights; for the power of making Treaties, as one of the principal rights of sovereignty, was vested in all the States separately when they became independent, was afterwards, and in the old Confederation, vested in Congress, each State having an equal vote. It was now, in his opinion, exclusively vested in the PRESIDENT and Senate, in which body the great and small States had the same equality of suffrage. The opinion which he advanced was not merely the opinion of Rhode Island when the constitution was adopted. A gentleman from Massachusetts had already shown from the debates of the Virginia Convention, that that Assembly entertained the same opinion. He was sure the opinion prevailed in the Convention of Massachusetts—he had attended their debates when this part of the constitution was the subject of discussion. Objections were raised against it, from the indefiniteness of the power vested in the PRESIDENT and Senate of making Treaties. No one suggested that the House of Representatives had any control over, much less a participation in this power. It was urged, from the nature of the power, that it ought to be placed where it was—in the PRESIDENT and Senate. The Senate represented the sovereignty of the States; besides, from their small numbers, they were better adapted to the exercise of this power in respect to secrecy and despatch, necessary in negotiations. Objections were raised on the ground of the possible abuses to which the power of making Treaties, unlimited and undefined as it was, might be carried. No one said the PRESIDENT and Senate did not possess the power, nor was it pretended that Congress had any power to control it.

He then called the attention of the committee to the debates of the Convention of North Carolina. He had been a little surprised to hear a member from that State yesterday say he was a member of the Convention, and that it was understood that Congress could control the PRESIDENT and Senate in making Treaties, so far as respected commerce; the power of legislating on commercial regulations being given to Congress. What created his surprise was, that he had read the debates of the first Convention, and found no such sentiment. The gentleman had explained himself by saying, there was a second Convention called in that State, of which he was a member, and there the doctrine alluded to had been advanced. The debates of this Convention Mr. B. had not seen.

Mr. BRENT said he should not in the present debate touch on the merits of the Treaty, which he conceived foreign to this question. On a motion to ask for papers with respect to the Treaty, he did not conceive with what propriety the fitness of the instrument could be brought into view.

The turn which the debate had taken had given rise, he said, to an important constitutional question; he did not believe its decision of consequence to the decision on the present motion; but as the debate had taken that turn, he should pursue the same road in answer to the arguments of gentlemen. He laid this down as a sound inference from the provisions of the constitution on the subject of the Treaty power: that the PRESIDENT and Senate possess the right of forming Treaties, and of carrying on the necessary negotiations with foreign countries; but when these contain stipulations bearing a relation to the specific power vested in the Legislature, the House had a right to take cognizance of it, and such a Treaty could not become the supreme law of the land until sanctioned by the Legislature. To show the justness of this position, he should examine this subject, he said, in a threefold light. He should examine it by a recurrence to the words of the constitution; then to the opinions which prevailed as to its meaning at the time it was framed and adopted; and, lastly, he should examine what construction was best calculated to preserve the liberties of this country.

The constitution contains two clauses in reference to the Treaty-making power. The first declares that the PRESIDENT, with two-thirds of the Senate, shall have power to make Treaties. He proceeded to inquire whether this clause gives them the right to make Treaties the supreme law of the land? To determine this it was necessary to examine the import of the word in those countries where the Treaty power had been frequently exercised, and to consult the opinions of the best civilians. The general power of making Treaties is under the control of the constitution. In despotic countries, where all power, Legislative, judicial, and Executive, is in the hands of one person, there the Treaty-making power is without control, and a Treaty as soon as made becomes, *ipso facto*, the supreme law of the land; but in all limited governments, the Treaty power is subject to the limitations in the constitution. The practice of this principle may be found even in the British Government. There, though the King originates Treaties, as the PRESIDENT and Senate do here, they do not become the supreme law of the land, respecting Legislative subjects, until the co-operation of Parliament is obtained. Thus the power of making Treaties does not imply the power of making those Treaties in all cases the supreme law of the land. If the Executive make a Treaty involving none but Executive powers strictly, then it becomes immediately the supreme law; but if they contain provisions, which involve the Legislative authority, the Executive can make them but conditionally, and they do not become supreme until the Legislature choose to make them so. The British Government furnishes an example where this doctrine has been practised, and it is by a reference to the practice of despotic Governments, that the mistaken idea is taken up that all Treaties, as soon as made, become the supreme law of the land. The clause in our constitution, he concluded, does not give authority to the PRESIDENT and Senate to make a supreme law of the land.

When this clause of the constitution is compared with the other parts of it, it will be found, he said, that the above interpretation is just; for the Treaty-making power is delegated as a general power, while to Congress specific powers are granted. The rational and admitted rule of construction in these cases is, that specific power restrains general powers; and here, then, the general Treaty power must be restrained by the specific powers of Congress. He admitted that the Executive had full power, under the general authority vested in them by the constitution, to originate Treaties and to carry on negotiations with foreign powers; but that if the provisions of a Treaty so negotiated clashed with specific powers granted, the authority exercising those specific powers must give it their sanction before it becomes the supreme law of the land.

He next turned to the second clause of the constitution respecting Treaties, which had been noticed in the debate. It says, that the constitution, laws, and Treaties, shall be the supreme law of the land; and gentlemen contend, he remarked, that though the first clause does not make the Treaties entered into by the Executive the supreme law of the land, yet that this does; but its obvious and only meaning, when the whole of it is taken into view, is, that the Constitution, laws, and Treaties of the United States, are only meant to be declared supreme to constitutions and laws of the individual States. It is admitted, as a sound rule of construction, that to discover the true meaning of any instrument, it is fair to have recourse to the existing circumstances that produced it. When the constitution was formed, it was under a strong impression of the inconveniences experienced under the Confederation, when great obstruction was thrown in the way of the Treaty power, by the States refusing to carry into execution those agreed to by the constitutional authority. This was the evil the framers of the constitution had in view when they inserted this clause, and it has no relation to the powers of the General Government, which stand precisely in the same situation with or without it. It does not declare that Treaties shall abrogate laws, but that the States shall not have it in their power to throw impediments in the way of their execution. The words of the constitution cannot be understood otherwise than that the constitution, laws, and Treaties, shall exist together; it does not say that a Treaty shall repeal a law, or a law repeal a treaty. Then the constitution certainly contemplated that they never should be in opposition, for contradictory and opposing laws cannot exist at the same time; if they exist at the same time, they cannot be in opposition to each other. If it can be supposed that the PRESIDENT and Senate can make a Treaty in opposition to a law of the Legislature, and yet both the Treaty and the law be at the same time the supreme law of the land, an absurdity is supposed. But if it be admitted that the House shall have a participation in the business of Treaties, in cases which involve the Legislative authority, then the words of the constitution become intelligible, and both Treaties and laws may be at the same time the supreme law of the land.

Gentlemen say, that Treaties, *ipso facto*, repeal anterior laws clashing with their provisions: they say, that the constitution, laws, and Treaties, stand upon the same footing in the constitution, being all declared the supreme law of the land. If Treaties can repeal laws, then laws can repeal the constitution, for the second (laws) are to the first (constitution) what the third (Treaties) are to the second (laws); then, also, by parity of reasoning, Treaties may repeal the constitution. If all stand on the same footing, and the precedence is according to the point of time, the last always prevailing, then Treaties may change the fundamental principles of our Government; then the PRESIDENT and Senate, by entering into stipulations with a foreign government, may give us a monarchy, may convert our PRESIDENT into a king, and our Senate into a nobility; for, say the gentlemen, Treaties are the law of the land as well as the constitution, and a subsequent law repeals those which are anterior. But these positions are false in all their parts; a law or a Treaty cannot repeal the constitution, nor can a Treaty repeal a law. If the manner in which the three words are placed in the constitution is to have any force, it would not favor the construction of the gentlemen; they contend for the supremacy of Treaties, whereas Treaties are last named, and the true construction from this source would be the reverse, when there was clashing. He next adverted to the lengths to which the mode of interpretation contended for by the gentlemen would carry them. It was never intended, he asserted, by the people, when they instituted this Government, that the Treaty power should possess this omnipotence. It was never intended that the PRESIDENT and Senate should have it in their power to effect a radical change in our Government, and stipulate with a foreign nation for a guarantee of the change. Laws contrary to the constitution are nugatory, and Treaties contrary to existing laws, the same; because, when in that stage, they are not concluded under the authority of the United States, but are only so (and then there is no longer any clashing) when once they have received the sanction of the Legislature. From the above, he concluded that the PRESIDENT and Senate originate Treaties, and that the Legislature to a certain extent should exercise a check upon this power. And upon these principles the British Treaty is not the supreme law of the land until a decision on it was had in the Legislature.

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Mr. FINDLAY.—It seems to be agreed by both parties that the express words of the constitution will not support either position without a liberty of construction. The difference of opinion is now confined to what construction is most agreeable to the general principles of the constitution.

That the construction which gives the fullest scope to all the powers vested in the different departments of the Government, and which, by combining their operation, is the best calculated for the preservation of the Government itself, offers fairest to be the true one, cannot reasonably be doubted.

The Legislative powers, to regulate commerce with foreign nations, to levy taxes, appropriate money, &c., are specifically vested in Congress, and as deposited in the Legislature, are secured by numerous negative checks, declaring what things Congress shall not do, and guards regulating the manner in which it shall exercise its powers on the proper subjects.

The Treaty-making power is not vested in Congress; the negotiating part of making Treaties is partly of an Executive nature, and can be most conveniently exercised by that department, and is, therefore, vested in the PRESIDENT and Senate. The PRESIDENT shall have the power to make Treaties, two-thirds of the Senate agreeing therewith.

Even the power of negotiating, which includes the timing of Treaties, the appointment of Envoys, and instructing them, and approving of Treaties, so far as to present them for ratification, are powers of great importance, and may put the Government in such circumstances as to render it expedient to ratify a Treaty, which, if it had not been agreed to by the negotiating agents, it would have rejected—are powers of great importance of themselves; but it is acknowledged that more than this is vested by the constitution in the Treaty-making powers.

The power of making treaties is admitted to be so extensive as to embrace all subjects arising under the law of nations, for securing amity and friendship betwixt nations, and for the mutual protection of the citizens in their correspondence with each other. Authority for this purpose is not vested in Congress among the enumerated powers, but expressly given to the PRESIDENT and Senate; therefore, Treaties to this extent, ratified under their authority, are the laws of the land, according to the constitution.

The powers specifically vested in Congress are so explicitly checked and guarded as to form an unequivocal limitation to the Treaty-making power, when it extends to powers specifically vested in the Legislature, consisting of the Senate and House of Representatives, with the approbation of the PRESIDENT.

The Legislature cannot transfer its essential powers, nor evade them; the exercise of its privileges it may dispense with, but if it may dispense with or transfer any one Legislative power, it may, on the same principle, dispense with or transfer every power with which it is vested, and for the exercise of which the Legislature only are responsible.

The Executive cannot assume or exercise any power expressly vested in the Legislature. If the Executive may, by an extension of the Treaty-making power, regulate commerce, make laws to raise and appropriate money, &c., or, which is the same thing, command laws to be made for carrying Treaties, which interfere with the Legislative powers, into effect; or if, as is contended, the Legislature has no moral power of discretion, no power to refuse to make laws to carry Treaties into effect, or even to form an opinion on the goodness or badness of Treaties, when they relate to powers explicitly intrusted to its deliberation: on the same principle all Legislative discretion may be exercised by the Treaty-making power without regard to the constitutional guards provided to prevent the abuses of those powers. For there is no Legislative power vested in Congress but what may be either directly or indirectly exercised by the Treaty-making power.

If the Treaty-making power is admitted to the extent pleaded for, and the specific powers vested in Congress are admitted in the extent in which they are unequivocally expressed, we are reduced to a dilemma, and the constitution is necessarily admitted to have instituted two interfering Legislative authorities, acting in direct competition with each other on the same subjects, and both making supreme laws of the land; which though they may be nominally distinct, have the same effect on the citizens, with this difference only, that we may be relieved from the oppression of laws by a repeal of them, but cannot be relieved from the hardships resulting from a Treaty, without the consent of another nation.

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In advocating the resolution before the committee, we admit a reasonable latitude to both the Legislative and Treaty-making powers. Where the Treaty-making power extends itself to express Legislative objects, and where Legislative aid is absolutely necessary to carry the Treaty into effect, we contend that the Legislature in making such laws, exercise that moral power that is necessary for legislating in all other cases, and are not reduced to the situation of an executive officer, or mere treasurers of the United States. In this case, we say, that the powers are not intended to make war with each other; that the departments ought to concur in the exercise of them. This method preserves the exercise of both powers in their proper places; the other destroys the Legislative authority which is, by the constitution, the most explicitly vested, and precisely guarded.

Mr. SMITH, of New Hampshire, said, he had not intended to have delivered his sentiments on the question before the committee, but as he did not fully agree in opinion with any gentleman who had spoken, it became necessary for him to express the grounds of his opinion. This he would do as briefly as possible.

As this question involved the constitutional powers of the House, he viewed it as important; it was a delicate question. We were called upon to decide as to our own powers. For these reasons he thought that the discussion should be conducted with moderation, coolness, and candor; that such a temper was most favorable to truth. However gentlemen might differ, he observed, on other subjects, in this we are all agreed, that, in forming our judgments on all such questions, the constitution must be our sole guide. It was this instrument, he said, which defines the powers given to the General Government, and which distributes these powers among the several departments. If the constitution had not assigned to each its peculiar portion of power, these departments, like the original elements, would be engaged in a perpetual war for power. All would be confusion, disorder, and anarchy. He proposed, in the first place, to give what he conceived to be the true exposition of the constitution, on the subject of Treaties in general. He should then, he said, state as correctly as possible the exposition or construction of the constitution contended for by the gentleman opposed to him. He lamented that he could not do this with greater accuracy. The gentlemen had not agreed among themselves. He could only state what seemed to be the general current of opinion. The construction which he advocated was,

that, by the Constitution of the United States, the power of making Treaties is exclusively vested in the PRESIDENT and two-thirds of the Senate. That this power extends to all kinds of Treaties—of Peace, of Alliance, of Amity, of Commerce and Navigation, and embraces all those subjects, and comprehends all those objects, which can with propriety be the subject of convention or compact between nations; that is, every thing in which they have a mutual or common interest. That a compact so made which does not change the constitution, and which does not palpably and manifestly betray or sacrifice the private interests of the State, (which is invalid on natural principles,) is binding on the nation without any sanction on the part of the House of Representatives. That such a Treaty is by the constitution paramount to the constitution and laws of the several States; that the Judges in the several States are bound to obey it. That it is by the reason and nature of the thing paramount to a law of the United States, and abrogates and annuls all pre-existing laws contrary to it, and, as long as it remains in force, limits and restricts the power of the Legislature of the United States to pass any laws in contravention of it. That, when such a Treaty requires money to be provided, or rather Legislative acts to be performed, it is the duty of the Legislature to provide and appropriate the money in the same manner as it is their duty to provide and appropriate money for the payment of our debts. That the nation must judge whether it be constitutionally formed or not; whether the stipulations contained in it be such as in good faith they are bound to execute, and whether any circumstances have happened which would justify a non-observance of it. That on these subjects they must exercise a sound discretion. That neither the nation, nor any departments of the Government, are at liberty to reject a Treaty merely because it is a hard bargain.

The doctrine on the other side is—

That the power to make Treaties is limited to such objects as are not comprehended and included in the specified powers given to Congress by the constitution; or, that a Treaty which comprehends or embraces any such object is not valid; that is, not the supreme law of the land, until the House of Representatives have added their sanction to it; or, if this be not admitted, that the House of Representatives, by the theory of our constitution, have check on the Treaty-making power, in providing and appropriating money necessary to carry a Treaty into effect; which power, it is admitted on all hands, they possess; and thus in this way control the doings of the PRESIDENT and Senate, and can reject a Treaty, or at least certain parts of it. That they can and ought to do this if they believe the Treaty to be a bad one, though not injurious in an extreme, such as manifestly betraying or sacrificing the private interest of the State, (which by the Law of Nations nullifies such a compact,) and which on all hands would readily be admitted as a sufficient cause for refusing to carry it into execution.

Mr. WILLIAM LYMAN began with remarking, that the gentlemen opposed to the resolution had at first contended, that the House had not a constitutional right to require papers of the Executive, relative to any subject whatever; and that if a requisition was made, it would be discretionary with the Executive, whether it should be complied with or not.

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To this he replied, that the House possessed the power of impeachment solely, and that this authority certainly implied the right to inspect every paper and transaction in any department, otherwise the power of impeachment could never be exercised with any effect. But not to rely solely on this, he recollected one case, he said, perfectly in point, which was in the correspondence of the former Secretary of State (Mr. JEFFERSON) with the British Minister, communicated to the House. From dates and references, there appeared in that correspondence a chasm. The House, therefore, passed a resolution requesting the Executive to lay before them what had been omitted; and further, the resolution in that case was offered by the gentleman from South Carolina, (Mr. SMITH,) who was now so vehemently opposed to the present. The right of calling for papers was sanctioned, he said, by the uniform and undeniable practice of the House ever since the organization of the Government; they had called for papers and information whenever it was judged expedient; and he asserted, that the House had the fullest right to the possession of any papers in the Executive department; they were constituted the especial guardians of the people for that purpose; and he would undertake to say, that this was the first time it had ever been controverted.

In order to ascertain the powers of the House, he would advert to the constitution. In the first article and first section, it was declared, "that all Legislative powers therein granted, were vested in a Congress, to consist of a Senate and House of Representatives;" and in the eighth section of the same article, the powers granted were defined and specified, such as to lay and collect taxes, borrow money, regulate commerce, and to exercise other important powers enumerated in the several clauses of that important section. He said it was unnecessary to read them, as they had been so frequently referred to in the course of the debate; but he would request gentlemen to pause and reflect whether it could be supposed that this section was not to be efficacious and operative; was it possibly conceivable that a section so definite and so important had been introduced in the constitution merely for the purpose of being nullified and rendered nugatory by a subsequent article or section? The very supposition, he said, appeared to him the height of absurdity, and an affront to common sense; and yet this would be the case, if the doctrines advanced were true, viz: that Treaties, when made and ratified by the PRESIDENT and Senate, were supreme law, and that they controlled and repealed all laws that stood in their way. Congress could neither regulate commerce, borrow money, prescribe rules of naturalization, nor legislate on any other subject, because the PRESIDENT and Senate, by Treaty, would abrogate them all. It was in vain to consult the House of Representatives in the formation of laws, if they thus were liable to be annulled at the pleasure of the PRESIDENT and Senate. The present question, he said, was not, whether the House should make Treaties, but whether the PRESIDENT and Senate should

make laws; all the power contended for on the part of the House was the power of self-preservation; it was a repelling power, a power to prevent the PRESIDENT and Senate, under the color of making Treaties, from making all the laws. A gentleman from Connecticut (Mr. GRISWOLD) had said, that the Legislative power occupied all ground, and was vested in Congress; and that the Treaty-making power occupied all ground, and was vested in the PRESIDENT and Senate; and that although Congress, who were the agents for the people, should make laws, yet, that the PRESIDENT and Senate, who were also their agents, might, by Treaty, repeal them. This, Mr. L. said, contradicted a sound axiom, and one he had never before heard controverted, viz: that it required the same power to repeal as to make a law. Such incongruities as the gentleman had advanced, Mr. L. said, could never be reduced to practice; two persons could not be possessed fully and completely of the same thing and at the same time. The gentleman could never reconcile his positions, the one would certainly defeat the other; upon his construction, the Treaty-making power must absorb the Legislative power, or the Legislative power would absorb the Treaty-making power.

It appeared, therefore, to him, that constitutions, laws, and all writings, ought to receive such interpretation and construction as to render them consistent with themselves; and that it was highly presumptive a construction was erroneous when it produced an absurd conclusion. If the several parts of the constitution were compared and critically examined, the determination must be, that, although the PRESIDENT and Senate could make Treaties, yet it could not be intended, those Treaties that entrenched on the specific Legislative powers of Congress, unless with their concurrence and consent; otherwise, it followed, that, although the three branches were consulted in the enacting laws, two might repeal them. But it had been asserted that this power, insisted upon on the part of the House, was a novel doctrine, introduced merely upon the spur of the present occasion; notwithstanding which, it had been proved by several gentlemen who had spoken upon the question, that this interpretation was given to the constitution in most of the State Conventions at the time of its adoption; that the same interpretation had also been given, at that time, by the writers both for and against its adoption. It had appeared, from the extracts of publications at that period, that whatever might have been the diversity of opinion in other respects relative to the constitution, that, in this construction, at least, both its friends and opposers perfectly agreed. This principle, then, being thus settled and understood, it remained only to show that it had been invariably admitted and recognized from the first organization of the Government until this time. The first Treaty that had been made under this constitution, he said, was that with the Creek Indians, in the year 1789; previously to the making of which, the PRESIDENT communicated the subject to Congress; an extract from which communication he would read, viz: "If it should be the judgment of Congress, that it would be most expedient to terminate all differences in the Southern district, and to lay the foundation for future confidence by an amicable Treaty with the Indian tribes in that quarter, I think proper to suggest," &c. Here, Mr. L. said, he wished it might be particularly noticed, that this subject was expressly referred to the judgment of Congress to determine on its expediency or in expediency, and for what purpose, he would ask, was it referred? If the Senate and PRESIDENT possessed the full power of making Treaties, there could be no occasion for consulting the House of Representatives; and yet, in this case, the first that presented itself, it had been conceived necessary. In consequence of this communication, Congress had judged it expedient to hold the Treaty; and on the 20th of August, the same year, enacted a law in which the sum of twenty thousand dollars was appropriated for that purpose; and, in conformity thereto, the PRESIDENT appointed Commissioners and gave them instructions, which instructions had been also communicated to Congress, from which he would also read one paragraph; it was as follows: "You will observe that the whole sum that can be constitutionally expended for the proposed Treaty shall not exceed twenty thousand dollars." On this, he said, any commentary was unnecessary, as the principle that the Legislative power operated to restrain the power of making Treaties, was so fully and explicitly recognized and admitted by the PRESIDENT himself. By pushing inquiry further, it would be found that, in January, 1790, in consequence of communications from the Executive which were referred to a select committee, and a report made thereon, the House came to the following resolution, to wit: "That provision ought to be made by law for holding a Treaty with the Wabash, Miami, and other Indian tribes north-west of the river Ohio." In March following, a law was made, the title of which was "An act entitled an act providing for holding a Treaty to establish peace with certain Indian tribes."

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In March, 1791, the sum of twenty thousand dollars was appropriated for obtaining a recognition of the Treaty with the Emperor of Morocco. In March, 1793, one hundred thousand dollars were appropriated to defray the expense of a Treaty with the Indian tribes north-west of the river Ohio. Thus it was apparent that laws had always been deemed necessary to provide for holding Treaties and for defraying the expenses thereof.^[71]

MARCH 17.—In Committee of the Whole, on Mr. LIVINGSTON's resolution.

Mr. REED said, he saw no necessity for the papers referred to in the resolution. If the constitutionality of the Treaty should be questioned, or the propriety of making appropriations, these questions, he conceived, must be determined by comparing the Treaty with the constitution, and by attending to those stipulations contained in the Treaty itself.

It was not his intention to have troubled the committee by speaking on this occasion; but perceiving that some gentlemen, in the course of the debate, had gone further into the opposite extremes than he was prepared at present to follow them, he felt as if he ought to express his own sentiments with regard to the constitutional rights of that House relative to the Treaty in question. The Treaty was undoubtedly negotiated, ratified, and promulgated by constitutional

authority. The PRESIDENT, with the advice and consent of two-thirds of the Senate, was, in his opinion, unquestionably that authority which the United States had authorized to make Treaties. But still it seemed taken for granted that some agency of that House, in its Legislative capacity, would be needed in order to carry the aforesaid Treaty into effect. A question, therefore, arose, viz: Was that House, in all such cases, bound and obliged to put so implicit and absolute a confidence in the Executive or in Treaties as would render it entirely unnecessary to have any opinion of their own about them, or the probable consequences of their operation? For his part, if he had never seen the Treaty in contemplation, and were perfectly ignorant of its contents, or, if he fully believed, as a citizen, that it was unconstitutional, or calculated to ruin, or very materially injure the country, he should not think himself justifiable in voting to appropriate money for the purpose of carrying it into effect. It had been conceded by gentlemen that if a Treaty were evidently unconstitutional, it would not be wrong to withhold appropriations; and he conceived that a Treaty might possibly be so injurious in its effects as to justify such a measure. Supposing such a possible event should ever actually happen, did not the right of refusing to legislate in support of the said Treaty involve the right of previously examining all Treaties which need the aid of the Legislature, and of judging for themselves whether it would be proper or improper to make laws for the purpose of carrying them into effect?

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In making Treaties the Executive would use his own discretion, keeping within the limits prescribed for him by the constitution. In making laws the Legislature must use their own discretion, always keeping within those limits and bounds which the constitution had fixed for them. He said, the discretionary right here contended for was not the right of doing wrong; it was not the right of violating the constitution; it was not the right of supporting a Treaty which ought to be defeated, nor of defeating a Treaty which ought to be supported; but, simply the right of judging for themselves, whether they ought, by their own act and deed, in the character of Legislators, to appropriate by law such sums of money as would be needed in order to support an existing Treaty, all things and circumstances relating thereto being suitably examined and properly considered. Perhaps it would be objected, that the constitution nowhere expressly gave the Legislators that right. He answered, the right was not precluded, but implied, and, in some respects, evidently one of the original and essential rights of man; a law of nature, prior and superior to all other laws; a law never to be transgressed in any station whatsoever. Individuals, in many cases at least, had a right to exercise their own discretion with respect to the propriety of submitting to a civil law or of risking the penalty, the consequence of disobedience; and, as a branch of the Legislature, he believed they had a right to deliberate and consult, among other things, the expediency and duty of making or of refusing to make appropriations, even in the case of a Treaty. It appeared to him that, in legislating, the Legislature should have this right of judging for themselves with respect to the propriety of making or refusing to make any law whatsoever. In most cases their duty would perhaps appear plain and obvious, particularly in the case of appropriating money where a law or Treaty actually existed. However, the obligation did not arise wholly from the circumstance of an existing law, but partly from the nature, reasonableness, and tendency of the thing itself.

A Treaty negotiated by constitutional authority was, he contended, a solemn compact between two nations. It was an important consideration; but he thought they might, with propriety, attend to other considerations, for and against it, especially when their own aid was required, in order to carry it fully into effect. This he conceived was the right of the House, and no encroachment upon the prerogative of the other branches. An appropriation was a specific sum, appropriated by a particular law to a particular purpose.

The right of appropriating the public money was not a natural right, but a right derived from the constitution; and the Legislature were to exercise that right according to the honest dictates of their own best discretion; excepting those instances in which they were expressly restricted by the constitution itself, as in the cases of compensation for the services of the President of the United States, and for the services of the Judges. Congress might deliberate and act discretionally in stating at first their salaries.

Mr. TRACY said, he felt a diffidence in giving his sentiments in that House, which was much increased when he considered the ability with which the question had already been discussed, and the length of time it had consumed; but the magnitude of the question would justify him, in his own opinion, for asking of the committee to indulge him with a small portion of their time and attention.

This was the first time, since the adoption of the present Government, that a discussion of the important constitutional question of the extent of the Treaty-making power could have taken place, as it respected a foreign nation; and, of course, would probably form a precedent for all future inquiries of a similar nature.

The constitutional rights of the House of Representatives to interfere with Treaties, might properly be considered in two points of view:

1. Had they a right to assist in the formation of Treaties in such a manner as that a Treaty would be incomplete without their sanction officially given? And,
2. Had they a right to refuse appropriations of moneys, (if necessary to carry into effect some provisions in a Treaty,) and in that way defeat its operation?

He acknowledged, if the first position could be supported, the right to call for the papers would be conclusive; but, he contended, they could not be wanted on the latter ground.

If the constitution was examined, it would be found the Treaty-making power was given to the

PRESIDENT; and no interference, or right given to any other men or body of men but to two-thirds of the Senate, and that by way of consent or advice. Could it be pretended there was a shadow of authority given to the House of Representatives?

In the constitution it is said, "all Legislative powers herein granted shall be vested in a Congress," &c. Would it be pretended, had the constitution gone no further, that the then thirteen independent sovereign States, by that part of it, had parted with the Treaty-making power? No! they reserved a great share of Legislative power to themselves, and delegated it to Congress only in certain cases, best calculated, in their opinions, to advance their own happiness; and unquestionably reserved every right, power, and sovereignty, which they did not expressly give away by the constitution itself. The powers of legislation are the powers of making statutes in all cases respecting men and things within the jurisdiction of the Legislature; but it could by no means in its nature comprehend the Treaty-making power, which is the power of contracting or making bargains in the name of a nation, as a moral person, with another nation or moral person, for their mutual benefit, and to be binding and operative on them, as parties to the contract or bargain. And although this had binding force on the nation, when once formed and completed, yet it was not a Legislative act. But the constitution went further: it had actually designated the PRESIDENT, with the advice of the Senate, to be a Plenipotentiary for the formation of Treaties. *Vattel*, page 179, speaking of the various customs of nations, in the deposit of this power, says:

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"All conductors of States (meaning the Executives) have not the powers, of themselves, of making public Treaties: some are obliged to take the advice of a Senate, or of the Representatives of a nation. In the fundamental laws of each State we must see what is the power of contracting, with validity, in the name of a State."

He supposed, by "fundamental laws," *Vattel* must mean the constitution of a State; if so, it will not follow that the supreme Legislative or Executive power of a State, as such, have necessarily the power of making Treaties; it might be, and in most countries was, an object of precise delegation, and probably always, or certainly more commonly, given to the Executive. This constitution had precisely given it to the Executive, subjoining the advice and consent of the Senate; and in this particular, and in no other, had the individual sovereignties delegated all their power without limitation. It was necessary and proper this power should be lodged somewhere, and equally necessary it should be entire and unlimited, to meet every exigency that the welfare of the nation might require. It had been said, that general expressions of power would be limited by specific: this was a general truth, but he denied the application which had been attempted. It was said, the Treaty-making power is a general power; the Congress has a specific power to regulate commerce, &c. Of course, the specific power to regulate commerce will check the operation of a Treaty of a commercial nature. He said this part of the subject had been so ably and conclusively managed by a gentleman from New Hampshire, yesterday, (Mr. SMITH,) that he would not exhaust the patience of the committee by going over the same ground. He would however observe, that by the common rule of construction, all the powers given to the PRESIDENT which could, and in their nature would, check or operate on legislation, must be considered as a specific portion of power carved out of the general power given in the former part of the instrument. The general powers of legislation first given to Congress, and in the next place specific powers given to the PRESIDENT, could not fail to lead the mind directly to such a construction. "All Legislative powers, &c., are vested in a Congress," but the PRESIDENT has a qualified and specific check. Power to regulate commerce with foreign nations is vested in Congress, yet the specific power of contracting, bargaining, or making a Treaty, is, so far forth as it may touch Legislative points, a specific check upon it. Yet he acknowledged this was not his chief reliance. The nature of the case was such, that whatever internal regulations, or those relating to external and foreign commercial subjects, which may have become objects of Legislative attention, oppose or come in competition with a contract or bargain about the same things, must give way. It does not exclude legislation from the object of foreign commerce, but establishes certain points within which it shall operate, and which it cannot violate. The thirteen sovereignties possessing all the power, gave to Congress a certain portion of Legislative authority; but they certainly could give to the Executive, or any other body, the power to make Treaties. This he contended they had done, by the words of the constitution, in an unlimited manner.

It had been said, that the constitution was similar to that of Great Britain in the part respecting Treaties. This, he contended, was an incorrect statement: in his opinion they were very different. The constitution of Great Britain was formed almost entirely of usages. It had been, for a great length of time, the usage for the King to lay before Parliament, for their approbation, Treaties—especially those of a commercial nature. If this was a usage, all that could be said of it was, that it was a part of their constitution. He supposed this right had been given by the Crown, at some time, to obtain a grant of money; but he could not recollect that the Parliament, with all their pretensions to a right of rejecting Treaties, had ever exercised it. They generally made a pretext of dislike to a Treaty to change the Administration. This had been often done; it was on the Treaty of Peace of 1783. The Treaty of Utrecht, which was concluded in 1713, had been cited as an instance of rejection by the British Parliament. It was a fact, in that instance, that nothing was rejected but a conditional Treaty. In forming the Treaty, there were many distinct parts: one part of it was a Commercial Treaty between England and France, separately signed and conditional—that is, "within the space of two months after a law shall pass in Great Britain, whereby it shall be sufficiently provided, &c., the general tariff made in France, &c., shall take place there again, &c." The law did not pass in Great Britain, and of course the Commercial Treaty failed. Mr. T. said he had searched all the Treaties made by Great Britain since the Treaty of Munster, which, if

his memory was accurate, was concluded in 1648, and could not find an instance of the Parliament's refusing their assent to a Treaty made unconditionally; and he really believed, if they practised fully on the right they claimed, it would very soon destroy their Government. It had been said, *Blackstone* in his Commentaries had defined the powers of the King of Great Britain to be unlimited in the making of Treaties. He observed, that, let *Blackstone* or any other Crown lawyer say what he would in favor of prerogative, it was well known the usage had been to submit to Parliament the consideration of Treaties, and that usage was a part of their constitution; and he rejoiced, that in that particular the constitution of his country was different. Gentlemen had said, Shall this House not have as much power respecting Treaties as the House of Commons in Great Britain? This question was both improper in itself, and calculated to mislead. Were we in convention, and forming a constitution, it might have weight; but in a cool discussion of a constitution already formed and adopted, and the question is, What powers are given? it could not be proper. And it ought to be remembered that Parliament, and not the Commons alone, had this right in Great Britain. In defining the relative powers given by the Constitution, there was danger of the popular branch making encroachments on the other branches, under pretence of favoring the liberties of the people. This pretence, however grateful it might sound in debate, he thought was but a pretence. It was the duty of the House to make a stand against all encroachments on their own rights, if any were attempted, but it must equally be their duty to exercise great caution not to encroach on others. He said, he considered the responsibility which was so very necessary on those in the exercise of the Treaty-making power could not exist if it was extended to the House of Representatives.

He acknowledged if a Treaty was unconstitutional, it was not then a contract of binding force, and of course contained no obligation of any kind whatever; if a Treaty was so terrible in itself, and manifested consequences ruinous to the nation, no argument could be drawn from such a statement to establish general rules. The moral law had said, we shall not kill, and yet a man may be placed in such a situation, as that he not only may, but it becomes his duty to kill; could it be said a general right to kill is proved by this concession? But could gentlemen seriously say, we now wanted these papers, mentioned in the resolution, to assist us in determining upon the question of appropriation? He thought not. He supposed the first extensive and unlimited right of interfering in the making of a Commercial Treaty could alone justify the call, and he believed that ground must be given up. He said his colleagues (Messrs. SMITH and GRISWOLD) had asserted no other doctrines than such as he now advocated, and yet they had been accused of saying that this House had no will of their own, but must in all cases implicitly obey the PRESIDENT and Senate. The construction he had given to the constitution he believed to be just, and trusted he could be under no necessity of declaring the purity of his intentions, as he did not doubt but every member of the House was guided in the investigation by the purest motives.

Mr. S. SMITH said, that at the present state of the discussion, little was left but gleanings, and to bear testimony against a doctrine that appeared to him big with consequences fatal to the true interests of the country. He would not pursue the sophistry of the gentleman last up (Mr. TRACY) through all its windings and turnings; he would only observe that the gentleman had read some, and quoted much to prove that Treaties were the supreme law—a doctrine that was admitted by all, that is, when under the authority of the United States.

He said the resolution requested certain papers to be laid before the House. What had been the custom of the House heretofore? Invariably to ask for all and every paper that might lead to information. He well recollected that, in 1793, a great ferment had arisen in the public mind in consequence of the Proclamation of Neutrality, (which had always appeared to him to be a wise measure,) that on the meeting of Congress a great number of useful papers relative to our situation with respect to foreign nations were submitted, some of them of a most confidential nature, relating to Treaties then depending, particularly that with Spain. The PRESIDENT was not afraid to place his confidence in that House, and he was right; the public mind was restored to quiet, and the people of Kentucky (then restless) were satisfied that the Executive were doing every thing in their power to obtain the free navigation of the Mississippi. The PRESIDENT went further; he sent a special agent to Kentucky to communicate to that Government the line of conduct then pursuing for their welfare. Had the public mind been less disturbed on the late Treaty than in 1793? He thought not; and that every paper which would tend to satisfy that the Treaty was expedient, or to give information on a subject that must be discussed before that House, might with propriety be asked for.

A gentleman from Vermont (Mr. BUCK) repeated by another from South Carolina (Mr. SMITH) said, to vote for this resolution would be treason against the laws and constitution. Why this harsh language? Did it lead to a discovery of truth? Where did these gentlemen find that definition of treason? Not in the constitution, for there it was properly defined.

Mr. S. said, gentlemen had taken a ground that appeared alarming, viz:

That the PRESIDENT and two-thirds of the Senate may, by the aid of a Treaty, do any thing, and every thing, not morally impossible, (provided they do not infringe on the constitution,) and that the immediate Representatives forming this House, have only to be informed thereof, and to obey.

Let us pause for a moment, and ask, Was this possible? Could this be the fair construction of our so much boasted constitution? If it should be, he would not regret the services rendered his country during the late glorious Revolution, nor the part he had taken to promote the adoption of the constitution; nor would he, by inflammatory speeches within, nor his actions without doors, do any thing that should tend to destroy the harmony then subsisting, or to disunite a people whom nature and relative wants seemed to have connected together; but he would endeavor, in a

constitutional manner, to obtain amendments to the constitution, which would prevent the evil in future. But is there occasion for amendments to the Treaty-making power? He thought not. There were checks and balances sufficient in the constitution to prevent the evils that might arise out of it. He said, he could offer nothing new, but would pursue the train of reasoning began by a gentleman from Virginia, (Mr. MADISON.)

In the eighth section of the first article of the constitution, Congress have power to lay duties, &c., &c., but all duties shall be uniform throughout the United States:

Can regulate trade with foreign nations:

Can establish a uniform rule of naturalization.

Congress, then, although they have the power to lay taxes and duties, and to make laws of naturalization, are bound to make them uniform; and in another article, are prevented from giving a preference by any regulation of commerce or revenue to the ports of one State over those of another. But the Treaty-making power is not so confined; it may relieve one of our ports from this uniformity of duties, or one of the States from the uniformity of naturalization; that is, it may relieve goods imported in British bottoms into New York, from the one-tenth extra duty, and let it remain on all the other ports of the Union. But, say gentlemen, it is unfair to reason against the use of power by its probable abuses. He thought it advisable to guard against abuses; but has this abuse not already taken place? He thought it had. Not with respect to a port of the consequence of New York; that would have been too palpable; but on the Lakes, by the third article of the Treaty, goods imported to the territory in that quarter, in British bottoms, are subjected to no higher duty than goods imported in American vessels to the Atlantic ports. Here appeared a departure from that uniformity required by the constitution; here appeared a preference given to the ports of one State over those of another; and yet gentlemen contend, that the House have no right to inquire into the business. Indeed, so delicate was one gentleman (Mr. BUCK) on the subject, that he opposed committing the Algerine Treaty, lest it should establish a claim to investigation! It was true, the trade on the Lakes was small, but it would increase. Thus, although Congress were very wisely restricted, when laying duties, to make them uniform, yet the PRESIDENT and Senate would be capable, by the assistance of a foreign power, to destroy that uniformity.

Mr. S. then stated, that he did not mean, and he hoped he should not be understood to preclude himself from voting to carry the Treaty into effect. He held himself entirely open to conviction; and if he should find that the same was expedient, whatever might be his opinion at present on the instrument, (and in truth he did not think it good,) yet he would keep himself at full liberty to act as he might think most to the interest of this country, when that subject should come before the House.

MARCH 18.—In Committee of the Whole, on Mr. LIVINGSTON'S resolution:

Mr. ISAAC SMITH did not pretend to prescribe limits to other men's faith, but he never could believe that men, as wise as those who compose the convention, would have left so important a regulation, as was now contended for by some gentlemen, to mere uncertain construction. He believed, if they intended that House should have had an agency in the making of Treaties, they would have said so in express terms. Had they done so? Nothing like it. So far from it, that they had unequivocally appropriated the Treaty-making power to the PRESIDENT and two-thirds of the Senate, in terms as express and positive as words could form: and the gentleman in opposition could not, did not deny it. But, say they, this power may be abused, shamefully abused, and, therefore, we will construe it out of the hands the people have placed it in. We will assume and declare ourselves the sole guardians of the people, and we will cry out liberty, liberty; and, as the people love the sound, (he hoped they would always love the substance,) perhaps they will believe us. Here rests the fallacy. The people knew, whether they knew or not, that they chose the PRESIDENT, and they firmly believe, as well they may, that he is their guardian. The people knew, also, that they chose the Senators, and they likewise think they are their guardians. How we, said he, became sole guardians, will require a modesty superior to that of New England to explain. The people have declared that the PRESIDENT and Senate shall make Treaties, without a single exception, and, lest there should be any mistake or cavilling about it, they have put it in written words, as they thought, too plain to be doubted, too positive to be contradicted. It appeared to him that it was a sufficient answer, though a short one, to all the laborious arguments had in favor of their interference, to say, that the people wills it otherwise: *sic volo, sic jubeo, stat pro ratione voluntas*. If they had under consideration alterations or amendments to the constitution, those arguments might, perhaps, be proper; but, as matters now stand, they are mere inapplicable declamation.

Mr. LIVINGSTON said, that the very able support this resolution had received, might seem to release him from any obligation of speaking in its defence; nor would he now trouble the committee with any observations on the subject, if those he made on the introduction of the business had not been misstated, and his subsequent explanation partly suppressed. He had stated, when he had laid the resolution on the table, as a reason for requesting the papers, that important and constitutional questions would probably arise on the discussion of the Treaty. It had been represented, (certainly from misapprehension, not design,) that he confined the use of the papers to the elucidation of a constitutional question only; and it had been asked, with an air of great triumph, how the instructions and correspondence could throw any light on the question of constitutionality, to decide which nothing was necessary but a comparison of the Treaty with the constitution? Mr. L. said he had not confined the utility of the papers to that point, but that, if he had, it would not be difficult to suppose a case in which they were necessary to determine the

constitutionality of the Treaty. The constitution, he said, gave to the PRESIDENT the power to make Treaties, "by and with the advice and consent of the Senate." Men, respectable for their talents and patriotism, had supposed that, by the true construction of this clause, the PRESIDENT could make no Treaty unless by the previous advice and consent of the Senate; in other words, that the Senate should advise the making of a Treaty, which they could only do before it was commenced; and should consent to it by a ratification after it was concluded. He would give no positive opinion on this subject, but supposed it a point worthy the attention of the House. The construction, he said, appeared reasonable, and had been heretofore sanctioned by practice. Two instances he could recollect; one was in the Treaty of Holston, where Governor Blount was "vested with full powers and specially empowered by and with the advice and consent of the Senate." The other instance was found in the answer of the PRESIDENT to the French Minister, who offered to enter into negotiations for a Treaty of Commerce, which the PRESIDENT declined, by referring him to the meeting of the Senate, which was not then in session. If the PRESIDENT supposed he could not commence a negotiation without the concurrence of the Senate, it gave force to this construction; and, if it was a true one, nothing was more demonstrable than that the papers were necessary to determine whether the Treaty in this point had been constitutionally made.

Two positions had been assumed, differing not materially in the power ascribed to Treaties, but distinguished chiefly by the mode of applying this power.

By some it was contended, that the interference of the Legislature was necessary in some instances, but that the Treaty operated by way of moral obligation, to enforce the necessary steps to give it validity; and that though there is a physical power of refusal, yet it ought in no case to operate against the superior obligation.

Others had asserted, that Treaties being the supreme law, might operate directly, without the intervention of any other body. That where existing Legislative acts opposed their execution, the Treaty was paramount, and could repeal them.

These positions were in fact the same, because, if a Treaty was, at all events, to have effect, it was perfectly immaterial, whether it operated directly by its own power, or indirectly by the instrumentality of another body; both, he thought, equally subversive of the principles of the Government; but the first was most degrading to the Legislative dignity. Nor could he discover from what part of the constitution it was inferred. Wherever, in that instrument, a duty was imposed, it was clearly and explicitly assigned, as in case of the PRESIDENT's compensation, that of the judges, and many other instances. It is not, then, to be conceived, that so important an obligation as this should have been left to implication. If it had been intended so to annihilate this discretion, the same language would have been used, "Congress shall pass laws to carry every Treaty into effect," but nothing of this kind appears. Again, if it had been intended to make Treaties paramount over laws, it would seem to have been the more simple mode, to have dispensed with their interference. Why leave a phantom of discretion, an unreal mockery of power, in the hands of the Legislature? In order to get rid of this difficulty, some gentlemen seem willing to allow a species of volition, but it was a pittance that would be scarcely worth accepting. In cases of extreme necessity, and in others, where, from corruption or other good cause, the compact is void, this House, they say, may refuse to carry it into effect. In the first case, where it is impossible to give efficacy to a Treaty, the power of refusing it was surely of little value. And where the compact is void in itself, the liberty of not being bound by it, would scarcely be contended for. If the subject were less serious, Mr. L. said, one would be tempted to smile at the efforts that are made to reconcile the constitutional predestination contended for, with the free agency of discretion. It was as difficult to be understood, as the most entangled theological controversy, and, like most disputants in that science, they concluded with anathemas against all who could not comprehend, or would not believe them. We have a discretion, whether to act or not, say they; but we are under an obligation to act, and if we do not, we are guilty of treason and rebellion. This was the same kind of discretion a man has, whether he will commit murder or let it alone; he may do it, but if he does, he will be hanged. This was a worse alternative than that generally called Hobson's choice—that was, "this or nothing;" but here we are told, "do this, or be hanged for a traitor." So that hereafter, when any one intended to express an inevitable necessity, he would call it Congressional discretion.

If, then, the Treaty does not operate by way of obligation on the Legislative power, let us, said Mr. L., examine, whether, as is contended, "a Treaty is paramount to a law, and can repeal it, though it, itself, cannot be acted on by the Legislative power;" this, he said, was the most important question that had ever been agitated within these walls. It evidently tended to the substitution of a foreign power, in lieu of the popular branch; it was replete with the most serious evils. He could never suppose so great and pernicious an absurdity was contemplated by the constitution; but, if such was the true construction, great as the evil was, we must submit, until it could be legally amended.

The constitution gave all Legislative power to the Congress of the United States; vested the power of making Treaties in the PRESIDENT and Senate, and declared that the constitution, the laws made in pursuance thereof, and Treaties made under the authority of the United States, should be the supreme law of the land. He had always considered the order in which this enumeration was made as descriptive of the relative authority of each. 1st. The constitution, which no other act could operate on. 2d. The laws made in pursuance thereof. 3d. Treaties, when they contradicted neither; for, if no weight was given to this argument, Treaties would be superior, both to the constitution and the laws, as there is no restriction with respect to them, as in the case of laws, that they be made pursuant to the constitution. He did not believe gentlemen

would contend for this absurdity; they must therefore refer to the order of the enumeration, to measure the relative effect of the constitution, laws, and Treaties. If the objects of Legislation and of Treaty compact could be kept distinct, no question would arise, there would be no pretext for interference; but they could not; almost every object of legislation might also become that of compact with a foreign power.

But it was probable, Mr. L. said, that the Treaty power was intended to be placed in the PRESIDENT and Senate to the same extent only in which it existed in the Executive of Great Britain. The words of our constitution on this point were the same made use of by British writers in defining the corresponding power in their Government, and it seemed evident that some of its features (and this was none of the least prominent) were drawn from that original. He was happy that the parallel was not perfect in other instances. He thought it completely so in this; and that the practice therefore of that Government would, in some measure, lead to the true construction of this. Aware of the weight of precedents drawn from English history, gentlemen endeavored to weaken them by a very ingenious argument: "The British Constitution," say they, "is not written, it is formed of usages; if you prove, therefore, that it is the usage for British Parliaments to sanction Treaties, you prove it to be their constitution, but you do not prove it to be ours." It was true, Mr. L. observed, that the English Constitution was formed partly of immemorial usages; but it was also true, that those usages were collected in books of authority, and that the different powers of Government were generally designated, so that the leading points in their constitution were as well known and defined as they were in that of America. It had been shown by a reference to writers of the best authority, that, by the Constitution of England, the power of making all Treaties was in the King; but as the power of making all laws was in the Parliament, this latter, as the greater power, controlled the former, whenever it affected objects of legislation. Thus, in the Constitution of the United States, he contended, the power of making Treaties, that is, all Treaties, vested in the PRESIDENT and Senate; but, as all Legislative power is vested in Congress, no Treaty operating upon any object of legislation can take effect until it receives the sanction of Congress. The practice, too, was the same. The King asserted his right of making and completing Treaties, by not only concluding, but ratifying them, before they were submitted to Parliament, but he believed no Commercial Treaty was proclaimed as the law of the land before it had received the sanction of Parliament. Indeed, it was impossible, in any country, and under any constitution, where the Legislative and Treaty-making powers are lodged in different hands, that any other construction can be given without running into the absurdity he had before hinted at, of making two different powers supreme over the same object at the same time. Our ideas had been confounded by referring to the practice of Governments where the two powers were united, and where a ratification gave the consent of both.

If, then, there was a perfect analogy between the power vested in the Crown in England, and that delegated to the PRESIDENT and Senate in America, on the subject of Treaties; and if the Parliament, by virtue of its general Legislative authority, was in the practice of giving or withholding its sanction to Treaties concluded by the King, it was but a fair inference to say, that the same discretion existed in Congress.

Some instances of the exercise of this power by Parliament, had been before quoted by others. The inexecution of the Treaty of Utrecht, in consequence of Parliamentary opposition, and the difficulties with which the Commercial Treaty with France was carried through the House of Commons, in 1787, had been already noticed. He would mention two other precedents drawn from the same source equally striking, or perhaps more so, as the course of proceeding there followed was precisely that which was proposed by the resolution in debate. The first was the proceeding on the Barrier Treaty, taken from the 5th vol. Parl. Debates, p. 43, where the House of Commons began, by a resolution to address the Queen, "that all instruction and orders given to the Plenipotentiaries that transacted the Barrier Treaty, and also all Treaties mentioned and referred to in the said Treaty, might be laid before the House, except such Treaties as they already had." We are told in the subsequent page, that on the 13th, that is, only two days after the request, "Mr. Secretary St. John presented to the House, by Her Majesty's command, a copy of the instructions to the Duke of Marlborough and Lord Townsend, about the Barrier Treaty, extracts of letters from Mr. Boyle to Lord Townsend, concerning the said Treaty; also a copy of the Preliminary Articles, signed at the Hague; the titles of which copies and extracts of letters were referred to the Committee of the whole House. After this, it was resolved to present an address to Her Majesty, that the letters written by Lord Townsend to Mr. Boyle, the Secretary of State, dated the 1st and 26th of November, 1709, might be laid before the House, which Mr. Secretary St. John accordingly did on the 14th of February." After having obtained the papers, Mr. L. said, the House of Commons proceeded to the consideration of the Treaty in Committee of the Whole, and voted, 1st. That the Treaty contained articles destructive to the trade and interest of Great Britain. 2d. That the negotiator had acted without authority. 3d. That the advisers and negotiators were enemies to the Queen and Kingdom.

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The Treaty being thus obstructed, the States General remonstrated to the Queen on the subject; but, conscious that the Parliament were only exercising a constitutional power, they make no complaints in their memorial of any breach of faith, though the Treaty had been ratified. They enter into the merits of the Treaty, offer to negotiate on the obnoxious articles, and conclude with "entreating the continuance of Her Majesty's friendship."

This instance, then, said Mr. L., is complete to show the propriety of a call for papers by the House of Commons; a ready compliance on the part of the Crown, a deliberation on a ratified Treaty, a rejection of it, and an acquiescence on the part of the foreign nation, without remonstrance.

The other instance was an address in the year 1714, requesting "the Treaties of Peace and Commerce between Her Majesty and the King of Spain, and the instructions given to Her Majesty's Ambassadors thereupon, together with the copies of the King of Spain's ratifications of the said Treaties, and the preliminaries signed by the Lord Lexington and the Marquis of Bedmar, at Madrid, and all other agreements and stipulations which had been made concerning the commerce between Great Britain and Spain. 2dly. An account of what engagements of guaranty Her Majesty had entered into by virtue of any Treaty with any foreign Prince or State, from the year 1710. And 3dly. An account of what instances had been used by Her Majesty for restoring to the Catalans their ancient privileges, and all letters relating thereto. And then it was resolved, to take into further consideration the Message that day sent from the Lords upon Thursday next following."

Objections had been raised to this construction, drawn from three different sources.

1. From the prevalent construction at the time of establishing the constitution.
2. From the practice of the Government since that period.
3. From the present ideas entertained by the people of the United States.

1st. As to the construction generally received when the constitution was adopted, Mr. L. did not conceive it to be conclusive, even if admitted to be contrary to that now contended for; because he believed we were now as capable at least of determining the true meaning of that instrument, as the Conventions were; they were called in haste, they were heated by party, and many adopted it from expediency, without having fully debated the different articles. But he did not believe the general construction at that time differed from the one he had adopted. A member from Virginia (Mr. BRENT) had shown, by recurring to the debates in the Convention of that State, and to other contemporaneous productions, that the framers and friends to the constitution construed it in the manner that we do; whilst its enemies endeavored to render it odious and unpopular, by endeavoring to fix on it the contrary construction. And as the friends to the constitution were the most numerous, we ought rather to take the explanation under which a majority accepted the constitution, as the true one, than to look for it in the bugbears by which anti-Federalism endeavored to prevent its adoption.

2d. The second argument that had been used to deprive the Legislature of any right of interference, in cases of this kind, was drawn from the uniform practice of the Government ever since its formation. The gentleman from South Carolina (Mr. SMITH) who made this objection, had cited one instance of this practice in the resolution directing Treaties to be published with the laws, and had adverted to the appropriations for the Indian Treaties, (under the general head of the Military Establishment,) as favoring his principle. As to the resolution, Mr. L. said, there was no doubt that Treaties, when properly sanctioned, ought to be observed, and therefore the resolution was proper, that they ought to be promulgated. On the subject of appropriation, it had been well observed by a gentleman from Virginia (Mr. GILES) that the House exercised as much discretion in granting the supply, by way of addition to the military appropriations, as if it had been given specially for the purposes of the Treaty. But the truth is, said Mr. L., that an accurate examination into the communications of the Executive in analogous cases, and the proceedings of this House, will form a strong, I think an irresistible, argument in favor of the resolution. It would appear, he said, from the view he was about to take, that from the first establishment of the constitution until the negotiation of this Treaty was begun, the Executive had been in habits of free communication with the Legislature as to our external relations; that their authority in questions of commerce, navigation, boundary, and intercourse with the Indian tribes, had been expressly recognized, even when difficulties on these questions were to be adjusted by Treaty.

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The first case related to a provision for an Indian Treaty, and was suggested by the PRESIDENT, in a Message of the 7th of August, 1789, in which he says: "If it should be the judgment of Congress that it would be most expedient to terminate all differences in the Southern District, and to lay the foundation for future confidence by an amicable Treaty with the Indian tribes in that quarter, I think proper to suggest the consideration of the expediency of instituting a temporary commission for that purpose, to consist of three persons, whose authority should expire with the occasion." In consequence of this Message, Congress took into consideration the expediency of the measure recommended to them, and passed the act of the 26th of August, in the same year, appropriating twenty thousand dollars for defraying the expense of negotiating and treating with the Indian tribes, and authorizing the appointment of commissioners. The PRESIDENT having appointed commissioners to treat under the direction of the act, gave them instructions, which were communicated to the House, and from which this is an extract: "You will please to observe, that the whole sum that can be constitutionally expended is twenty thousand dollars, and that the same cannot be extended." Nothing having been effected by the commissioners, the PRESIDENT mentions the subject again in his Address to both Houses, on the 1st of January, 1792. In the month of March, in the same year, the House of Representatives adopted the following resolution, recommended by a select committee: "That provision ought to be made by law for holding a Treaty to establish peace between the United States and the Wabash, Miami, and other nations of Indians, north-west of the river Ohio; also, for regulating trade and intercourse with the Indian tribes, and the mode of extinguishing their claims to lands within the limits of the United States." On the 29th March, following, a bill passed the House of Representatives, the title of which was amended in the Senate and passed, appropriating twenty thousand dollars for purposes expressed in the preceding resolution.

Mr. L. said this case was important, as it was the first communication relative to a Treaty made under the constitution. An attentive examination of its different parts would show that very

different ideas were then entertained from those which were now enforced. He would first observe, that the discretion of the House of Representatives as to commerce with foreign nations, stood precisely on the same footing with that which they ought to exercise in regulating intercourse with the Indian tribes; that if one could be done without their concurrence, by Treaty, the other might also; and that, therefore, when the PRESIDENT recognized their right to deliberate in one case, he virtually did it in the other. Let us then attend to the language of the Message, said Mr. L., and we shall find that right of deliberation most expressly referred to. "If it should be the judgment of Congress that it would be most expedient"—what can be more explicit than this language? And again, "I think proper to suggest the consideration of the expediency of instituting a temporary commission." Here the same discretion is not only applied to, but the PRESIDENT, at that time supposing that no implicated power could deprive Congress of the right to regulate trade and intercourse with the Indian tribes, submitted to their consideration the expediency of appointing commissioners. They passed the necessary laws, and he instructed the commissioners, not in the language that is now held, that they might stipulate for the payment of any sum, and that Congress would be obliged to find the means; but he tells them, "the only sum that can be constitutionally expended is twenty thousand dollars, and that the same cannot be extended." Why, (if the doctrine is true that we are under an obligation to comply with the terms of every Treaty made by the PRESIDENT and Senate,) why did he say no further sum could constitutionally be expended? If that doctrine were indeed true, his language would have been, Use what money may be necessary, contract for the payment of it in your Treaty, and Congress are constitutionally obliged to carry your stipulations into effect.

The resolution above quoted, Mr. L. said, was important, as it proved that Congress then supposed that they ought not only to provide by law for holding a Treaty with the Indians, but that they also had the power, and ought to exercise it, of regulating trade and intercourse with the same people, and of prescribing the mode of extinguishing their claims to lands within the United States; but all this, said he, it is now discovered may be done without their aid, by Treaty.

The second instance of the exercise of this dreaded discretion, was in the law of March 3d, 1791, appropriating twenty thousand dollars to enable the PRESIDENT to effect a negotiation of the Treaty with Morocco. This originated in the Senate, and is a decided proof that neither the PRESIDENT nor Senate had at that period any idea of the moral obligation that is now discovered, or they would, without the formality of a law, have at once stipulated with the new Emperor for the payment of the necessary sum, which must have been provided by the House.

In a third case, the PRESIDENT had thought proper to take the sense of that House in a matter that of all others demanded secrecy, and under circumstances that would have prevented his making the application, if he had conceived himself at liberty to act without their concurrence. He adverted to the Message of 30th December, 1790, where the PRESIDENT says: "I lay before you a Report of the Secretary of State, on the subject of the citizens of the United States in captivity at Algiers, that you may provide in their behalf what to you shall seem expedient."

No act having been passed by Congress in consequence of this Message, the PRESIDENT did not conceive himself authorized to bind the United States by Treaty, for the necessary ransom of their citizens; and therefore nothing was concluded until after a subsequent Message and previous appropriation, in the year 1793, when another Message was sent relative to the negotiations with Morocco and Algiers, then pending: "While it is proper (he says) that our citizens should know that subjects which so much concern their interests and their feelings, have duly engaged the attention of their Legislature and Executive, it would still be improper that some part of this communication should be made known." Part of this Message, therefore, was confidentially communicated, which shows, Mr. L. said, on some occasions, it was not deemed imprudent to trust this House with the secrets of the Cabinet; and in consequence of this Message, a law was passed, appropriating one hundred thousand dollars for the purchase of a peace with the Algerines. It was ostensibly appropriated to a more general purpose, but the intent was well understood.

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The next transaction that he should quote, Mr. L. said, as favorable to his doctrine, was the Message of the PRESIDENT of the 5th December, 1793, and the measure to which it gave rise. The PRESIDENT says: "As the present situation of the several nations of Europe, and especially those with which the United States have important relations, cannot but render the state of things between them and us matter of interesting inquiry to the Legislature, and may, indeed, give rise to deliberations to which they alone are competent, I have thought it my duty to communicate to them certain correspondence which has taken place."

This Message, Mr. L. said, accompanied the papers relative to France, to Great Britain, and to Spain; and a question would immediately occur, what were the deliberations to which the PRESIDENT then thought the Legislature alone was competent, and which he therefore thought it his duty to communicate. All our disputes with the nations referred to in the Message, were such as on the new construction of the Treaty power he could have adjusted by compact, without any reference to the House of Representatives; but it is plain, by the express words of the Message, that he did not believe that construction. It was no answer, Mr. L. said, to the argument drawn from this transaction, to say that the PRESIDENT only submitted the question of War or Peace to the Legislature by this Message.

1. Because the Message related to the three principal nations in Europe, and he never could have imagined that Congress would have deliberated on going to war with them all.
2. This was evidently not his intention, because as soon as measures were proposed in that House, which he supposed would lead to a rupture with one of those nations, all these measures

were palsied by the appointment of an Envoy, and the commencement of negotiation.

It was clear, then, that the PRESIDENT thought the matters communicated by his Message, which related to commerce and boundary, were constitutionally vested in the discretion of Congress. The idea was corroborated by the words of a Message relative to the negotiation with Spain:

"And, therefore, by and with the advice and consent of the Senate, I appointed Commissioners Plenipotentiary for negotiating and concluding a Treaty with that country, on the several subjects of boundary, navigation, and commerce, and gave them the instructions now communicated."

Why, said Mr. L., communicate the instructions to the Ministers? Because they related to commerce, to navigation, to boundary, on all which subjects the PRESIDENT must have thought the Legislature had a right of decision. He must have thought so at that period; but, unfortunately, all precedent of free communication ended here; Mr. Jay's negotiation began, and a different construction was assumed.

From this view of the acts of Government, Mr. L. said, he trusted that a far different impression would be made, than that the doctrine he contended for was a new one, originating in opposition to the English Treaty, and a desire to disorganize the Government. That, on the contrary, it had been declared by the PRESIDENT, acquiesced in by the Senate, and acted upon by the House of Representatives.

MARCH 21.—In Committee of the Whole on Mr. LIVINGSTON's resolution:

Mr. WILLIAMS observed much had been said upon the subject of the present resolution, and so much time consumed, that he should confine his observations within a narrower compass than he at first intended.

It was contended that in a Republican Government there ought to be no secrets; but he would ask whether it was not specified in the constitution that secrecy should be observed on particular occasions? and, had not his colleague (Mr. LIVINGSTON) quoted the secret Journals of the House? He believed if the constitution of France were examined, it would be found that their system admitted of secrets. He had the honor, he said, to be upon a committee, before whom many papers were laid, which it would be improper to publish. With respect to the present papers, he did not think there were any secrets in them. He believed he had seen them all. For the space of ten weeks any member of that House might have seen them. It was not merely with respect to the present papers that he opposed the motion, but because it would be establishing a bad precedent; and, as they were a young Government, they ought to be cautious how they established bad precedents. It was well known that in the negotiations in time of war, confidential communications were necessary; but if no papers were allowed to be kept secret, what person would ever venture to make any such communication? Hence this country, when in the greatest danger, may be much injured by improper precedents.

He quoted authorities to prove that there never was but one precedent in Great Britain of a negotiator's papers being given up; that was in the last year of the reign of Queen Anne when the Ministry were soon afterwards obliged to fly their country. He was sorry that a gentleman returned by the Republican interest of one of the first cities of the Union should have had recourse to a desperate Tory faction for a precedent.

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Some gentlemen had observed that the papers ought to be obtained, because the PRESIDENT had intimated, in his Speech, that he would lay the papers before the House with the Treaty; but they were mistaken in their observations, because the papers had not been laid before us.

A gentleman from Pennsylvania said, because the King of England laid the papers relative to a negotiation before Parliament along with the Treaty to which they related, they had also a right to papers, the Governments being similar; but when the King did this, he informed them that he had concluded such a Treaty; and after a thing was concluded, he did not know what could remain for Parliament to do. He would refer to a recent authority, and not go back to 1714; it was to the case of the Treaty with Great Britain respecting American loyalists, when papers were refused to be given up, and it was deemed a most inconsistent thing to require them. This business caused great debates in Parliament, and the motion for papers was lost, there being only sixty-three for it, and one hundred and four against it. Mr. W. read the observations of different members of Parliament on the occasion, and observed, that although he was unwilling to quote precedents from a Government not similar to ours, yet this was a case in point, and this Treaty was negotiated between Mr. JAY, on the part of the United States, and Mr. OSWALD, on the part of Great Britain.

The resolution before them called for all papers, whether public or private, except such as related to any existing negotiation; but as the Treaty was completed, the resolution included all papers. He should have had less objection to the motion, if the amendment proposed by the gentleman from Virginia had been adopted. He did not see the use the papers would be of if they were got. The House was not vested with either the power to alter or amend the Treaty. But, say gentlemen, they are wanted for information. But he believed they ought to form their judgments of the Treaty from the instrument itself. Suppose I were to employ an agent, and give him instructions to make a contract for me, on condition that it should not be binding until I had approved it; and my agent return and I approve of the contract, what light can be thrown upon it by the instructions which were given to the agent? The instrument alone was what must be had recourse to; because he had it in his power to have withheld his sanction.

If his information was right, when certain resolutions were brought forward in the year 1793, a

gentleman from Virginia said that Great Britain would refuse to negotiate with this country; but immediately upon the Treaty being made known, it was every thing that was bad.

He would endeavor to answer some observations which had fallen from a gentleman from Virginia, (Mr. GILES.) It was asked if the Treaty power could receive any check? He conceived the will of the people ought to be obeyed. They had given power to the PRESIDENT and Senate to make Treaties, which if not complied with, would be to oppose their will. In speaking of the amendments proposed to the constitution by the Legislature of Virginia, it was said they were only intended to make the check more certain than at present; but he read the resolution, viz: "That no Treaty containing any stipulations upon the subject of the powers vested in Congress by the eighth section of the first article, shall become the supreme law of the land, until it shall have been approved in those particulars by a majority in the House of Representatives. That the PRESIDENT, before he shall ratify any Treaty, shall submit the same to the House of Representatives; and insisted that it might be clearly deduced from them, that they did not conceive the Treaty power to have any check in that House. That State had kept uniformly the same ground in all their actions; but the different State Legislatures to which their amendments had been proposed, had determined the Treaty power rightly placed where it is at present. But because the people will not agree that they should have a check upon the Treaty power, gentlemen seem disposed to usurp it by their present doctrines."

The same gentleman (Mr. GILES) observed, that the checks in the Government of the United States had been completely routed for these six years. He was exceedingly sorry that the PRESIDENT could bind that House, but he said that was a sword that cut two ways. It was too late in the day to assert this doctrine, when the people were become so enlightened as to be better acquainted with the nature of Government, and better educated, than the people of any other nation in the world. They would, therefore, take care of themselves.

He said that a gentleman from South Carolina had observed that the Treaty was put into operation by the Proclamation of the PRESIDENT, and made a part of the laws of the land. An honorable gentleman from Virginia (Mr. GILES) granted that, when completed, the Treaty ought to be annexed to the laws. Mr. W. asked, was this not done? It had been promulgated in the way in which Treaties are directed to be promulgated; and he would ask, if a case were to come before the Judges upon it, whether they would not be bound to consider it as the law of the land? If the member from Virginia (Mr. GILES) had been opposed to the Treaty going into operation, why did he not take the proper mode to prevent it? He knew of the resolution which directed how Treaties are to be promulgated and annexed to our code of laws, he knew the Treaty had arrived, and he might have had the subject discussed. If a majority were for preventing the Treaty from being promulgated in the ordinary way, then the resolution might have been done away, and some other mode adopted which was thought most prudent.

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The same gentleman next contended that law can annul Treaties. But he believed that the constitution decided that there was no other way of repealing Treaties but by mutual agreement of the parties, or by war. To break one article of a Treaty was to break the whole, and war, or a new Treaty must be the consequence. The reason he gave why laws could repeal Treaties, was, because laws were the will of the people. Treaties, Mr. W. said, were as much the will of the people as laws. The people had fixed barriers to the different branches of the constitution, which could not be overleaped without endangering the whole fabric.

In speaking of power, gentlemen say it is more likely to be abused in the Executive than in that House. But, in the year 1789, when amendments were first proposed to the States, a gentleman from Virginia (Mr. MADISON) asserted "that it was less necessary to guard against abuse in the Executive Department than any other, because it was not the stronger branch of the system, but the weaker; it therefore must be levelled against the Legislative, for it is the most powerful, and the most likely to be abused, because it is under the least control;" and Mr. W. quoted several laws which had originated in that House, by which very large sums of money had been expended to little purpose, which he would explain when they were in a Committee of the Whole on the report from the Committee of Ways and Means.

But gentlemen say, "Have we not as much power as the House of Commons in Great Britain?" He answered, their powers were limited; the constitution was their guide. He thought gentlemen proceeded as if they were about to form a constitution rather than discuss a constitutional question. Some gentlemen had said, Treaties of Amity ought to be vested in the PRESIDENT and Senate; others, that Treaties for a cessation of arms ought to be vested in the Executive; thus they wander, well knowing the ground they had taken was not tenable. It brought to his mind an observation made by an Indian Chief, in a Treaty at Albany, since the late war, who, after thanking the Great Spirit for directing them back in the good old path, which made them happy, lamented, that ever since they had wandered from that path, they had been miserable. So it would be with them if they left the constitution; they would wander from the right path, and involve themselves in difficulties. Appropriations for the army and navy in Great Britain must be made annually, without which they must be discharged. By our constitution we may appropriate for two years for the army, and no mention as to what time for the navy; so that we can make appropriations for a longer time for our army and navy than in Great Britain.

The gentleman (Mr. GILES) further observed, that the opinions entertained in that House three years ago, were not to influence them now; it was necessary however, in Mr. W.'s opinion, that whenever nations changed their customs, some notice ought to be given of the change, that it might be known by nations with whom they may have any transactions. To prove this, he quoted *Marten's Law of Nations*. The Treaty had been laid before them, that they might appropriate money for carrying it into effect. On the first of June, the British were to give up the Western

posts; if money was not appropriated, would they not be deceived?

Before he proceeded to remark on what had fallen from his colleague (Mr. LIVINGSTON) he would mention, that they had, for some years, in general concurred in their political opinions, and during the present session they had varied very little; in the question before the House, however, they should differ very considerably. Soon after the constitution was framed, a Convention was held in the State of New York, in which he had the honor to be a member. He was fully of opinion at that time, as he was now, that the Treaty power was a dangerous power, and, in consequence, gave his dissent to it.

He would proceed to remark on what had fallen from his colleague. He had said, how could they determine whether the Treaty was constitutional or not, or whether an impeachment was necessary, without information? The papers, as he had said before, were open for ten weeks, during which time gentlemen might have had access to them. But that gentleman said, they had denied him of late, and so they had been to him; but he understood they were at the Secretary of State's office, and might be seen there. He mentioned a case of a Treaty with a foreign country, in which their Minister might have received presents; but declared, that he did not believe there was any corruption in the negotiation of the Treaty in question. It appeared to him, therefore, inconsistent still to talk of impeachment.

Suppose, for instance, his colleague was Attorney General of the State of New York, and a man were to charge another with being guilty of burglary, whose character, reputation, and standing in life were irreproachable, would he subpoena him to meet the charge? No, he would not. And still the case is exactly similar to the present.

If, said Mr. W., his colleague or any member of the House wanted the papers, they had only to rise in their place and declare there were grounds of suspicion for an impeachment; would any member refuse the call? But he presumed no such thing was thought of. Why, then, expend so much precious time unnecessarily? The gentleman believed that the Minister had deviated from the instructions originally given him; but that he received new instructions. Whatever instructions were given to him, it appears, by the Treaty being ratified, that he executed them to the satisfaction of his employer.

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It may be, said Mr. W., that this House may determine that it has a check on the Treaty-making power; but the next Congress may say there is no such thing. Whether there is, or there is not this check, it is necessary for the stability of the Government to have it determined; and he would join in sentiment with the gentleman from Maryland in a wish that it might be settled. But he would have the amendment constitutionally made; for, if we ourselves do not understand the constitution, it is not likely that our constituents at large should understand it. If I am wrong now in the true meaning of the constitution, I have been wrong since its adoption. The people are the sovereign; their will shall be my guide, from which I will not, knowingly, depart. I live in the midst of a body of plain but intelligent freemen, whose employment is the cultivation of the earth, and who prize nothing beyond the freedom they enjoy. They are jealous of their liberties, but they are obedient to, and willing to respect and support the laws of the land. How will they know the laws, if we do not understand the constitution after it has been in operation for nearly eight years?

Gentlemen observed, that if the Treaty-making power was meant to be vested solely in the PRESIDENT and Senate, it would have been said so explicitly; but, he thought, if the constitution had intended that House to have interfered in Treaties, that would have been expressed, as a few words would have done it.

His colleague asserted, that that House had the power of carrying into effect or not any Treaty; but he thought the House obliged to carry into effect all Treaties constitutionally and completely made. To support his doctrine, Mr. LIVINGSTON had referred to the practice of Great Britain, and singled out the Treaty of Utrecht.

In England, said Mr. W., the Treaty-making power is in the King. A Treaty, when made by him, pledges the public faith and binds the nation; but the Courts of Law and the officers of the revenue do not consider Treaties as the supreme law (when they change the regulations of commerce or interfere with previous acts of Parliament) until Parliament has passed acts conformably to such stipulations of a Treaty. The propriety, and, indeed, necessity of this rule, results from the monarchical form of that Government, the power of the King alone to repeal existing laws being a just ground of apprehension. From a like apprehension, a Treaty, though negotiated and made in all its parts by the PRESIDENT, must be submitted to the Senate for their ratification. The Senate is a popular assembly, and representing the States. The concurrence of two-thirds is equal on every principle of combining the public will with the acts of the constituted authorities to the sanction of Parliament.

In England, Treaties of Peace, of Alliance, and, perhaps, many others, are perfect and binding without co-operation of Parliament. The opinion of some is understood to be, and *Blackstone* seems to be of the number, that every Treaty, when made by the King, is obligatory without the concurrence of Parliament. The practice, however, is to lay Treaties before Parliament when laws are necessary to carry them into effect, and for Parliament to pass such laws. And, although a very broad discretion has been claimed in Parliament to pass or reject such laws, the uniform practice, except in one instance, has been to pass them. The faith of the nation is considered as pledged. The case where laws to carry the Treaty into effect have been refused, is the Treaty of Utrecht, in 1714. The credit of the example is much abated by the circumstances of the times when it happened. The Duke of Marlborough had been displaced, but his friends were powerful; a Tory Minister was in power and much hated; Queen Anne was decaying, and died that year, and

the succession to the Crown was doubtful. Parties were ready to draw the sword against each other, and the most distinguished Ministers were soon proscribed and fled the country. A civil war broke out in 1715, the next year. One only example in such times, and the forerunner and cause of such events, weighs little against the course of practice in numberless cases, all issuing another way. It proves that the practice of Parliament corresponds with our doctrine. If, however, their maxims are different, so is their constitution in this particular. The act of the King should be compared with the act of the PRESIDENT alone; and the ratification of the Senate should be, and, by our constitution, it must be, considered equal to the sanction of Parliament. The doctrine ascribed by Mr. GALLATIN to the Parliament affords a reason for their calling for papers; because, he says, they are to act upon them. Yet such call is seldom made, and would probably be refused, if made without manifest occasion for the papers. Our constitution has settled a different doctrine; and, as the papers cannot be needed, they cannot properly be asked for.

He doubted not that the Treaty lately concluded with Great Britain had ere now been laid before Parliament, and a sum of money granted for recompensing spoliations committed in this country. Should they then attempt to refuse appropriations for carrying the Treaty into effect, on their part, where would be their national honor, their national faith? Suppose the Treaty were a bad bargain, that would not authorize them to break it. No: if a bad bargain be made to-day, make a better to-morrow. Neither should they determine the thing before it came before them. Probably they may not find it so bad as it had been represented; for though it might, in some respects, narrow our commercial intercourse, yet, perhaps, by so doing, the agricultural interest would be proportionally benefited. He was convinced that the agricultural interest was the true interest of this country. If by the Treaty we find that it tends to the welfare of the farmer, we may conclude our negotiator had the true interest of his country in view; and it was his (Mr. W.'s) opinion that a man taken from the plough and put on board a vessel was a man lost to the true interest of this country. This country is not like that of Great Britain: they are confined to small islands; we have a country extensive and fertile, and it is our duty to encourage settlers, increase our numbers, and, by so doing, we shall soon be in a situation to bid defiance to all the world. He was willing to encourage commerce to its full proportion, but not so as to injure the agricultural interest. The third article in the Treaty had been quoted by a gentleman from Maryland (Mr. S. SMITH) as having a tendency to operate unequally in our impost duties; Mr. W. observed he did not think that was very exceptionable, so far as it had been explained. He did not think the third clause of the Treaty a bad one: it only went to this, that when Great Britain carried goods through our country they were to pay the same duty as American citizens. And would not this be a greater advantage to the United States than if they went up the rivers St. Lawrence or Mississippi, and paid no duty? All the duty received of them would be so much gain to the country.

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His colleague (Mr. LIVINGSTON) went on too contemporaneous a construction, and said that the House were better able to judge of the meaning of the constitution than the conventions which were held to consider upon its adoption. He did not think so. He said, he had always been called an anti-Federalist, and was so considered to this day. He would willingly join to obtain an amendment to the constitution with respect to the Treaty power; but, because he did not believe the constitution contemplated an interference in that House in respect to Treaties, he could not agree to the proposed doctrine.

Mr. W. said, it was not necessary for him to go into the argument which induced the convention to fix the Treaty-making power: it need only be mentioned that they knew how and where that power was exercised in Great Britain; and, in order to avert the difficulties which had arisen there, the convention vested the power with the PRESIDENT and Senate; and, to guard against undue influence, directed that two-thirds of the Senators present should concur with the PRESIDENT. The convention had many difficulties to surmount in this article; they had to do away the equal power the small States shared, under the Confederation, with the large States. But, to do away the discordant interests of the different States and to give the small States satisfaction, agreed that all the States should be equally represented in the Senate. In the Treaty-making power each State hath an equal voice. To extend it further, for another check, without the consent of the smaller States, would be doing away, in part, that power which the small States had retained.

He read the observations of one of the Judges of the Supreme Court of the State of New York, when debating on the merits of the constitution in the convention held in that State, to prove that Treaties were considered to be paramount to any law. Among the several passages from the debates of the Convention of New York, Mr. W. read the following proposed amendment of Mr. Lansing, who was a member of the convention that formed the constitution of the United States, whose abilities and candor were not doubted by any who knew him:

"Resolved, As the opinion of this committee, that no Treaty ought to operate so as to alter the constitution of any State; nor ought any commercial Treaty to operate so as to abrogate any law of the United States."

He believed that the amendments proposed in the Virginia Convention arose from their considering that there was no check in that House: the contrary supposition, he said, would be like rowing a boat one way and looking another.

His colleagues read extracts from the journals to prove that the PRESIDENT had laid before that House instructions which he had given his Ministers employed on the Treaty business. He believed, when much money was likely to be wanted, it was prudent and right to do so. It was as if he asked that House whether it would agree to a proposed negotiation or declare war—as if he had said, "I cannot unlock your Treasury; which way would you have me act?" It was inconsistent to say that he had diminished his power by asking advice. Books, he said, might be produced

without number; but nothing could be brought to justify the breaking of a contract constitutionally made. It has become the law of the land. The House has, indeed, the physical power to refuse to appropriate to carry such a Treaty into effect; but the constitution meant that what was done by one branch of the Legislature should be confirmed by the others, except the act was unconstitutional. If a Treaty was constitutional, they were therefore impliedly bound to carry it into effect.

His colleague denied that any danger lay in the popular part of the Government; he thought differently. To say there was more danger to be apprehended from the Executive than the Legislative branch of Government was unsound doctrine. He should enlarge on this subject when the Treaty came before the House, and he trusted he should clearly show that the greatest danger of abuse lay in that House. Have there not bills originated in this House which have caused the expenditure of much money to very little purpose? Is there not more responsibility in one man than in large bodies? and was not the member from Virginia (Mr. MADISON) of this opinion, as I have before stated?

Where have (said Mr. W.) the acts originated that have cost so much money to be expended, by reason of which the report of the Committee of Ways and Means states the necessity of borrowing such large sums to meet the necessary demands—the laying additional taxes and duties? Did these acts originate with the Executive? No. Where then? In this House. All money-bills must originate in this House, being so directed by the constitution.

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Though his colleague represented Great Britain as being in chains, yet he was drawing precedents from their Government. At first, he thought he had fallen in love with the Government, but he afterwards found his mistake. In that Government, said Mr. W., one precedent creates another, and they soon accumulate and form laws; but his friend was drawing precedents from that nation to support the checks, which, Mr. GILES said, had been for six years completely routed from the Government of the United States. He feared, if the gentlemen were permitted to take their course, we should soon have a curious sort of constitution.

But, to conclude, the ruin or prosperity of the nation depended much on the present Government. He said, if the people flourish and are happy; if they are industrious and at peace, they will not complain of their Government. If this be the case, it will scarcely be admitted that the checks in the Government have been completely routed for these six years; if they were, however, he thought the nation could not be better than happy.

Mr. MILLEDGE observed, that as the hour of adjournment was drawing near, he would not detain the committee long. The length of the debates, on both sides of the question, had left him little room for observation; but as a constitutional question had been involved in the resolution before the committee, and as all constitutional questions were important in their nature, he could not think of giving a silent vote. He perfectly agreed with the gentleman who had spoken last, from the State of Connecticut, that we ought not to put our foot from off the constitution, and on that, he said, he would stand. Nor did he think it necessary to resort to this or that Government to know their usages, or to know what was said in this or that State, or what was written by this or that man—but, according to the common and most obvious meaning of words contained in the constitution, to draw our conclusion. That part of the constitution which had been often mentioned, he begged that he might be permitted to read—that all Treaties made by the authority of the United States should be the supreme law of the land. He asked, what was the authority of the United States? Powers derived from the constitution. What are these powers? Legislative, Executive, and Judicial. The better to understand these, let us see, said he, in what order they present themselves to us. In the constitution we find that in the very first section all Legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives. This, then, is the Legislative power, the statute making power, the ordaining power, the enacting power, or any other name by which it may be called. Now, then, said he, let us see the extent of this power. In the 8th section, Congress shall have power to make *all* laws. It would be necessary, he said, to attend to the monosyllable *all*. If the PRESIDENT and two-thirds of the Senate have a right to make a law, do Congress make all laws? Certainly not.

The constitution being his guide, he felt supported by a just confidence in his opinion; but he would not say but he might be mistaken, and was unwilling to commit himself. It was his opinion, then, that Treaties ought to be bottomed on a law before they can have any binding influence. To elucidate this, he said, it would be necessary to read the whole of the clause: Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, (which are, he said, seventeen in number, particularly expressed,) and *all* other powers vested by this constitution in the Government of the United States, or in any *department* or officer thereof. Here, again, he observed, we find the monosyllable *all*. What does it import? Every one—the whole. Of what? Of all other powers vested by this constitution in the Government of the United States, or in any *department* or officer thereof. What is the PRESIDENT and two-thirds of the Senate? The Treaty-making *department*. Therefore, being a *department*, whatever powers are vested in them by the constitution cannot be carried into execution but by a law, otherwise the clause in the constitution means nothing. What is a law? The will of the people made known. Where is that will to be found? In the Senate and House of Representatives of the United States in Congress assembled. Are the PRESIDENT and two-thirds of the Senate Congress? No; therefore they cannot make a law.

The gentleman from New Hampshire asked, what do the PRESIDENT and two-thirds of the Senate operate upon? I answer, with him, on Treaties; but in their nature they are only a department, and whatever a department does cannot, he repeated, be carried into execution but by a law. The

Treaty-making power is an intermediate department, and no instrument they can make can operate the repeal of a law, the same force being required for a repeal as to enact. The gentleman from Rhode Island observed, that if the House of Representatives was to have a control over Treaties, small States might be injured in their commerce, because the representation on that floor was unequal. Mr. M. observed, that though his State was not a small State, yet it was small in representation, but he apprehended no danger. Under the Articles of Confederation, it was a Government of States; under the present Government, it was a Government of departments, of checks. He said, the local interest of one State was so blended with another that the security of the one became the security of the whole, founded on a proportion of sovereignty surrendered by each to the whole, and each drawing from the whole its proportion of security. Let us then, said he, examine the compact made by each with the whole on the score of commerce. Here he read part of the 9th section: No tax or duty shall be laid on articles exported from any State; no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another. He said, the negotiators of the Treaty, in the 12th article, had laid a prohibition on the exportation of cotton to any part of the world, except in British vessels—cotton, the growth of our own soil, an important staple in the two Southern States, particularly in the one he had the honor to represent. But it is said, and so we find it, that this article is suspended, and open to further negotiation. He called on the committee for any member to deny that the principle did not still exist. He said, then, if a principle still exists in that Treaty which militates with a fundamental principle, a principle in the constitution, he left to the committee, which ought to yield. Were this principle to prevail, it would destroy a vital part of the constitution, and injure the agriculture of the States. He called on that gentleman to beware of admitting such a principle; for, if once allowed, it would extend not only to the cotton of Georgia, but to the flaxseed of Rhode Island, the flour of Pennsylvania, and the tobacco of Virginia.

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Mr. M. concluded by observing, that, from all he had said, it was to be understood that the powers of legislation were only with Congress, and that the House of Representatives could not, on the subject before them, legislate without information. Before he sat down, he could not help observing that it was somewhat strange that the first Treaty negotiated under the present Government with a European nation, should produce such a contrariety of sentiment on the meaning of the constitution, and that he was reminded by this circumstance of the pertinent words of a celebrated writer:

"The works of human invention are progressive, and are not completed but by degrees. At the last improvement we are apt to sit down satisfied, and vainly imagine that we have accomplished the end we have proposed, but time soon unravels the fine-spun system, and we find ourselves obliged to interweave fresh materials to repair the disordered texture."

Mr. KITCHELL observed, that he could not think of giving a silent vote on so important a question as this had become; but he should not go into an argumentative discussion on the subject, nor should he inquire into the opinions held in different conventions at the adoption of the constitution, or refer to Great Britain for precedents. He would look at the constitution alone, and see what were the powers given to the different branches of Government. When it says that such and such powers are vested in Congress, and such in the Executive, he would abide by that decision. Where that instrument says Congress shall lay and collect taxes, regulate commerce with foreign nations, establish a uniform rule of naturalization, provide for the common defence, &c., and that the Executive shall have power, by and with the consent of two-thirds of the Senate, to make Treaties, appoint Ambassadors, &c., the directions of the constitution must be abided by.

He would inquire what Treaties could be entered into by the PRESIDENT and Senate, without infringing upon the powers placed in Congress? He believed Treaties of Peace, of Amity, and Friendship, could be made by them. If this could be done, he said, those were the powers meant to be vested in the PRESIDENT and Senate, and not that Treaties should embrace objects which are expressly appointed to the management of Congress. In this view, the PRESIDENT and Senate would not have the power to influence that House in their proceedings; but commercial or other Treaties which embraced objects the regulation of which was placed in Congress, must be laid before them for the purpose of their passing or refusing to pass laws to carry them into effect, in the same way as Treaties with the Indians had been laid before them.

He did not think the question of itself before the House important, as it related to the production of papers, but only as it involved in it an important principle, viz: that when Treaties were made by the PRESIDENT and Senate, and presented to that House, they had nothing to do but appropriate money to carry them into effect. It was true gentlemen had seemed willing to allow them what they called discretion; but it was such a sort of discretion as a criminal might be said to have, who was told he might choose this or that posture of suffering, but that he must die.

It had been said that the PRESIDENT and Senate were equally the Representatives of the people with that House. He would inquire how they became so? The constitution has appointed that Representatives shall be chosen by the people in proportion to their population. Were the Senate so chosen? No. The people have no vote at all in choosing them. Are they amenable to the people for their conduct? No. Therefore, in no shape can they be called the Representatives of the people. The Senate, he said, represented the several State Legislatures, and that House the people at large. He was sure, therefore, that every thing in which the interests of the people at large were concerned should be submitted to their consideration, before it was carried into effect.

A great deal, he observed, had been said upon this subject, some things well said, and a good deal that might have been as well unsaid, for any good effect it was likely to produce. He was

sorry to hear what had fallen from a gentleman from Rhode Island with respect to the interests of small States. He said he was himself a Representative of a small State, and he believed his constituents were well satisfied with the present distribution of power, and did not wish that of the PRESIDENT or Senate to be increased.

He did not think what fell from his colleague, when he said gentlemen wished to amuse the people with the cry of liberty, liberty, and spoke of the groans of three or four hundred thousand slaves assailing his ears, was meant as a reflection upon any gentleman in that House who might hold slaves; but an earnest wish that the people at large might never bend their necks to slavery.

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He did not think the subject of the Treaty at all before the House. He should give his vote for the papers; not so much on account of their being of great importance in themselves, but in order to repel the doctrine, that they had no right to discuss the merits of any Treaty whatever.

MARCH 22.—In Committee of the Whole on Mr. LIVINGSTON'S resolution:

Mr. COIT said, the attention of the committee was doubtless fatigued with the subject before it; to those gentlemen who had already delivered their sentiments upon the occasion, he need not make any apology; and to those who had not done so, he would assure them that he would not occupy much of their time.

Most of the gentlemen who had gone before him, he observed, had regretted that the debate had taken the turn it had, but he was happy it had taken such a turn. It appeared to him, that the motion was intended as a stepping-stone to a violation of the rights of the other branches of the Government by that House. It became him when he made a declaration of this kind to say, that he did not impute other than pure motives to any member of that House. He believed the general wish was to discover the true sense of the constitution; yet it was not extraordinary if in doing this men were actuated by the sentiments which they had long been in the habit of considering as well-founded, to lean to that construction which most favored their favorite opinions. He had no idea that any gentleman meant to make inroads on the constitution; but it was his opinion that if the doctrines now insisted upon prevailed, they would have that effect.

He was happy, for two reasons, that the true ground of the present motion was made to appear. Because, if the resolution had passed without discussion, the motives which led to it would not have been seen; and because he wished the question of what were the powers of that House, with respect to Treaty-making, to be discussed, independent of the Treaty, which was likely soon to come before them. They stood now on the pure ground of an abstract constitutional question.

Some obscurity, Mr. C. thought, had arisen from not distinguishing the application of arguments to the different principles on which the resolution had been advocated, which he should endeavor to avoid. He considered the Treaty-making power as absolutely vested in the PRESIDENT and Senate; still, that when Legislative acts were necessary to carry a Treaty into effect, the Legislature were not without discretion in the passing of them; if the Legislature had a hand in making Treaties, there could be no question of the propriety of calling for papers; he should then, in the first place, examine the propriety of calling for papers, taking for granted that the Legislature had no hand in making Treaties.

If they were to consider the power by which a Treaty was made, there would be found two nations concerned, whose consent would be also necessary to repeal it. But were there no other ways of cancelling a Treaty? There were certainly ways of breaking a Treaty. There were circumstances in which the breaking of a Treaty would be justifiable. For instance, if, before a Treaty was carried into effect, there was such a change of circumstances as to make it necessary to declare war; could they not discuss the subject, whether it were more advisable to carry into effect the Treaty, and keep at peace, or break it and declare war? If a question of this kind came up, there could be no impropriety in looking into it; not with an idea of having any concern in making the Treaty, but because such alterations had taken place in the state of affairs, as to make it necessary to discuss the propriety of going to war.

There was another point of view in which that House had a check on Treaties. Granting that a Treaty is completely made, the subject of appropriation must come before them. Gentlemen had been understood to say, that no discretion could be exercised in appropriating the necessary money for carrying a Treaty into effect. But he was of a different opinion; he believed, that though they had nothing to do with the making of Treaties, yet when they were called upon to appropriate, they must exercise their discretion. It was true, that in general when Treaties were made, it would be the duty of that House to carry them into effect, in the same way as they found it their duty to carry into effect existing laws; but he said, there were justifiable grounds of refusing to appropriate money to carry into effect both laws and Treaties.

Mr. C. referred to the case of appropriations for the army. Suppose, said he, an army was raised for four years; at the end of two years a fresh appropriation is requisite to support it; but the Legislature has a discretion in doing this, or where was the use of the constitutional regulation of confining appropriations to two years? He considered, that there was some analogy between such cases of appropriation, and those requisite for Treaties. When a Treaty is made, the nation is bound by it, and its organ has an obligation upon it to carry it into effect. It might, in general, be said that there was an absolute obligation; but still there were particular cases in which that obligation did not hold. It appeared to him that a Treaty might possibly be of so ruinous a nature, as to justify the refusing to carry it into effect. Nay, he would say, that if half the lies and calumnies which had been spread throughout the

Union with respect to the late Treaty with Great Britain were true; if the negotiator had been bribed; if he had given up the rights of his country; if their liberty and independence had been

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sacrificed; if the PRESIDENT and Senate had been bribed by British gold; if he had any idea of that kind, he would not agree to carry the Treaty into effect; nor should he conceive the national faith bound by such an instrument; no matter what grounds were taken to justify the refusal, whether constitutional or revolutionary.

If these principles were just, he said, it would be allowed that that House had a discretionary power with respect to appropriating to carry a Treaty into effect, though it had nothing to do with making it. No cause, he said, had been shown for calling for papers. Why, then, call for them? Gentlemen talked about impeachment? They might impeach without papers. But did they want to bring forward an impeachment? No such thing; it was only to cover the real drift of the motion that this was mentioned.

Did any gentleman think there was sufficient evil in the late Treaty with Great Britain to authorize them in refusing to carry it into effect? It appeared to him, that that House had a right to call for any papers which might throw light on their deliberations. But they must also consider, that there was a discretion to be used by the Executive in giving up papers in his hands. When there are papers in his hands which that House had real occasion for, it was important that they should be brought forward; but, he said, as long as a proper confidence subsisted between the two branches of the Government, if that House asked for papers which the PRESIDENT thought it improper to send them, he would decline doing it. But it is not contended, that the papers which are the object of the present resolution will be of any real use to the House. The gentleman who brought forward the motion had read them through, and the most that he said on the subject was, that the negotiator had not complied with some of the first instructions which were given to him. Another ground of calling for the papers, which was to him a pleasing ground, was that of publicity; for he fully agreed with the gentleman from Georgia, that the more public Governmental proceedings could with propriety be made, the better; but that House had not the right to direct the PRESIDENT on that head; they ought rather to leave it to him to publish the papers, or not, as he pleased; for, if they considered the PRESIDENT as attentive at all times to the duties of his office, it would be arrogance in that House to attempt to influence him in that particular.

But the main point in dispute was the force and effect of the Treaty-making power. What were the powers and privileges of the House on the subject? In pursuing this inquiry, he was pleased with the remark of the gentleman from Georgia, that in examining into the meaning of the words and phrases, they must take the meaning that was generally given to them, and if they could find out the true import of the phrase *make* Treaties, it would remove all doubts on the subject. He hoped, for this purpose, that gentleman would have examined the proceedings of his own country; but, instead of doing this, they find him referring to the practices of Great Britain.

The PRESIDENT and Senate, Mr. C. observed, were expressly authorized to make Treaties. To what should they compare Treaties? Might they not say that they were betwixt nations what bargains were betwixt individuals? And, after he had employed an agent to make a contract, with full discretion, and he had in pursuance of his authority made it, was it not binding? Though in public as well as in private contracts he acknowledged there might be circumstances which would justify a non-compliance with the terms of the bargain; yet, in case all the circumstances had been fair, the contract must be complied with.

It appeared to him not unimportant to consider whether, when Treaties were made, they were not the laws of the land. A power to make, carried in his mind a power to complete. But if this were doubtful, where should they look for information? He expected the gentleman from Georgia—knowing him to be well acquainted with the proceedings of Government for a long time—would have referred them to the old Confederation. It would certainly have been more natural to have referred them to the old Congress than to the Parliament of Great Britain. If they looked into the powers of the old Congress they would find that they had the power to enter into Treaties and alliances, which he apprehended to be the same power as that placed in the PRESIDENT and Senate in the present Government; and it was natural to conclude that a Treaty made by the present power was equally binding with those made under the old government; for it will be recollected that the general power was delegated to the General Government; and if they had the same powers, he could not see that there should be any difference in the exercise of them. If it had been intended otherwise, the convention at the forming of the constitution, would have added a proviso that no Treaty should be made by the PRESIDENT and Senate which included commercial regulations.

It appeared to him that a subject of such recent date as their constitution could not receive much elucidation from the opinions held concerning it in the conventions, at or about the time of passing it. He confessed he found little aid to assist his mind to form a judgment on the matter from any other source than the constitution itself; indeed he thought the light was there so clear that nothing more was wanted. There were four members, he said, in that House who were members of the convention who formed the constitution. The sentiments of two of those gentlemen he was not acquainted with; but two of them had spoken on this subject. If those gentlemen had come forward and declared that such a power as the Treaty power was contended to be was not intended to be placed in the hands of the PRESIDENT and Senate, but that that House was meant to have certain powers with respect to Treaties, he would not say but that such a declaration would have shook his faith on the subject; for, though he should still have been guided by the instrument itself, yet authority so respectable would have its weight on his mind. But what did the gentlemen who have delivered their sentiments say? The gentleman from Georgia (Mr. BALDWIN) mentioned the necessity of inquiring into the true meaning of the phrase, "make Treaties;" and, instead of telling them what had been the practice in the old government,

he went over the water to Great Britain. What did they get from the gentleman from Virginia, (Mr. MADISON?) He produced five sets of doubts and one problem upon the construction of the constitution. This had the same effect on his mind as if they had declared that the meaning of the constitution was well understood, in the convention which formed it, to vest the Treaty-making power completely in the PRESIDENT and Senate. It was certainly matter of great importance where the different powers of Government were placed, and caused considerable debates in the convention. Some thought the Treaty-making power should be placed in the Legislature, but that was greatly objected to; it was urged by others that the powers should be in the PRESIDENT and a majority of the Senate; it was again proposed that two-thirds of the whole number of the Senators should consent to a Treaty—but finally passed as it is found in the constitution. He was far from accusing those gentlemen with impropriety of conduct on the occasion. If they think it would be better for the interests of the people that that House should have a share in the making of certain Treaties, and believe the constitution will bear that construction, it was not for him to impeach the purity of their motives or propriety of their conduct; but it would require strong arguments to convince his mind that the constitution placed any such power in that House, contrary to the unanimous understanding of the members of the convention who formed it.

The arguments which had been urged for placing certain powers in that House with respect to Treaties were drawn from the practice of Great Britain, and from the danger of the Treaty power being vested wholly in the PRESIDENT and Senate. He did not think that the Government of Great Britain had been introduced for any other purpose than illustration, though other use had been made of it out of doors. With respect to the principles of that government, let them inquire into its sovereign power; for it was a just position that Treaties must be made by the sovereign power of a nation. Where should they find that power in Great Britain? The King and Parliament were allowed to be omnipotent. Parliament have altered the continuation of their existence from three to seven years. Where must they look in the United States for the sovereign power? They must go to the people at large; for in them it lay alone. Their constitution limited the powers of every branch of government, and it was therefore improper to apply foreign ideas to their constitution. But if a Treaty was made by the agents of a sovereign power, authorized for the purpose, the end was answered: in the United States, the sovereign power can act only by its agents.

The Legislature of Great Britain, he said, it was true, consisted of three branches, and that was almost the only feature in that Government resembling that of the United States. In Great Britain, their Executive is an hereditary Monarch, whereas the PRESIDENT OF THE UNITED STATES is elected every four years. Their House of Lords consisted of bishops and an hereditary nobility—the bishops appointed by the Crown, and the nobility were increased at the King's pleasure; whilst the Senate of the United States is elected every six years. Gentlemen say the Senators are not elected by the people, but they are chosen by the Legislatures of the different States, who are elected by the people. The House of Commons in Britain, which is the only representation of the people their Government contains, is elected by a very small part of the people; and the Crown has such an influence in it as to be able to carry most questions at its pleasure. How could it then bear a comparison with that House, who were chosen by the whole people every two years? The absurdity might be admitted, in that Government, that the King had the power to make Treaties, and that the sanction of the Legislature was still necessary to give them legal validity, because the influence of the Crown was so great in both Houses as to carry any measure it pleased through them. But it would not do in this country. The comparison, therefore, betwixt the two Governments fails, and no arguments can be drawn from it.

The other argument respecting the danger of the power being placed solely in the Executive arose from the comparison with Great Britain. If the powers of the PRESIDENT and Senate of this country could with any tolerable degree of justice be compared to those of the King and House of Lords in Great Britain, as little taste as he had for revolutions, he would not say but he should be induced to join gentlemen, either by fraud or force, to overturn the constitution. He looked on the representation in the Senate to be as complete as in that House. Gentlemen were very fond of calling that House the popular branch of government. He agreed that a criticism on words was in general trifling. That gentlemen from Virginia might assert this, he allowed, as they had nineteen members out of the hundred and five in that House, and in the Senate only a fifteenth part of the body; but gentlemen did not mean, when they spoke on that subject, to have reference to particular States, but to the whole. The Senators and Representatives were regularly apportioned for the whole Union; and, though on different principles, were as completely represented in the one House as in the other.

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Mr. C. concluded with saying, that he had no doubt the powers vested by the constitution were well vested; and if the constitution was fairly considered, little doubt could remain on the subject. But if the House passed the resolution now before the committee, he should not consider the question as decided; but if the construction was still insisted upon, he was happy the constitution was not wholly in their hands—that there were joined with them in the guardianship of it, the PRESIDENT, the Senate, and the people of the United States.

Mr. HILLHOUSE said, it was with diffidence he rose to speak on a subject which had been so copiously and ably handled by gentlemen who had preceded him. It had been his intention to have given a silent vote on the resolution on the table, but the turn which the debates had taken—involving an important constitutional question, relative to the powers vested in the different branches of Government—seemed to create a necessity of expressing his sentiments, lest by his vote he might seem to subscribe to certain doctrines in the latitude in which they had been laid down. And as he should differ in some respects from most of the gentlemen that had spoken, he asked the indulgence of the committee whilst he made a few remarks on a subject which he

conceived to be of vast importance, as a wrong decision might give a direction to their government which might be of serious consequence.

On the one hand, he did not think that Treaties could not, under any circumstances, be the subject of Legislative consideration or discussion, and that they were not to look into them. It appeared to him, that they not only had the right, but that it was their indispensable duty to look into every Treaty, when called upon to aid in its operation; to see whether it had the constitutional forms; whether it related to objects within the province of the Treaty-making power, a power which is not unlimited. The objects upon which it can operate are understood and well defined, and if the Treaty-making power were to embrace other objects, their doings would have no more binding force than if the Legislature were to assume and exercise judicial powers under the name of legislation. It might be proper, also, to examine the merits of a Treaty, so far as to see whether it be of such a ruinous nature as, according to the law of nations, it would be null, and whether they would be justified in withholding Legislative provision to carry it into effect. He also considered Treaties as subject to Legislative control, so that their operation, so far as related to the people of the United States, might be suspended or annulled whenever, in the opinion of the Legislature, there was sufficient cause. And further, that the clause in the constitution which provides that no money shall be drawn from the Treasury, but "in consequence of appropriations made by law," as vesting in the different branches of Government a check adequate to every purpose of security.

On the other hand, he did not consider the House of Representatives as having a constitutional right to interfere in making Treaties, or that a Treaty needed any concurrence of that House, or Legislative sanction, to make it the law of the land. He had always supposed that Treaties were exactly on the footing of laws in their operation on antecedent laws, suspending and repealing such as were repugnant. Treaties may sometimes require Legislative aid to carry them into effect; so may laws, and they were constantly in the habit of making laws to carry into effect laws heretofore made.

After these preliminary observations, Mr. H. proceeded to inquire, not what ought to be, but what was the Constitution of the United States? We were not, he said, in Convention, but in the discharge of Legislative functions under the constitution; and to understand the extent of the powers intended to be granted in the second article, section two, by these words, "the PRESIDENT shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur," we must advert to the general definition of the Treaty-making power—what objects it may embrace, and how far it can interfere with Legislative power. A Treaty is a compact entered into by two independent nations, for mutual advantage or defence. Nothing can, therefore, come within the Treaty-making power but what has a relation to both nations, and in which they have a mutual interest. The object of this power is to secure to our citizens advantages in foreign countries which are without or beyond our Legislative jurisdiction, to enable the Treaty-making power to obtain which, it must necessarily be authorized to give some consideration or equivalent therefor. If the United States authorize an agent to make a bargain or purchase, the power of binding the United States for a reasonable consideration is necessarily given. Whenever the Treaty-making power departs from these rules, it is without its jurisdiction, and such a Treaty would be of no validity. Under this view of the subject, if we look into our code of laws, we shall find few of them that can be affected, to any great degree, by the Treaty-making power. All laws regulating our own internal police, so far as the citizens of the United States alone are concerned, are wholly beyond its reach; no foreign nation having any interest or concern in that business, every attempt to interfere would be a mere nullity, as much as if two individuals were to enter into a contract to regulate the conduct or actions of a third person, who was no party to such contract. He could, he said, illustrate his idea more readily by adverting to a law, mentioned as being affected by the present Treaty, which was the revenue law; which provides that certain duties shall be paid on goods imported into the United States, and on goods coming in foreign bottoms ten per cent. advance on the amount of such duties. This is a law no Treaty can repeal, admitting the repealing power in its fullest latitude, because no foreign nation can have any interest or concern in the duties payable by our own citizens into our own Treasury. All that a Treaty could do, would be to suspend or arrest its operation, so far as the citizens or subjects of the nations with whom we treated, were or might be affected by it. The only operation which the British Treaty has upon that law is, that in consideration of our being freely admitted to the fur trade and the trade into Canada, which opens to the enterprise of our citizens a vast source of wealth and advantage, we only give in return to the subjects of the King of Great Britain the privilege of bringing, by land or inland navigation, into the United States, goods for which they pay no more duties than our citizens pay on goods imported in American bottoms. British subjects have always been permitted to reside and trade in the United States, and peltry is to be duty free in the territories of each. According to this definition of the Treaty-making power, and as far as he could judge, he said, it was correct; it cannot have that unlimited extension which has been ascribed to it. It cannot be that monster which has been described as about to swallow up all the Legislative powers of Congress; nor can there be any danger of the PRESIDENT and Senate having it in their power, by forming Treaties with an Indian tribe or a foreign nation, to legislate over the United States. The Treaty-making power cannot affect the Legislative power of Congress but in a very small and limited degree. Because a Treaty or an Executive act may, in some instances, arrest the operation or progress of a law, it is no argument against the existence of the power. In article first, section eighth, of the constitution, a specific power is granted to Congress to provide for the punishment of the counterfeiters of the securities or coins of the United States. In another article, the PRESIDENT is authorized generally to grant reprieves or pardons for offences against the United

States, excepting in cases of impeachment. Can any one seriously contend that the PRESIDENT has not the power of granting a pardon to a counterfeiter of securities or coins, because it would suspend and defeat the operation of a law, on a subject, specially delegated to Congress? If this doctrine be true, that all Legislative power may be exercised by the Treaty-making power, Congress, under the old Confederation, had unlimited Legislative power over the States. The old Confederation vested in Congress an unlimited power to make Treaties, excepting only that the States were to be at liberty to impose like duties on foreigners as on their own people, and that the exportation or importation of goods was not to be prohibited. Was it ever imagined that, by this general power, Congress had a right, by forming a Treaty with a foreign power, to legislate over the States to any extent? Suppose Congress, instead of taking so much pains to persuade the States to consent to their laying the five per cent. impost, and in obtaining which they were finally defeated by the refusal of one State, after every possible exertion, had undertaken to have it done by Treaty? Would not the measures have been reprobated with one voice, and the Treaty considered as a nullity?

In the first place, in Art. I., organizing a Legislative body, and delegating to them, not all, but a part only of the Legislative power of the States, in these words: "All Legislative powers herein granted shall be vested in a Congress;" and among the specified powers, the right of regulating commerce with foreign nations. How were they to regulate commerce? Not by the exercise of the Treaty-making power. This article of the constitution has not the least relation to that kind of power: it was Legislative power only that was meant: it vested Congress with the whole power, as far as the object could be accomplished by a Legislative act; but this power would embrace but a small part of the objects which come within the term of regulating commerce with foreign nations; it could extend no further than the bounds of our own jurisdiction. There is not a single expression that looks like authorizing them to act in any other than their Legislative character.

The constitution then proceeds, in the second Article, to the establishment of an Executive power, to be vested in a PRESIDENT, and in the second section, says: "The PRESIDENT shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur." The most general terms are used, and such as under the old Confederation had been understood to embrace every kind of Treaty, commercial as well as others, and had been exercised in the most ample and unlimited manner, and the Treaties thus formed had been declared and adjudged to have the force and operation of a law, and that they repealed all laws that were opposed to them; and these Treaties were then in full force and operation, and were the supreme law of the land. It cannot be presumed that the framers of our constitution were ignorant of the laws of the land, or that they had not well attended to and examined Treaties, which, by the constitution, they were again about to declare to be the supreme law of the land under the new Government. Now, if it really was intended that the Treaty-making power should not be as broad, and have the same extension and operation as had been exercised under the old Confederation, or that there was to be a distinction between commercial Treaties and others, or that Treaties generally should not so operate as to repeal pre-existing laws, or that the concurrence of the House of Representatives, or sanction of Congress, should, under any circumstances, be necessary to give validity or force to a Treaty, how can we account for the total silence of the constitution on this subject, and that there should not be a single sentence in the whole instrument that even looks that way? If any limitation was intended, the convention certainly knew that it was necessary it should be inserted. When we examine the constitution, and see with what accuracy and care it is drawn up, how wonderfully every part of it is guarded, that there is not a single word but appears to have been carefully examined, and when we call to mind the members of that convention, and find them to have been the ablest and most accurate men of our country, we cannot presume that we should have been left to the sad alternative, for the purpose of explaining so important an article of our constitution, which might have been so easily made definite, to be obliged to resort to the British House of Commons for precedents, and those too which were derived from the most turbulent periods of the Government of that nation; when, it is a possible case, that the change of a Ministry, or the rage of party, might have been more immediately the object of pursuit than the true interest of the nation; more especially as the practice of our own Government, and the legal opinion of our own country, were directly opposed to such a construction. But if all this might be supposed not to have had sufficient weight to have induced the convention to have introduced such a limitation, or some intimation that such limitation was intended, they must have supposed it necessary when they handed out with the constitution, which were declared by the ratification thereof to be the supreme law of the land, Treaties of every description, commercial as well as others. To me, the language of this transaction is, we have, by one article of this constitution, granted the Treaty-making power, in general terms, to the PRESIDENT and Senate.

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MARCH 24.—[The question was taken on Mr. LIVINGSTON's resolution, which is in the following words:]

"*Resolved*, That the President of the United States be requested to lay before this House a copy of the instructions to the Minister of the United States, who negotiated the Treaty with the King of Great Britain, communicated by his Message of the first of March, together with the correspondence and other documents relative to the said Treaty; excepting such of said papers as any existing negotiation may render improper to be disclosed."

The division on this resolution, in Committee of the Whole, was—for the resolution 61, against it 38—majority 23.

The resolution was then taken up in the House, and the yeas and nays being called upon it, were

taken, and stood yeas 62, nays 37, as follows:

YEAS.—Theodorus Bailey, David Bard, Abraham Baldwin, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, Henry Dearborn, George Dent, Gabriel Duvall, Samuel Earle, William Findlay, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, Christopher Greenup, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, James Holland, George Jackson, Aaron Kitchell, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, John Richards, Robert Rutherford, John S. Sherburne, Israel Smith, Samuel Smith, Thomas Sprigg, John Swanwick, Absalom Tatom, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Richard Winn.

NAYS.—Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Joshua Coit, William Cooper, Abiel Foster, Dwight Foster, Nathaniel Freeman, jr., Ezekiel Gilbert, Nicholas Gilman, Henry Glenn, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, James Hillhouse, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, William Vans Murray, John Reed, Theodore Sedgwick, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, John Williams.

RECAPITULATION.—Yeas 62, nays 37, absent 5—104—the Speaker 1—whole number of Representatives 105.^[72]

Mr. DAYTON, the Speaker, in Committee of the Whole, voted against the resolution.

MARCH 25.—The committee, (Messrs. LIVINGSTON and GALLATIN,) appointed to present the resolution agreed to yesterday to the PRESIDENT, reported, that the PRESIDENT answered, that he would take the resolution into consideration.

MARCH 30.—The following Message was received from the PRESIDENT in answer to the resolution of the House:

Gentlemen of the House of Representatives:

With the utmost attention I have considered your resolution of the 24th instant, requesting me to lay before your House a copy of the instructions to the Minister of the United States, who negotiated the Treaty with the King of Great Britain, together with the correspondence and other documents relative to that Treaty, excepting such of the said papers as any existing negotiation may render improper to be disclosed.

In deliberating upon this subject, it was impossible for me to lose sight of the principle which some have avowed in its discussion, or to avoid extending my views to the consequences which must flow from the admission of that principle.

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I trust that no part of my conduct has ever indicated a disposition to withhold any information which the constitution has enjoined upon the President, as a duty, to give, or which could be required of him by either House of Congress as a right; and, with truth, I affirm, that it has been, as it will continue to be, while I have the honor to preside in the Government, my constant endeavor to harmonize with the other branches thereof, so far as the trust delegated to me by the people of the United States, and my sense of the obligation it imposes, to "preserve, protect, and defend the constitution," will permit.

The nature of foreign negotiations requires caution; and their success must often depend on secrecy; and even, when brought to a conclusion, a full disclosure of all the measures, demands, or eventual concessions which may have been proposed or contemplated would be extremely impolitic; for this might have a pernicious influence on future negotiations; or produce immediate inconveniences, perhaps danger and mischief, in relation to other Powers. The necessity of such caution and secrecy was one cogent reason for vesting the power of making Treaties in the President with the advice and consent of the Senate; the principle on which the body was formed confining it to a small number of members. To admit, then, a right in the House of Representatives to demand, and to have, as a matter of course, all the papers respecting a negotiation with a foreign Power, would be to establish a dangerous precedent.

It does not occur that the inspection of the papers asked for can be relative to any purpose under the cognizance of the House of Representatives, except that of an impeachment; which the resolution has not expressed. I repeat, that I have no disposition to withhold any information which the duty of my station will permit, or the public good shall require; to be disclosed; and, in fact, all the papers affecting the negotiation with Great Britain were laid before the Senate, when the Treaty itself was communicated for their consideration and advice.

The course which the debate has taken on the resolution of the House, leads to some observations on the mode of making Treaties under the Constitution of the United States.

Having been a member of the General Convention, and knowing the principles on which the constitution was formed, I have ever entertained but one opinion on this subject, and from the first establishment of the Government to this moment, my conduct has exemplified that opinion, that the power of making Treaties is exclusively vested in the President, by and with the advice and consent of the Senate, provided two-thirds of the Senators present concur; and that every Treaty so made, and promulgated, thenceforward becomes the law of the land. It is thus that the Treaty-making power has been understood by foreign nations, and in all the Treaties made with them, *we* have declared, and *they* have believed, that when ratified by the President, with the advice and consent of the Senate, they became obligatory. In this construction of the constitution every House of Representatives has heretofore acquiesced, and until the present time not a doubt or suspicion has appeared to my knowledge that this construction was not the true one. Nay, they have more than acquiesced; for until now, without controverting the obligation of such Treaties, they have made all the requisite provisions for carrying them into effect.

There is also reason to believe that this construction agrees with the opinions entertained by the State Conventions, when they were deliberating on the constitution, especially by those who objected to it, because there was not required in Commercial Treaties the consent of two-thirds of the whole number of the members of the Senate, instead of two-thirds of the Senators present, and because, in Treaties respecting territorial and certain other rights and claims, the concurrence of three-fourths of the whole number of the members of both Houses respectively was not made necessary.

It is a fact, declared by the General Convention, and universally understood, that the Constitution of the United States was the result of a spirit of amity and mutual concession. And it is well known that, under this influence, the smaller States were admitted to an equal representation in the Senate, with the larger States; and that this branch of the Government was invested with great powers; for, on the equal participation of those powers, the sovereignty and political safety of the smaller States were deemed essentially to depend.

If other proofs than these, and the plain letter of the constitution itself, be necessary to ascertain the point under consideration, they may be found in the Journals of the General Convention, which I have deposited in the office of the Department of State. In those Journals it will appear, that a proposition was made, "that no Treaty should be binding on the United States which was not ratified by a law," and that the proposition was explicitly rejected.

As, therefore, it is perfectly clear to my understanding, that the assent of the House of Representatives is not necessary to the validity of a Treaty; as the Treaty with Great Britain exhibits in itself all the objects requiring Legislative provision, and on these the papers called for can throw no light; and as it is essential to the due administration of the Government, that the boundaries fixed by the constitution between the different departments should be preserved—a just regard to the constitution and to the duty of my office, under all the circumstances of this case, forbid a compliance with your request.

G. WASHINGTON.^[73]

UNITED STATES, *March 80, 1796.*

REFERENCE OF THE ANSWER TO A COMMITTEE OF THE WHOLE.

MARCH 31.—Mr. BLOUNT moved that the Message be referred to a Committee of the Whole on the state of the Union.

Mr. GILES was of opinion it had better be referred to a Committee of the Whole simply.

Mr. SEDGWICK saw no reason for such a reference. He wished gentlemen would point out the object of the motion.

Mr. THATCHER saw no good to be obtained by referring it. The House had requested the PRESIDENT to lay certain papers before them; the PRESIDENT answers, that he has none for them. Why a reference? The House asked a question; the PRESIDENT answered in the negative—for what purpose refer the answer? what would be gained by it?

Mr. BLOUNT observed, that the PRESIDENT'S Message stands upon the journals of the House; he wished, also, that the House should state upon their journals the reasons which influenced them to make the request. Perhaps, also, he said, a consideration of the Message might lead to some further measure proper to be adopted. He was indifferent whether it was referred to a Committee of the Whole on the state of the Union, or a Committee of the Whole, simply.

Mr. NICHOLAS remarked that it was prejudging the question to say that nothing could arise out of a consideration of the Message. The present is a crisis important in the affairs of the country,

independently of the Treaty. If the Message was a proper subject of discussion, it was proper to refer it to a Committee of the Whole. He did not think a reference to the Committee of the Whole on the state of the Union proper; because the Message points to a subject differing from that referred to that committee. The investigation at any rate could produce nothing wrong.

Mr. GILES said, that the member from North Carolina (Mr. BLOUNT) had explained the object he had in view by a reference. He preferred a reference to a Committee of the Whole, independently; because the Message itself would furnish matter enough for consideration by itself. He should object to its being referred to the Committee of the Whole, who are to take into consideration the British Treaty; because he never would consent to act upon that subject till the papers deemed material to the investigation were laid upon the table. He hoped the reference to a Committee of the Whole, generally, would be agreed to. It certainly would be proper for the House to state their reasons for the call. This call had given rise to a great constitutional question; the PRESIDENT had stated the reasons of his opinion; if the House were not convinced by them, (and he owned that, for one, he was not,) then it would be proper that they should present to the public their reasons for differing with him.

Mr. THATCHER argued, that the reasons of the House were contained in the speeches of members in favor of the motion; the papers had been filled with them, and a pamphlet was going to be published containing them all. If this was not sufficient, the gentlemen had better direct the pamphlet to be copied on the journals.

Mr. WILLIAMS considered this a new question, and wished for time to consider. The PRESIDENT'S Message is only an answer to a request of the House. It does not call for any thing to be done, then why a reference? Such a reference would be unprecedented. Entering the reasons of the House on the journals could produce no good. The House could not call for the papers more than they had done. He reminded the House that three weeks had already been spent in agreeing to the call; if they agreed to the present motion, they would spend as much more in agreeing to the reasons. The PRESIDENT, in his Message, had mentioned the proceedings of the grand Convention; this was a new topic to him not started in debate; when the Treaty is before the House, perhaps they might wish to have the Message before them on that ground. He should vote for the reference if gentlemen could assign (what they had not yet done) a proper motive for it.

Mr. SEDGWICK urged that the reasons of the majority would make a large book. Were the Committee of the Whole to turn authors and write a dissertation on part of the constitution? The people did not send their Representatives here for any such purpose, and he hoped it would not be persisted in. If the reasons of the House were to be drafted, he ventured to predict, that they would reach the end of their political career before the discussion that must necessarily arise upon them would be brought to a close. Such a measure would be unprecedented, and lead to a great waste of time, and continually defeat the real objects of their mission. The session had been long enough already, and it must be lengthened to accomplish the necessary business of it. If the gentlemen would write books, he was confident every body would buy them; but he could not see the propriety of the present motion.

Mr. BLOUNT observed, that the PRESIDENT refers, in his Message, to the debate in the House, and insinuates that the House contend for a right not given them by the constitution. This was the first instance of any importance of a difference between the House of Representatives and the Executive respecting a great constitutional point; it was then proper to make such a disposal of the Message as to enable the House to state their reasons in support of their opinion, that the people may be rightly informed, that they may see the House is attempting no encroachment.

Mr. HEATH hoped the Message would not be passed over in silence. The PRESIDENT surely is not infallible. A very important constitutional question is involved; he hoped the reference would be agreed to.

Mr. SITGREAVES was against the motion. The House have made a demand on the PRESIDENT; the PRESIDENT refused it; this must naturally put an end to the correspondence on this subject. The difference of sentiment between the two branches is not sufficient reason for converting the journals of the House into a volume of debates. If the majority are to place their reasons, the minority cannot be denied the same indulgence; then for a rejoinder, rebutters, surrebutters, without end. From the practice of the House, in a case analogous, a rule of conduct for the present case may be drawn. When a bill is sent to the PRESIDENT, if he dislikes it, he negatives and sends it to the House with his reasons. Those reasons are put on the journals, as directed by the constitution; but it contains nothing to direct or authorize the majority to register their reasons, and thus to enter into a controversy. The return bill is put to vote, and if two-thirds of each House agree to it, it passes; if not, it falls to the ground, but no reasons are entered on the part of the House.

Mr. GALLATIN said he did not expect the motion for a reference would have met with any opposition. Some members are of opinion, that the Message should be passed over in silence; others had resolved to ground some act upon it. There exists a difference, then, on this first point. The natural course is, then, a reference to a Committee of the Whole, to determine whether the House would act further on the business.

In Committee of the Whole a discussion could be had concerning the propriety of acting further on the Message. When the House made the call for papers, they did not give their reasons in the resolution; it was but a bare request. The PRESIDENT decided he could not comply with it. If he had stopped here, perhaps there might be grounds for ending the correspondence here; but he was not satisfied with this, but has entered into his motives for refusing. Indeed, he had gone further; he had adverted to the debates had in the House. He may be mistaken as to the motives he

ascribes to the House. In this delicate situation it is certainly right to notice the Message, and to explain the real motives of the House in support of the motion. If it is a novelty to reply to an answer of the PRESIDENT'S, it was equally a novelty, also, in making an answer to notice a debate in support of a resolution. It is necessary to refer the Message to a Committee of the Whole, to determine how to act. He declared his mind was not made up upon this point, and therefore he wished it referred to a Committee of the Whole. Not, however, to the Committee on the state of the Union, because there exists no connection with the subject referred to that committee. Referring to a Committee of the Whole is deciding nothing, but only determining to examine; it could not decide on the propriety of acting.

Mr. COOPER said, that the further the gentlemen travelled a wrong road, the further they would get out of a true course, and the more difficult it would be to return.

Mr. HARPER observed, that this was not the first attempt to get the House to do something, to commit them to do something further. A motion is now made to refer the Message to a Committee of the Whole, and the House are told, that if the motion be carried, it is nothing, it is deciding nothing, but will only lead to an inquiry whether the House ought to act. He insisted that such a reference would in fact be determining that they would act, and then, in committee, they would determine how, and in that committee, he said they would be asked, why did the House resolve itself into a Committee of the Whole if not to act? So, when the Indian Treaty was ratified, a motion was made to request the PRESIDENT to lay it before the House. When it was laid before them, it was then contended that the House had a right to interfere in the Treaty, or why ask for it? It could not be supposed that gentlemen of any understanding could be imposed upon by such a flimsy sophistry. It was now the proper time, and the House the proper place, he contended, to settle the principle whether the House would sanction any further proceedings on the Message. What reason could be adduced for acting? It is said that the PRESIDENT has not only refused the papers, but given his reasons for the refusal, and that his reference to the debate, and the statement he made about the motives of the House, might be found incorrect; that the PRESIDENT may have attributed to the majority motives they were not willing to avow. The motives had been avowed by the gentleman who led the business from Pennsylvania.

Mr. HARPER was called to order. He concluded by declaring that he would vote against the reference.

Mr. VARNUM observed, that a great constitutional question was to be decided; two branches of the Government differed, and they had joined issue. The PRESIDENT had given the reasons of his opinion; it was right, also, that the people should know the sense of the House. Shall the House take no further measures on the subject, and receive the answer of the PRESIDENT as obligatory with regard to the question? He believed every member of the House has, as well as the PRESIDENT, the right to avow his principles, and to judge of the import of the different parts of the constitution. The House he conceived under an obligation to consider the question: if they found, upon consideration, reason to recede from their opinions, he hoped they would. He wished the subject examined with temper and candor.

Mr. KITTERA chiefly dwelt on the length of time, which, if the motion was agreed to, would be consumed in the business. He also touched on the impropriety of entering into a disquisition on the merits of this question on the journals.

Mr. CRABB.—Mr. SPEAKER, I hope the Message received from the PRESIDENT, in answer to the resolution of this House, calling for certain papers relative to the British Treaty, will be referred to a Committee of the whole House. My reasons for this wish are, because the PRESIDENT has refused the papers on constitutional principles, and has thought proper to go into a detail of the reasons which led to a formation of his opinion; therefore I apprehend it proper to make the reference, in order, that if the reasons urged by the PRESIDENT are such as to convince this House that he is right as to the constitutional question, that they may have an opportunity to acknowledge it, that it may be so known and understood abroad, inasmuch as the contrary opinion has been promulgated; and again, I wish the reference, that this House may, with respect and calm deliberation, consider the PRESIDENT'S Message, and the reasons on which his refusal to send the papers is grounded, that if those reasons are not such as to convince or change the opinion of this House, they, in that case, may have an opportunity so to express themselves, and to introduce resolutions to that effect, that the opinion of this House, on this great constitutional question, after the receipt and consideration of the PRESIDENT'S Message, may be fully known, clearly understood, and stamped on your journals. I think this a necessary measure, inasmuch as sundry Treaties lately negotiated are now before this House, and by a declaratory resolution, as before stated, this House may save the constitutional principle, and feel themselves at perfect liberty to pass the necessary laws to carry these Treaties into complete effect, without conveying the implication, that they think they are bound so to do, and have not a constitutional right to reject and refuse, when even they shall judge the general prosperity of the Union, and the interest of their constituents, may be promoted by that refusal.

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Mr. GILES said, he had not expected the subject would have been treated with ridicule, and that members in reply should advise others to go and write pamphlets. The motives of a branch of Government must necessarily differ from the motives of individuals expressed in their speeches. A majority of the House, when their sentiments are collected, speak the sense of the House. He adverted to the practice of the House when the PRESIDENT returns a bill, which had been mentioned by the opposers of the motion, and observed, that in cases of that kind the message of the PRESIDENT was acted upon. He observed on the importance of the subject, and insisted on the propriety of the House expressing their reasons for their vote. They owe it to themselves, to the United States, to the whole world, to exhibit their reasons for what the PRESIDENT has declared to

be an unconstitutional call. For this purpose, the Message should be referred to a Committee of the Whole, where a proper motion would be brought forward, and could be freely discussed. If it had been proposed to refer the Message to a select committee, to place the business into a few hands, there might have been an objection, but a reference to a Committee of the Whole he considered quite unexceptionable.

Mr. N. SMITH said the present was a most singular motion; and, after noticing the several reasons which had been given for the measure, thought none of them had any weight. He said the referring of the Message could only have one effect; it would engage three weeks more of their time; and yet, gentlemen who had been very economical with respect to time, on the late great constitutional point, by calling for the question from day to day, now proposed to consume it in the way proposed. He should, however, now show that economy on account of time, which had been so much insisted upon on a former occasion.

The yeas and nays were now taken on the question of a reference of the PRESIDENT'S Message to a Committee of the Whole; and the motion was agreed to—yeas 55, nays 37.

DEBATE ON THE PRESIDENT'S ANSWER.

APRIL 6.—The House accordingly resolved itself into a Committee of the Whole on said Message.

Mr. BLOUNT brought forward the following resolutions:

"*Resolved*, That, it being declared by the second section of the second article of the constitution, 'that the President shall have power, by and with the advice of the Senate, to make Treaties, provided two-thirds of the Senate present concur,' the House of Representatives do not claim any agency in making Treaties; but, that when a Treaty stipulates regulations on any of the subjects submitted by the constitution to the power of Congress, it must depend, for its execution, as to such stipulations, on a law or laws to be passed by Congress. And it is the constitutional right and duty of the House of Representatives, in all such cases, to deliberate on the expediency or in expediency of carrying such Treaty into effect, and to determine and act thereon, as, in their judgment, may be most conducive to the public good.^[74]

"*Resolved*, That it is not necessary to the propriety of any application from this House to the Executive, for information desired by them, and which may relate to any constitutional functions of the House, that the purpose for which such information may be wanted, or to which the same may be applied, should be stated in the application."

Mr. HARPER, Mr. DAYTON, and Mr. KITCHELL, offered a few remarks with respect to the propriety of considering the resolutions now moved, or those laid upon the table, by Mr. KITCHELL, a few days ago. After which—

Mr. MADISON rose, and spoke as follows: When the Message was first proposed to be committed, the proposition had been treated by some gentlemen not only with levity, but with ridicule. He persuaded himself that the subject would appear in a very different light to the committee; and he hoped that it would be discussed on both sides without either levity, intemperance, or illiberality.

If there were any question which could make a serious appeal to the dispassionate judgment, it must be one which respected the meaning of the constitution; and if any constitutional question could make the appeal with peculiar solemnity, it must be in a case like the present, where two of the constituted authorities interpreted differently the extent of their respective powers.

It was a consolation, however, of which every member would be sensible, to reflect on the happy difference of our situation, on such occurrences, from that of governments in which the constituent members possessed independent and hereditary prerogatives. In such governments, the parties having a personal interest in their public stations, and not being amenable to the national will, disputes concerning the limits of their respective authorities might be productive of the most fatal consequences. With us, on the contrary, although disputes of that kind are always to be regretted, there were three most precious resources against the evil tendency of them. In the first place, the responsibility which every department feels to the public will, under the forms of the constitution, may be expected to prevent the excesses incident to conflicts between rival and irresponsible authorities. In the next place, if the difference cannot be adjusted by friendly conference and mutual concession, the sense of the constituent body, brought into the Government through the ordinary elective channels, may supply a remedy. And if this resource should fail, there remains, in the third and last place, that provident article in the constitution itself, by which an avenue is always open to the sovereignty of the people, for explanations or amendments, as they might be found indispensable.

If, in the present instance, it was to be particularly regretted that the existing difference of opinion had arisen, every motive to the regret was a motive to calmness, to candor, and the most respectful delicacy towards the other constituted authority. On the other hand, the duty which the House of Representatives must feel to themselves and to their constituents, required that they should examine the subject with accuracy, as well as with candor, and decide on it with firmness, as well as with moderation.

In this temper, he should proceed to make some observations on the Message before the

committee, and on the reasons contained in it.

The Message related to two points. First. The application made for the papers. Secondly. The constitutional rights of Congress, and of the House of Representatives, on the subject of Treaties.

On the first point, he observed, that the right of the House to apply for any information they might want, had been admitted by a number in the minority, who had opposed the exercise of the right in this particular case. He thought it clear that the House must have a right, in all cases, to ask for information which might assist their deliberations on the subjects submitted to them by the constitution; being responsible, nevertheless, for the propriety of the measure. He was as ready to admit that the Executive had a right, under a due responsibility, also, to withhold information, when of a nature that did not permit a disclosure of it at the time. And if the refusal of the PRESIDENT had been founded simply on a representation that the state of the business within his department, and the contents of the papers asked for, required it, although he might have regretted the refusal, he should have been little disposed to criticise it. But the Message had contested what appeared to him a clear and important right of the House; and stated reasons for refusing the papers, which, with all the respect he could feel for the Executive, he could not regard as satisfactory or proper.

One of the reasons was, that it did not occur to the Executive that the papers could be relative to any purpose under the cognizance, and in the contemplation of the House. The other was, that the purpose for which they were wanted was not expressed in the resolution of the House.

With respect to the first, it implied that the Executive was not only to judge of the proper objects and functions of the Executive Department, but, also, of the objects and functions of the House. He was not only to decide how far the Executive trust would permit a disclosure of information, but how far the Legislative trust could derive advantage from it. It belonged, he said, to each department to judge for itself. If the Executive conceived that, in relation to his own department, papers could not be safely communicated, he might, on that ground, refuse them, because he was the competent, though a responsible judge within his own department. If the papers could be communicated without injury to the objects of his department, he ought not to refuse them as irrelative to the objects of the House of Representatives; because the House was, in such cases, the only proper judge of its own objects.

The other reason of refusal was, that the use which the House meant to make of the papers was not expressed in the resolution.

As far as he could recollect, no precedent could be found in the records of the House, or elsewhere, in which the particular object in calling for information was expressed in the call. It was not only contrary to right to require this, but it would often be improper in the House to express the object. In the particular case of an impeachment referred to in the Message, it might be evidently improper to state that to be the object of information which might possibly lead to it, because it would involve the preposterous idea of first determining to impeach, and then inquiring whether an impeachment ought to take place. Even the holding out an impeachment as a contemplated or contingent result of the information called for, might be extremely disagreeable in practice, as it might inflict a temporary pain on an individual, whom an investigation of facts might prove to be innocent, and perhaps meritorious.

From this view of the subject he could not forbear wishing that, if the papers were to be refused, other reasons had been assigned for it. He thought the resolutions offered by the gentleman from North Carolina, one of which related to this subject, ought to stand on the journal along with the Message which had been entered there. Both the resolutions were penned with moderation and propriety. They went no farther than to assert the rights of the House; they courted no reply; and it ought not to be supposed they could give any offence.

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The second object to which the measure related was the constitutional power of the House on the subject of Treaties.

Here, again, he hoped it may be allowable to wish that it had not been deemed necessary to take up, in so solemn a manner, a great constitutional question, which was not contained in the resolution presented by the House, which had been incidental only to the discussion of that resolution, and which could only have been brought into view through the unauthentic medium of the newspapers. This, however, would well account for the misconception which had taken place in the doctrine maintained by the majority in the late question. It had been understood by the Executive, that the House asserted its assent to be necessary to the validity of Treaties. This was not the doctrine maintained by them. It was, he believed, fairly laid down in the resolution proposed, which limited the power of the House over Treaties, to cases where Treaties embraced Legislative subjects, submitted by the constitution to the power of the House.

Mr. M. did not mean to go into the general merits of this question, as discussed when the former resolution was before the committee. The Message did not request it, having drawn none of its reasoning from the text of the constitution. It had merely affirmed that the power of making Treaties is exclusively vested by the constitution in the PRESIDENT, by and with the advice and consent of the Senate. Nothing more was necessary on this point than to observe that the constitution had as expressly and exclusively vested in Congress the power of making laws, as it had vested in the PRESIDENT and Senate the power of making Treaties.

He proceeded to review the several topics on which the Message relied. First. The intention of the body which framed the constitution. Secondly. The opinions of the State Conventions who adopted it. Thirdly. The peculiar rights and interests of the smaller States. Fourthly. The manner in which the constitution had been understood by the Executive and the foreign nations, with

which Treaties had been formed. Fifthly. The acquiescence and acts of the House on former occasions.

1. When the members on the floor, who were members of the General Convention, particularly a member from Georgia and himself, were called on in a former debate for the sense of that body on the constitutional question, it was a matter of some surprise, which was much increased by the peculiar stress laid on the information expected. He acknowledged his surprise, also, at seeing the Message of the Executive appealing to the same proceedings in the General Convention, as a clue to the meaning of the constitution.

It had been his purpose, during the late debate, to make some observations on what had fallen from the gentlemen from Connecticut and Maryland, if the sudden termination of the debate had not cut him off from the opportunity. He should have reminded them that this was the ninth year since the Convention executed their trust, and that he had not a single note in this place to assist his memory. He should have remarked, that neither himself nor the other members who had belonged to the Federal Convention, could be under any particular obligation to rise in answer to a few gentlemen, with information, not merely of their own ideas at that period, but of the intention of the whole body; many members of which, too, had probably never entered into the discussions of the subject. He might have further remarked, that there would not be much delicacy in the undertaking, as it appeared that a sense had been put on the constitution by some who were members of the Convention, different from that which must have been entertained by others, who had concurred in ratifying the Treaty.

After taking notice of the doctrine of Judge Wilson, who was a member of the Federal Convention, as quoted by Mr. GALLATIN from the Pennsylvania debates, he proceeded to mention that three gentlemen, who had been members of the convention, were parties to the proceedings in Charleston, South Carolina, which, among other objections to the Treaty, represented it as violating the constitution. That the very respectable citizen, who presided at the meeting in Wilmington, whose resolutions made a similar complaint, had also been a distinguished member of the body that formed the constitution.

It would have been proper for him, also, to have recollected what had, on a former occasion, happened to himself during a debate in the House of Representatives. When the bill for establishing a National Bank was under consideration, he had opposed it, as not warranted by the constitution, and incidentally remarked, that his impression might be stronger, as he remembered that, in the convention, a motion was made and negatived, for giving Congress a power to grant charters of incorporation. This slight reference to the convention, he said, was animadverted on by several in the course of the debate, and particularly by a gentleman from Massachusetts, who had himself been a member of the convention, and whose remarks were not unworthy the attention of the committee. Here Mr. M. read a paragraph from Mr. GERRY's speech, from the Gazette of the United States, page 814, protesting, in strong terms, against arguments drawn from that source.

Mr. M. said, he did not believe a single instance could be cited in which the sense of the convention had been required or admitted as material in any constitutional question. In the case of the Bank, the committee had seen how a glance at that authority had been treated in this House. When the question on the suability of the States was depending in the Supreme Court, he asked, whether it had ever been understood that the members of the bench, who had been members of the convention, were called on for the meaning of the convention on that very important point, although no constitutional question would be presumed more susceptible of elucidation from that source?

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He then adverted to that part of the Message which contained an extract from the Journal of the convention, showing that a proposition "that no Treaty should be binding on the United States, which was not ratified by law," was explicitly rejected. He allowed this to be much more precise than any evidence drawn from the debates in the convention, or resting on the memory of individuals. But, admitting the case to be as stated, of which he had no doubt, although he had no recollection of it, and admitting the record of the convention to be the oracle that ought to decide the true meaning of the constitution, what did this abstract vote amount to? Did it condemn the doctrine of the majority? So far from it, that, as he understood their doctrine, they must have voted as the convention did; for they do not contend that no Treaty shall be operative without a law to sanction it; on the contrary, they admit that some Treaties will operate without this sanction; and that it is no further applicable in any case than where Legislative objects are embraced by Treaties. The term "ratify" also deserved some attention; for, although of loose signification in general, it had a technical meaning different from the agency claimed by the House on the subject of Treaties.

But, after all, whatever veneration might be entertained for the body of men who formed our constitution, the sense of that body could never be regarded as the oracular guide in expounding the constitution. As the instrument came from them it was nothing more than the draft of a plan, nothing but a dead letter, until life and validity were breathed into it by the voice of the people, speaking through the several State Conventions. If we were to look, therefore, for the meaning of the instrument beyond the face of the instrument, we must look for it, not in the General Convention, which proposed, but in the State Convention, which accepted and ratified the constitution. To these also the Message had referred, and it would be proper to follow it.

2. The debates of the convention in three States (Pennsylvania, Virginia, and North Carolina) had been before introduced into the discussion of this subject, and were believed the only publications of the sort which contained any lights with respect to it. He would not fatigue the

committee with a repetition of the passages then read to them. He would only appeal to the committee to decide whether it did not appear, from a candid and collected view of the debates in those conventions, and particularly in that of Virginia, that the Treaty-making power was a limited power; and that the powers in our constitution, on this subject, bore an analogy to the powers on the same subject in the Government of Great Britain. He wished, as little as any member could, to extend the analogies between the two Governments; but it was clear that the constituent parts of two Governments might be perfectly heterogeneous, and yet the powers be similar.

At once to illustrate his meaning, and give a brief reply to some arguments on the other side, which had heretofore been urged with ingenuity and learning, he would mention, as an example, the power of pardoning offences. This power was vested in the PRESIDENT; it was a prerogative also of the British King. And, in order to ascertain the extent of the technical term "pardon," in our constitution, it would not be irregular to search into the meaning and exercise of the power in Great Britain. Yet, where is the general analogy between an hereditary Sovereign, not accountable for his conduct, and a Magistrate like the PRESIDENT OF THE UNITED STATES, elected for four years, with limited powers, and liable to impeachment for the abuse of them?

In referring to the debates of the State Conventions as published, he wished not to be understood as putting entire confidence in the accuracy of them. Even those of Virginia, which had been probably taken down by the most skilful hand, (whose merit he wished by no means to disparage,) contained internal evidence in abundance of chasms and misconceptions of what was said.

The amendments proposed by the several conventions were better authority, and would be found, on a general view, to favor the sense of the constitution which had prevailed in this House. But even here it would not be reasonable to expect a perfect precision and system in all their votes and proceedings. The agitations of the public mind on that occasion, with the hurry and compromise which generally prevailed in settling the amendments to be proposed, would at once explain and apologize for the several apparent inconsistencies which might be discovered.

He would not undertake to say that the particular amendment referred to in the Message, by which two States require that "no Commercial Treaty should be ratified without the consent of two-thirds of the whole number of Senators, and that no Territorial right, &c. should be ceded without the consent of three-fourths of the members of both Houses," was digested with an accurate attention to the whole subject. On the other hand, it was no proof that those particular conventions, in annexing these guards to the Treaty power, understood it as different from that espoused by the majority of the House. They might consider Congress as having the power contended for over Treaties stipulating on Legislative subjects, and still very consistently wish for the amendment they proposed. They might not consider the Territorial rights and other objects for which they required the concurrence of three-fourths of the members of both Houses, as coming within any of the enumerated powers of Congress, and, therefore, as not protected by that control over Treaties. And although they might be sensible that Commercial Treaties were under that control, yet, as they would always come before Congress with great weight after they had passed through the regular forms and sanctions of the Treaty department, it might be deemed of real importance that the authority should be better guarded which was to give that weight to them.

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He asked, whether it might not happen, even in the progress of a Treaty through the Treaty department, that each succeeding sanction might be given, more on account of preceding sanctions than of any positive approbation? And no one could doubt, therefore, that a Treaty which had received all these sanctions would be controlled with great reluctance by the Legislature, and, consequently, that it might be desirable to strengthen the barriers against making improper Treaties, rather than trust too much to the Legislative control over carrying them into effect.

But, said Mr. M., it will be proper to attend to other amendments proposed by the ratifying conventions, which may throw light on their opinions and intentions on the subject in question. He then read from the Declaration of Rights proposed by Virginia to be prefixed to the constitution, the seventh article, which is as follows:

"That all power of suspending laws, or the execution of laws, by any authority, without the consent of the Representatives of the people in the Legislature, is injurious to their rights, and ought not to be exercised."

The Convention of North Carolina, as he showed, had laid down the same principle in the same words. And it was to be observed that, in both conventions, the article was under the head of a Declaration of Rights, "asserting and securing from encroachment the essential and inalienable rights of the people," according to the language of the Virginia Convention; and "asserting and securing from encroachment the great principles of civil and religious liberty, and the inalienable rights of the people," as expressed by the Convention of North Carolina. It must follow that these two Conventions considered it as a fundamental, inviolable, and universal principle in a free Government, that no power could supersede a law without the consent of the Representatives of the people in the Legislature.

In the Maryland Convention also, it was among the amendments proposed, though he believed not decided on, "that no power of suspending laws, or the execution of laws, unless derived from the Legislature, ought to be exercised or allowed."

The Convention of North Carolina had further explained themselves on this point, by their

twenty-third amendment proposed to the constitution in the following words: "That no Treaties shall be directly opposed to the existing laws of the United States in Congress assembled, shall be valid until such laws shall be repealed or made conformable to such Treaty; nor shall any Treaty be valid which is contradictory to the Constitution of the United States."

The latter part of the amendment was an evidence that the amendment was intended to ascertain rather than to alter the meaning of the constitution; as it could not be supposed to have been the real intention of the constitution that a Treaty contrary to it should be valid.

He proceeded to read the following amendments accompanying the ratification of State Conventions:

The New York Convention had proposed "that no standing army or regular troops shall be raised or kept up in time of peace without the consent of two-thirds of the Senators and Representatives in each House."

"That no money be borrowed on the credit of the United States, without the assent of two-thirds of the Senators and Representatives in each House."

The New Hampshire Convention had proposed "that no standing army shall be kept up in time of peace, unless with the consent of three quarters of the members of each branch of Congress." In the Maryland Convention a proposition was made in the same words.

The Virginia Convention had proposed "that no navigation law, or law regulating commerce, shall be passed without the consent of two-thirds of the members present in both Houses."

"That no standing army or regular troops shall be raised or kept up in time of peace, without the consent of two-thirds of the members present in both Houses."

"That no soldier shall be enlisted for any longer term than four years, except in time of war, and then for no longer term than the continuance of the war."

The Convention of North Carolina had proposed the same three amendments in the same words.

On a review of these proceedings, may not, said he, the question be fairly asked, whether it ought to be supposed that the several Conventions who showed so much jealousy with respect to the powers of commerce, of the sword, and of the purse, as to require, for the exercise of them, in some cases two-thirds, in others three-fourths of both branches of the Legislature, could have understood that, by the Treaty clauses in constitution, they had given to the PRESIDENT and Senate, without any control whatever from the House of Representatives, an absolute and unlimited power over all those great objects?

3. It was with great reluctance, he said, that he should touch on the third topic—the alleged interest of the smaller States in the present question. He was the more unwilling to enter into this delicate part of the discussion, as he happened to be from a State which was in one of the extremes in point of size. He should limit himself, therefore, to two observations. The first was, that if the spirit of amity and mutual concession from which the constitution resulted was to be consulted on expounding it, that construction ought to be favored which would preserve the mutual control between the Senate and House of Representatives, rather than that which gave power to the Senate not controllable by, and paramount over those of the House of Representatives, whilst the House of Representatives could in no instance exercise their powers without the participation and control of the Senate. The second observation was, that, whatever jealousy might unhappily have prevailed between the smaller and larger States, as they had most weight in one or the other branch of Government, it was a fact, for which he appealed to the journals of the old Congress from its birth to its dissolution, and to those of the Congress under the present Government, that in no instance would it appear, from the yeas and nays, that a question had been decided by a division of the votes according to the size of the States. He considered this truth as affording the most pleasing and consoling reflection, and as one that ought to have the most conciliating and happy influence on the temper of all the States.

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4. A fourth argument in the Message was drawn from the manner by which the Treaty power had been understood by both parties in the negotiations with foreign Powers. "In all the Treaties made *we* have declared and *they* have believed," &c. By *we*, he remarked, was to be understood the Executive alone, who had made the declaration, and in no respect the House of Representatives. It was certainly to be regretted, as had often been expressed, that different branches of the Government should disagree in the construction of their powers; but when this could not be avoided, each branch must judge for itself; and the judgment of the Executive could in this case be no more an authority overruling the judgment of the House than the judgment of the House could be an authority overruling that of the Executive. It was also to be regretted that any foreign nation should at any time proceed under a misconception of the meaning of our constitution. But no principle was better established in the laws of nations, as well as in common reason, than that one nation is not to be the interpreter of the constitution of another. Each nation must adjust the forms and operations of its own government, and all others are bound to understand them accordingly. It had before been remarked, and it would be proper to repeat it here, that of all the nations Great Britain would be the least likely to object to this principle, because the construction given to our Government was particularly exemplified in her own.

5. In the fifth and last place, he had to take notice of the suggestion, that every House of Representatives had concurred in the construction of the Treaty power, now maintained by the Executive; from which it followed that the House could not now consistently act under a different construction. On this point, it might be sufficient to remark, that this was the first instance in which a foreign Treaty had been made since the establishment of the constitution; and that this

was the first time the Treaty-making power had come under formal and accurate discussion. Precedents, therefore, would readily be perceived to lose much of their weight. But whether the precedents found in the proceedings preparatory to the Algerine Treaty, or in the provisions relative to the Indian Treaties, were inconsistent with the right which had been contended for in behalf of the House, he should leave to be decided by the committee. A view of these precedents had been pretty fully presented to them by a gentleman from New York, (Mr. LIVINGSTON,) with all the observations which the subject seemed to require.

On the whole it appeared that the rights of the House on the two great constitutional points had been denied by a high authority in the Message before the committee. This Message was entered on the journals of the House. If nothing was entered in opposition thereto, it would be inferred that the reasons in the Message had changed the opinion of the House, and that their claims on those great points were relinquished. It was proper, therefore, that the questions, brought fairly before the committee in the propositions of the gentleman (Mr. BLOUNT) from North Carolina, should be examined and formally decided. If the reasoning of the Message should be deemed satisfactory, it would be the duty of this branch of the Government to reject the propositions and thus accede to the doctrines asserted by the Executive. If, on the other hand, this reasoning should not be satisfactory, it would be equally the duty of the House, in some such firm, but very decent, terms as are proposed, to enter their opinions on record. In either way the meaning of the constitution would be established, as far as depends on the vote of the House of Representatives.

APRIL 7.—The order of the day being called for on the consideration of the PRESIDENT'S Message, the House resolved itself into a Committee of the Whole on that subject, and the resolutions of Mr. BLOUNT having been read—

Mr. SWIFT and Mr. W. SMITH rose together, but Mr. SMITH giving way, Mr. SWIFT proceeded to remark, that he did not rise for the purpose of going into the subject, but to move that the question might be then taken. The same principles which were involved in the present question, had already undergone a discussion of three weeks, and no doubt could remain on the mind of any gentleman in that House on the subject; nor did he think that if three weeks more were to be consumed in the discussion, one opinion would be changed. Therefore, as business of the utmost consequence called for their attention, as it was of the last importance that the Treaties lately formed with foreign nations should be carried into effect, he hoped they would enter upon the question of the state of the Union. If gentlemen wished to carry the Treaties into effect, he entreated them to come forward and do so; or, if they meant to defeat them, he wished them at once to say so. If they went into the present discussion at length, there would not be time sufficient to determine upon the Treaties. He was willing to let the matter rest upon the representation of the gentleman from Virginia. He himself had taken no share in the debate, though if it were to be again gone into, he should desire to be heard as well as others. But he was fully satisfied that gentlemen who had spoken on a former occasion would unite with him in wishing the question to be then taken.

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The resolutions were then severally put and carried—51 members rising for each.

The House then took them up.

The previous question was called, viz: Shall the question now be put?—on which the yeas and nays were taken, and stood—yeas 54, nays 37.

The yeas and nays were taken on the first resolution, and stood—yeas 57, nays 35, as follows:

YEAS.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, John Clopton, Isaac Coles, Jeremiah Crabb, Henry Dearborn, George Dent, Samuel Earle, William Findlay, Jesse Franklin, Albert Gallatin, William B. Giles, Nicholas Gilman, Andrew Gregg, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, George Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, John Richards, Robert Rutherford, John S. Sherburne, Israel Smith, Samuel Smith, Thomas Sprigg, John Swanwick, Absalom Tatom, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Richard Winn.

NAYS.—Fisher Ames, Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Joshua Coit, William Cooper, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glenn, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, Thomas Henderson, James Hillhouse, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, William Vans Murray, John Reed, Theodore Sedgwick, Jeremiah Smith, Nathaniel Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

The second resolution was then taken up, and the yeas and nays stood as on the first.

The following members were absent when the yeas and nays were called on the main questions:

Messrs. Brent, Claiborne, Gillespie, Greenup, Holland, New, and Sitgreaves.

The following members were away upon leave of absence:

Messrs. Freeman, Kitchell, Leonard and Isaac Smith.

It was understood that the following members would have voted for the resolutions had they been present:

Messrs. Brent, Claiborne, Gillespie, Greenup, Holland, and New.

RECAPITULATION.

Yeas in the House,	57
Yeas absent,	6—63
Nays in the House,	35
Mr. Sitgreaves absent (probably against the resolution)	1—36
	—
Majority for the resolutions,	27 ^[75]
Absent on leave,	4
Mr. Duvall, resigned,	1
The Speaker,	1
	—
Whole number of members,	105

FRIDAY, April 15.

The Treaty with Great Britain.

The House then resolved itself into a committee of the Whole on the state of the Union, when, having read the resolution for carrying the British Treaty into effect—

Mr. BUCK rose, and wished the question to be taken upon Mr. MACLAY's resolution.^[76] This was opposed by Mr. MADISON and Mr. HILLHOUSE, and then Mr. MADISON addressed the Chair as follows:

Mr. M. said, on a subject of such extent and importance, he should not attempt to go through all the observations that might be applicable to it. A general view of the subject was all that he meant at present. His omissions would be more than supplied by others who might enter into the discussion.

The proposition immediately before the committee was, that the Treaty with Great Britain ought to be carried into effect by such provisions as depended on the House of Representatives. This was the point immediately in question. But it would be proper in examining it to keep in view also the proposition of the gentleman from Pennsylvania (Mr. MACLAY) which had been referred to the committee, and which would be taken up, of course, if the immediate question should be decided in the negative.

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If the proposition for carrying the Treaty into effect be agreed to, it must be from one of three considerations: either that the Legislature is bound by a constitutional necessity to pass the requisite laws without examining the merits of the Treaty, or that, on such examination, the Treaty is deemed in itself a good one, or that there are good extraneous reasons for putting it into force, although it be in itself a good one, or that there are good extraneous reasons for putting it into force, although it be in itself a bad Treaty.

The first consideration being excluded by the decision of the House, that they have a right to judge of the expediency or in expediency of passing laws relative to Treaties; the question first to be examined must relate to the merits of the Treaty. He then proceeded to consider the Treaty under three aspects: first, as it related to the execution of the Treaty of Peace in 1783; secondly, as it determines the several points in the law of nations; thirdly, as it respects the commerce between the two nations.

First. He would not inquire on which side the blame lay, of having first violated the Treaty of 1783, or of having most contributed to delay its execution, although he did not shrink from the task under any apprehension that the result could be disadvantageous to this country. The Treaty itself had waived this inquiry, and professed to adjust all controversies on this subject, without regard to the mutual complaints or pretensions of the parties. It was, therefore, justly and naturally to be expected, that the arrangements for carrying that Treaty into effect would have been founded in the most exact and scrupulous reciprocity. Was this the case? He was sorry, that on the contrary, the arrangements were founded on the grossest violation of that principle.

There were two articles which had not been executed by Great Britain; that which related to the negroes and other property carried away, and that which required a surrender of the posts. The article unexecuted by the United States was, that which required payment of all *bona fide* debts, according to the Treaty now in question: this article is now to be carried into the most complete effect by the United States, and damages to the last fraction are to be paid for the delay. Is there a reciprocal stipulation by Great Britain with respect to the articles unexecuted by her? Nothing like it. She is wholly absolved from the obligation to fulfil one of the articles, viz: that relating to the negroes, &c., and she is to make no compensation whatever for delaying to fulfil the other, viz: the surrender of the posts.

It has been urged in apology for those very unequal stipulations, that the injury resulting from a

forbearance to surrender the posts, was not susceptible of any precise liquidation into pecuniary damages. However plausible this might appear, it was by no means satisfactory. Commissioners, such as were appointed, with full discretion for other purposes, might have been charged with this subject, and if they could not have done exact justice, might have mitigated the injustice of doing nothing.

Apologies have been attempted also for the very extraordinary abandonment of the compensation due for the negroes, &c. It was said to be at least doubtful whether this claim was authorized by the seventh article of the Treaty of Peace, and that Great Britain had uniformly denied the meaning put by the United States on that article. In reply he made two remarks. First, that it was not true that Great Britain had uniformly denied the American construction of that article; on the contrary, he believed, it could be proved, that till of late, Great Britain had uniformly admitted this construction, and had rejected the claim on no other ground than the alleged violation of the fourth article on the part of the United States.

But had it been true that Great Britain had uniformly asserted a different construction of the article, and refused to accede to ours, what ought to have been done? Ought we to have at once acceded to hers? By no means. Each party had an equal right to interpret the compact; and if they could not agree, they ought to have done in this what they did in other cases where they could not agree; that is, have referred the settlement of the meaning of the compact to an arbitration. To give up the claim altogether, was to admit, either that Great Britain had a better right than the United States to explain the controverted point, or that the United States had done something which in justice called for a sacrifice of their equal right.

It was evident, he thought, from this view of the subject, that the arrangements with respect to the Treaty of Peace were frequently wanting both in justice and reciprocity.

Besides the omissions in favor of Great Britain, already pointed out with respect to the execution of the Treaty of Peace, he observed, that conditions were annexed to the partial execution of it in the surrender of the Western posts, which increased the general inequality of this part of the Treaty, and essentially affected the value of those objects.

The value of the posts to the United States was to be estimated by their influence, 1st. on the Indian trade; 2d. on the conduct and temper of the Indians towards the United States.

Their influence on the Indian trade depended principally on the exclusive command they gave to the several carrying places connected with the posts. These places were understood to be of such importance in this respect, that those who possessed them exclusively would have a monopoly, or nearly a monopoly, of the lucrative intercourse with a great part of the savage nations. Great Britain having hitherto possessed these places exclusively, has possessed this advantage. It was expected that the exclusive transfer of them would transfer the advantage to the United States. By the Treaty now concluded, the carrying places are to be enjoyed in common, and it will be determined by the respective advantages under which British and American traders will engage in the trade, which of them is to share most in it. In this point of view he thought the regulation highly impolitic and injurious. He would say little of the advantage which the British would have in their superior capital: that must be encountered in all our commercial rivalships. But there was another consideration which ought to have great weight on this subject. The goods imported for the Indian trade through Canada pay no duties. Those imported through the United States for that trade, will have paid duties from seven to ten per cent., and every one must see that a drawback is impracticable, or would be attended with an expense which the business would not bear. So far, then, as the importance of the posts is to be considered in a commercial view, they are, in a very great measure, stripped of it by the condition annexed to the surrender of them. Instead of a monopoly in our favor, the carrying places are made common under circumstances which may leave a monopoly in the hands of Great Britain. And this is done, too, by an article which is to last for ever.

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Second. The influence of the posts on the general conduct of the Indians, is well known to depend chiefly on their influence on the Indian trade. In proportion, therefore, as the condition annexed to the surrender of posts affects the one, it must affect the other. If the British should continue to enjoy the Indian trade, they would continue to influence the Indian conduct; if not in the same degree as heretofore, at least in so great a degree as to condemn the article in question.

He took notice also of the inequality of the stipulation which opened all the ports of the United States, as the condition of having those of an unimportant province of Great Britain opened in return.

With respect to the Mississippi he could not but consider the clause relating to it as being singularly reprehensible. Happily the adjustment of our claims with Spain had been brought about before any evil operation of the clause had been experienced. But the tendency of it, he thought, could not be doubted. It was the more remarkable, that this extension of the privileges of Great Britain on the Mississippi beyond those in the Treaty of Peace, should have been admitted into the new Treaty, because it is supposed by the Treaty itself, that Great Britain may be deprived, by her real boundary, of all pretensions to a share in the banks and waters of the Mississippi.

Secondly. With respect to the great points in the law of nations, comprehended in the stipulations of the Treaty, the same want of real reciprocity, and the same sacrifice of the interests of the United States, were conspicuous.

It was well known to have been a great and favorite object with the United States, "that free ships make free goods." They have established this principle in all their other Treaties. They have

witnessed with anxiety the general effort, and the successful advances towards incorporating this principle into the law of nations; a principle friendly to all neutral nations, and particularly interesting to the United States. He knew that at a former period it had been conceded on the part of the United States that the law of nations stood as the present Treaty regulates it. But it did not follow that more than acquiescence in that doctrine was proper. There was an evident distinction between silently acquiescing in it, and giving it the support of a formal and positive stipulation. The former was all that could have been required, and the latter was more than ought to have been unnecessarily yielded.

The article prohibiting sequestration was next considered by Mr. M. He said he should probably be among the last who would be disposed to resort to such an expedient for redress. But he could not approve of a perpetual and irrecoverable abandonment of a defensive weapon, the existence of which might render the use of it unnecessary. The situation of this country in relation to Great Britain was a peculiar one. As we had not fleets and armies to command a respect for our rights, we ought to keep in our hands all such means as our situation gave us. This article was another instance in which no regard was paid to reciprocity. British subjects, it was well known, had and were likely to have in this country a great deal of the property of the King made sacred. American citizens, it was as well known, had little, and were likely to have little of the kind in Great Britain. If a real reciprocity had been intended, why were not other kinds of private property, as vessels and their cargoes, equally protected against violation? These, even within the jurisdiction of Great Britain, are left open to seizure and sequestration, if Great Britain finds it expedient. And why was not property on the high seas under the protection of the law of nations, which is said to be a part of the law of the land, made secure by a like stipulation? This would have given a face of equality and reciprocity to the bargain. But nothing of the sort makes a part of it; where Great Britain had a particular interest at stake, the Treaty watchfully provides for it; when the United States have an equal interest at stake and equally entitled to protection, it is abandoned to all the dangers which it has experienced.

After taking this brief notice of the positive evils in this part of the Treaty, he might, he said, add the various omissions which were chargeable on it. But as he should not pretend to exhaust the subject, he would mention one only: the not providing for the respect due to the exhibition of sea papers. He could not but regard this omission as truly extraordinary, when he observed that in almost every modern Treaty, and particularly all our other Treaties, an article on this subject was regularly inserted. Indeed, it had become almost an article of course in the Treaties of the present century.

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Thirdly. The commercial articles of the Treaty presented the third aspect under which he was to consider it. In the free intercourse stipulated between the United States and Great Britain, it could not be pretended that any advantage was gained by the former. A Treaty was surely not necessary to induce Great Britain to receive our raw materials and to sell us her manufactures. On the other hand, consider what was given up by the United States.

When the Government came into operation, it is well known that the American tonnage employed in the British trade bore the most inconsiderable proportion to the British tonnage. There being nothing on our side to contract the influence of capital and other circumstances on the British side, that disproportion was the natural state of things. As some balance to the British advantages, and particularly that of her capital, our laws had made several regulations in favor of our shipping, among which was the important encouragement resulting from the difference of ten per cent. in the duties paid by American and foreign vessels. Under this encouragement the American tonnage has increased in a very respectable proportion to the British tonnage. Nor has Great Britain ever deemed it prudent to attempt any countervailing measures for her shipping, well knowing that we could easily keep up the differences by further measures on our side. But by the Treaty, she has reserved to herself the right to take such countervailing measures against our existing regulations; and we have surrendered our rights to pursue further defensive measures against the influence of her capital. It is justly to be apprehended, therefore, that under such a restoration of the former state of things, the American tonnage will relapse to its former disproportion to the British tonnage.

When he turned his attention to the West India branch of the subject, there was still greater cause for wonder and dissatisfaction. As the Treaty now stood, Great Britain was left as free as she ever had been to continue the entire monopoly of the intercourse to British vessels. Recollecting, as he did, and as every member of the committee must do, the whole history of this subject from the peace of 1783, through every subsequent stage of our Independence down to the mission of the late Envoy, it was impossible for him to express his astonishment that any Treaty of Commerce should have ever been acceded to which abandoned the very object for which such a Treaty was ever contemplated. He never could have believed that the time was so near when all the principles, claims, and calculations, which have heretofore prevailed among all classes of people, in every part of the Union, on this interesting point, were to be so completely renounced. A Treaty of Commerce with Great Britain, excluding a reciprocity for our vessels in the West India trade, is a phenomenon which had filled him with more surprise than he knew how to express.

He then pointed to the clause which restrains the United States from imposing prohibitions or duties in any case on Britain which did not extend to all other nations; observing that the clause made it impossible to operate on the unreasonable policy of that nation, without suspending our commerce at the same time with all other nations whose regulations with respect to us might be ever so favorable and satisfactory.

The fifteenth article had another extraordinary feature, which must strike every observer. In

other Treaties, putting the parties on the footing of the most favored nation, it was stipulated that where new favors were granted to a particular nation in return for favors received, the party claiming the new favor should pay the price of it. This was just and proper where the footing of the most favored nation is established at all. But this article gives to Great Britain the full benefit of all privileges that may be granted to any other nation, without requiring from her the same or equivalent privileges with those granted by such nation. Hence it would happen that if Spain, Portugal, or France, should open their Colonial ports to the United States in consideration of certain privileges in our trade, the same privileges would result gratis, and *ipso facto*, to Great Britain. He considered this stipulation as peculiarly impolitic, and that it could not fail, in the view of the committee, to form a very solid and weighty objection to the Treaty.

He was not unaware of the stress that would be laid on the article relating to the East Indies. He should leave to others better acquainted than himself with this branch of the subject to explain it. He made two observations, however: one was, that judicious and well informed gentlemen, equally judicious and well informed with any who could be consulted, considered the article as offering not a shadow of advantage to the United States. The other was, that no privilege was stipulated which had not been uniformly heretofore granted without stipulation; and as the grant could have proceeded from no motive but a pure regard to the British interest in that country, there was every reasonable security that the trade would continue open as it had been, under the influence of the same consideration.

Such being the character of the Treaty, with respect to the execution of the Treaty of Peace, the great principles of the Law of Nations, and the regulations of commerce, it never could be viewed as having any claim to be carried into effect on its own account.

He should conclude, he said, with taking notice of two considerations which had been much used as inducements to carrying the Treaty into effect.

1. It was said that the greater part of the Treaty was to continue two years only after the present war in Europe; and that no very great evils could grow out of it within that period. To this he replied, in the first place, that ten of the articles containing many very objectionable stipulations were perpetual. In the next place, that it would be in the power of Great Britain, at the expiration of the other articles, to produce the same causes for a renewal of them, as are now urged in their favor. If we are now to enforce the Treaty, lest Great Britain should stir up the Indians, and refuse to pay the merchants for the property of which she has plundered them, can she not at the end of two or three years plunder them again to the same or a greater amount? cannot the same apprehensions also be then revived with respect to the Indians, and will not the arguments then be as strong as they are now, for renewing the same Treaty, or making any other equal sacrifice that her purposes may dictate?

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2. It was asked, what would be the consequence of refusing to carry the Treaty into effect? He answered, that the only supposable consequence was, that the Executive, if governed by the prudence and patriotism which he did not doubt would govern that department, would, of course, pursue the measures most likely to obtain a reconsideration and remodification of the offensive parts of the Treaty. The idea of war, as a consequence of refusing to give effect to the Treaty, was too visionary and incredible to be admitted into the question. No man would say that the United States, if an independent people, had not a right to judge of their own interests, and to decline any Treaty that did not duly provide for them. A refusal, therefore, in such cases, could give no cause, nor pretext, nor provocation, for war or for any just resentment. But apart from this, was it conceivable that Great Britain, with all the dangers and embarrassments which are thickening upon her, would wantonly make war on a country which was the best market she had in the world for her manufactures, which paid her an annual balance in specie of ten or twelve millions of dollars, and whose supplies were moreover essential to an important part of her dominions? Such a degree of infatuation ought not to be ascribed to any nation. And at the present crisis, for reasons well known, an unprovoked war with Great Britain, on this country, would argue a degree of madness greater than under any other circumstances that could well be imagined.

With all the objections therefore to the Treaty which he had stated, he hoped that it would not now be carried into effect; and that an opportunity would take place for reconsidering the subject on principles more just and more favorable to the United States.

When Mr. MADISON had concluded,

Mr. S. LYMAN rose.—I do not rise, said Mr. L., with an intention to go into a detail upon this subject, or to exhibit a comparative view of the advantages and disadvantages which may attend the operation of this Treaty, but only to make a few remarks, which may be considered as preparatory to a more minute discussion.

Although I believe a discussion of this Treaty is not strictly in order, because it does not come before us immediately as a subject of debate and legislation, but as a piece of information from the Executive, yet I have no doubt but that a thorough discussion of its principles may produce a happy effect; for I believe the more it is understood, the less various will be Our sentiments, the greater the degree of unanimity among ourselves, so much the greater will be the unanimity among our constituents. This unanimity is an object of the greatest magnitude, not only as the source of national respectability and honor, but as the only true source of national happiness and prosperity; it is therefore the indispensable duty of Government to maintain internal peace and tranquillity, and upon this ground alone it is I am willing the Treaty should be thoroughly discussed. I am sensible this Treaty presents itself with an unfavorable aspect, and what is the reason? Is it not because we have entertained too exalted ideas of our own national importance? A generous and noble pride we ought to entertain as a nation, and without this pride we should

be guilty of ingratitude to Heaven, for Providence has placed within our reach all the resources of national strength and greatness, but we are yet among the nations in a state of minority—a minor must solicit favors, he cannot challenge them. Did we go to the Emperor of Morocco, or to the Dey of Algiers, and challenge a passage for our ships up the Mediterranean? No; but we solicited, and pay dear for that passage; or did we go to the King of Spain, and demand a free navigation of the Mississippi? No; but we negotiated, and success has attended that negotiation; or could we have gone to the King of England, and challenged a participation with his subjects in the commerce of the East and West Indies? Certainly we could not. What then should we have done? Would it have been best to have traded with them upon sufferance, and so to have maintained a precarious kind of commerce? Certainly this would not have done, for in that case we should have been constantly dependent upon the caprice of a capricious Court; this would be extremely mortifying indeed. Commerce, like all other kind of business, ought to be carried on upon generous and open principles, otherwise we establish a system of deceit that would be favorable to pirates and freebooters.

Under those circumstances what could we have done? We could not have carved for ourselves, for our strength and greatness were not sufficient; we therefore had to go with the modesty of a minor, and to solicit; and what was the natural consequence of this solicitation? Why, at the first interview with the British Minister, he determined to exact of us at least a complete fulfilment of all that a former Treaty required; and what was that? It was a payment of our *bona fide* debts; what could we do? He produced our contract, and we said nothing; moral rectitude required a fulfilment of this: it was in vain to say, you have interrupted our commerce, you have carried off our negroes, you have retained the Western posts, and thereby occasioned an expensive and bloody war with the Indians. Some of this language, perhaps, would have had weight with the British Minister, if he had been acting in his private capacity, but he felt and acted like the Minister of a great and powerful nation; interest and glory are their objects, and moral considerations are too apt to vanish before these. It is true, by the law of nature, commerce ought to be free and uninterrupted, but by the law of nations it is otherwise; and what nation shall gainsay this law? We certainly cannot, our strength and greatness are not yet fully ripe; and if they were, we should, in practice, deny this law of nature, and should ratify and confirm this law of nations. Thus, Mr. Chairman, we see that interest and force govern among the nations. I have made these preliminary observations in order that we might contemplate the Treaty upon its true ground, for a want of reciprocity has been a heavy charge brought against it.

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I have read this Treaty with care and attention, and I am free to own that upon the first perusal of it I had a prejudice against it; it appeared to me that some of its stipulations were too favorable for Britain, and too disadvantageous to ourselves; but we certainly had an able negotiator, and I verily believe he did his utmost to serve his country; the more I have attended to the subject, the more I am reconciled to it. I find the gentlemen who are interested in commerce are almost universally satisfied with the commercial regulations; but there is a more weighty charge brought against it than of a want of reciprocity; it is even said by some to be unconstitutional. This is a heavy charge indeed, and if it is well founded we ought to prevent its operation, for we are sent here as the guardians of the rights of our fellow-citizens, and for that purpose are sworn to support their constitution; if it is unconstitutional, it is a nullity; it is not binding upon the nation; we ought to reject it; but if it is constitutional, and not extremely pernicious, it becomes the supreme law of the land, and we are in that case bound to obey it.

When Mr. LYMAN had taken his seat,

Mr. SWANWICK addressed the Chair:—One of the most characteristic and strong points of difference that exists between republican and despotic forms of government, said Mr. S., consists in their greater or lesser degree of haste in making or adopting laws. Where the will of a despot is the only law, his simple volition is sufficient to call for the prompt obedience of the subject; but in our happy government, the numerous checks and balances it prescribes every where oppose themselves to haste, to error, or inadvertency, in the formation of laws. In acts of the smallest importance, we see daily that after they have undergone every possible chance of fair and impartial discussion in the House, they are transmitted to another, who equally proceed to revise, correct, and amend them; and even this not being deemed sufficient to secure, as it were, against all possibility of danger, they are sent to the PRESIDENT, who has ten days to consider, and who may return them with his objections. These we are bound respectfully to inscribe on our journals; and if we disagree in opinion with the PRESIDENT, the majority of two-thirds of both branches is requisite to give validity to the law. Do not we discover in all this infinite caution, and a wish rather not to act at all, by the difference of the branches among each other, than to act imprudently or precipitantly; and can we imagine that a constitution thus guarded with respect to laws of little consequence, hath left without a check the immense power of making Treaties, embracing, as in the instrument before us, all our greatest interests, whether they may be of territory, of agriculture, commerce, navigation, or manufacture, and this for an indefinite length of time? No. By one of the guards of that constitution relative to appropriations of money, this Treaty hath, in the last stage of its progress, come before us; we have resolved according to our best judgment of the constitution, and, as we have seen above, according to the meaning and spirit of it, that we have a right to judge of the expediency or inexpediency of carrying it into effect. This will depend on its merits; and this is the discussion now before us. If, in the event, we shall be found to differ in opinion with the other branches as to this subject, it will involve no more animosity or crimination against them than if we differed as to an ordinary law. To what purpose then to sound the alarm, and to ring the tocsin from Georgia to New Hampshire? Do we impeach the Executive? Do we charge bribery or corruption? No, sir.

These preliminary remarks I have thought essential, previously to going into a consideration of the merits of the Treaty itself, which hath already been so ably considered by the gentleman last up from Virginia, (Mr. MADISON,) whose mildness of manner and suavity of address were certainly calculated to inspire any thing else than the angry passions so greatly deprecated by the gentleman from Massachusetts, (Mr. S. LYMAN.) These, I hope, will be carefully avoided on all sides, and the debate be concluded with the same good temper and moderation in which it is begun.

I must confess, Mr. Chairman, that the first point of view in which this Treaty struck me with surprise was, the attitude Great Britain assumes in it of dictating laws and usages of reception and conduct different towards us, in every different parcel of her empire, while the surface of our country is entirely laid open to her in one general and advantageous point of admission. In Europe, we are told we may freely enter her ports. In the West Indies, we were to sail in canoes of seventy tons burden. In the East Indies we are not to settle or reside without leave of the local government. In the seaports of Canada and Nova Scotia, we are not to be admitted at all; while all our rivers and countries are opened without the least reserve; yet surely our all was as dear to us as the all of any other nation, and not to have been parted with but on equivalent terms.

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But let us consider the articles distinctly:—first, as to the Mississippi; Great Britain is admitted as freely to navigate on this river, and to frequent the ports on its banks, as we are to go to those on the Thames; yet, it is strange to remark, that, at the time we made the stipulation, we had not ourselves obtained the right we gave. We have since obtained it by Treaty with Spain, and on terms absolutely contradictory to those contained in the British Treaty.

The next of the permanent articles I shall notice, is that which respects British debts. It is somewhat remarkable, that the commissioners, who are to judge of these, are permitted the power of adjournment from place to place—a very favorable stipulation for the creditors, whilst the Commissioners on Spoliations, by article 7, are to act only in London, whereby the American claimant must pass with his papers, or send them across the Atlantic, and engage lawyers in a country where law is unusually dear; a circumstance which will deter many from applying at all, and occasion great loss to the United States. I observe, too, that the awards of the Commissioners of British debts are to be paid out of the treasury as awarded by the commissioners. I am surprised not to find in the Report of the Secretary of State, on appropriations to carry this Treaty into effect, some calculation as to the probable amount of these debts, or some provision for lodging, for this purpose, money in the treasury. Gentlemen would then have known the extent to which they were going; but, at present, they can form no judgment on the subject of the money wanted, or of the funds from whence that money is to come.

Much hath been said about the tenth article, relative to the sequestration of debts. To be against the adoption of this article, hath been supposed to imply an unwillingness to pay debts lawfully contracted, and very copious abuse hath been thrown on the largest and most populous State in this Union, as having for motive of its opposition, this principle. To say nothing of the degrading nature of such an admission, with respect to the honor of our own country, which ought always to induce us to think the most favorably of it, is it true? Is it true, that an unwillingness to pay debts hath been the principal cause of opposition to this Treaty? Among the names opposed to it, are to be found some as respectable for independence and fortune as any on the Continent. To instance only one of a number, I may cite the celebrated Pennsylvania farmer, John Dickenson, Esq., one of the richest men in these parts of the country, attached to no party, living in great retirement, with a name honorable for the most virtuous efforts in the American Revolution. Can it be supposed that such a character as this is influenced by such a motive? Surely not. Whence arises, then, the opposition? It arises from a conviction that the admission of this article is degrading to the national character. During a late session of Congress an honorable member from New Jersey, (Mr. DAYTON, the present Speaker) fired by a laudable indignation at the robberies committed on our commerce by the British, moved for a provisional sequestration of their property. No sooner was this done, than we saw a report from the Secretary of the Treasury, dated the 16th of January, 1795, recommending the United States to pass a permanent law against sequestration of property in the funds. Congress not having acted on this part of the report, though they adopted other parts, we now see the clause attempted to be brought into a law by way of a Treaty. And it is more singular, as, at the very time the article was agreed to in England, all the European nations were actually sequestering the property of each other.

After having thus reviewed the first ten or permanent articles, I think it must appear obvious that the result is, that we have ceded the right to navigate the Mississippi on terms different to those on which we received it from Spain; that we have consented to receive the Western posts on terms that afford too much danger of disturbances by a mixed intercourse of our people, British subjects and Indians; that we have provided, certainly, for an indefinite amount of British debts: whilst our claim for spoliations is left to be decided by commissioners at London, who meet without power of adjournment, and under very extensive latitude of judging according to what may appear to them to be the law of nations, in a country where that law has been twisted so as always to serve as a pretext for spoliations against us; and we have agreed never, in future, to consent to sequestrations, or confiscations, in case, by war or national difference, our property afloat should be confiscated or sequestered by Great Britain to any amount. Let any impartial mind, then, judge of the expediency, on our part, of voting efficacy to so ruinous a contract.

I come now to consider the remaining articles of a more temporary nature. The 12th article merits consideration, because, though not included in the general arrangement as ratified, being only suspended, its principles are not wholly abandoned, but left, like a cloud, still to hang over

us. This 12th article was intended to regulate our intercourse with the British West Indies, and contemplated the singular provision that we should only navigate thither in vessels of seventy tons burden, whilst the British themselves might put in the employ vessels of any size. How degrading such a stipulation, it is not difficult to conceive! We supply these islands with what the inhabitants have always acknowledged they could get so well nowhere else, and yet our tonnage is to be thus restricted, while theirs is left open to employ vessels of any description. But this is not all: for the sake of getting admission into a few inconsiderable British ports in the West Indies, we are to give up the carriage in our own shipping of cotton, one of our own staple articles, and of sugar, coffee, and indigo, the produce of the French, Spanish, Danish, Swedish, or Dutch islands. How strange a mistake as to the geography of this Western Archipelago, in which the carriage of the produce of St. Domingo alone is worth more nearly than the entire admission to all the other islands put together! The principle contained in this 12th article, thus suspended, ought to have been utterly contradicted or annulled. While existing even in its suspended form, it will prevent my voting for this Treaty, of whose chains it is only an absent link.

But we are told whatever may be our fate in the West, all our losses are to be balanced in the East Indies; and we are carried from our own neighborhood, to be sure, to a great distance, in order to have repaid all our sacrifices. Let us examine this 13th article respecting the East India trade, and see if it does not bear a very strict analogy to the West India article that has been exploded.

We are to be admitted, it is true, in vessels of any size, but not suffered to settle or reside without leave of the local Government—that is, of the British East India Company. Of all the despotisms in the world that of a mercantile monopolizing company is the worst; yet into such hands we are to fall, and from them to solicit leave to reside or travel in the country. What security can there be for a commerce thus precariously conducted, in which your rivals are your judge?

The consumption of India goods being in a great degree out of the question in England, the Company, who have an annual revenue of a million and a half sterling to receive from their possessions in India, have hitherto sold them at vendue in Leadenhall street; and I believe, considering the credit our merchants usually obtained in London on those goods, and the low price the Company sold them at, they could afford to supply us cheaper in England than we could get them from India in time of peace. I find the East India Company themselves state, in 1788, that seventeen-twentieths of the calicoes imported by them were exported, and twelve-twentieths of the muslins also exported, thereby realizing, as they term it, the tribute which India pays to Great Britain through the medium of its commerce. In 1793 the Company state the internal consumption of India calicoes and muslins to be reduced in Britain to almost nothing. They add, every shop offers British muslins for sale, equal in appearance, and of more elegant patterns than those of India, for one-fourth, or perhaps more than one-third less in price. They say nine-tenths of all muslins and calicoes are sold for exportation.

The 15th article is one of the most objectionable of the whole Treaty, because it fundamentally contradicts all the provisions heretofore made by our Government for the encouragement and protection of the navigation of this country. By it it is settled that, so far as respects us, no tonnage duties shall be laid on British vessels but what shall be laid on those of all other nations; no duties on British articles but what shall be laid on those of every other nation; no embargo to affect Britain but what affects all other nations alike; American bottoms are left exposed to be charged, in the European British ports, tonnage duties equal to those laid on British bottoms here; countervailing duties may be laid in England to equalize the difference of duties on European or Asiatic goods imported here in British or American vessels; and no additional difference in tonnage or duties of this kind is to be made hereafter.

These principles deserve to be separately examined. They virtually repeal all the laws heretofore made as to navigation and impost, by indirectly equalizing the tonnage and duties on the British and American vessels; and they restrain, in future, the powers of Congress on some of the most important regulations of foreign commerce that could come before them.

On a review, then, of the commercial articles, they may be summed up as follows: West India trade left blank by the suspension of the 12th article. East India trade subjected to a condition of residence, rendering it precarious, and restricted to a landing of the goods exported in the United States, not known to have ever been imposed in any way similar, on any other nation trading to Bengal, while all nations are constantly allowed an equal liberty of trading there with ourselves. European, and both these trades, liable to an equalization of tonnage and duties, that cannot but operate unfavorably to the American navigation. Should the countervailing duties take place in the British ports in Europe on American vessels, they will probably be shut out of them altogether. In time of foreign war, our ships deprived of the neutral rights of carrying allowed them by Treaty with France and Spain, and exposed to be captured and detained on suspicion, as now daily happens. Naval stores exposed to confiscation by England, when shipped, at a time when she is at war, to the ports of her enemies.

In all these instances our navigation is materially endangered and exposed, without any equivalent advantages. May it not now well be asked, Whence it comes that this interest of navigation hath become less an object of care to us than at the time we passed the laws of duty and impost on foreign ships and goods imported into them? I stated the other day my ideas of the immense importance of navigation. Mr. Burke gave the following opinion of a branch of it in 1775:

"As to the wealth which the Colonies have drawn from the sea by their fisheries, you had all that matter fully opened at your bar. You surely thought those

acquisitions of value, for they seemed even to excite your envy; and yet the spirit with which that enterprising employment has been exercised, ought rather, in my opinion, to have raised your esteem and admiration. And pray, sir, what in the world is equal to it? Pass by the other parts, and look at the manner in which the people of New England have of late carried on the whale fishery. Whilst we follow them among the tumbling mountains of ice, and behold them penetrating into the deepest frozen recesses of Hudson's Bay and Davis's Straits; whilst we are looking for them beneath the Arctic Circle, we hear that they have pierced into the opposite region of Polar cold, that they are at the antipodes, and engaged under the frozen Serpent of South Falkland Island, which, seeming too remote and romantic an object for the grasp of national ambition, is but a stage and resting place in the progress of their victorious industry. Nor is the equinoctial heat more discouraging to them than the accumulated winter of both the poles. We know that whilst some of them draw the line and strike the harpoon on the coast of Africa, others run the longitude, and pursue their gigantic game along the coast of Brazil. No sea but what is vexed by their fisheries, no climate that is not witness to their toils. Neither the perseverance of Holland, nor the activity of France, nor the dexterous and firm sagacity of English enterprise, ever carried this most perilous mode of hardy industry to the extent to which it has been pushed by this recent people—a people who are still, as it were, but in the gristle, and not yet hardened into the bone of manhood. When I contemplate those things, when I know that the Colonies in general owe little or nothing to any care of ours, and that they are not squeezed into this happy form by the constraints of watchful and suspicious governments, but that through a wise and salutary neglect a generous nature has been suffered to take her own way to perfection—when I reflect upon these effects, when I see how profitable they have been to us, I feel all the pride of power sink, and all presumption in the wisdom of human contrivance melt and die away within me."

Since then our navigation has had the growth of a man arrived at full age, (twenty-one,) and become extended to an immense size; yet was it so unprotected that, in this year, the United States wanting to remit, out of some cargoes of sugar and coffee shipped on private account, money to pay the interest of their debts in Holland, they were under the necessity of asking passports for these cargoes of the French and British Ministers, to let this property pass in safety over the Atlantic; and I have seen it boasted in some of our papers, that orders were issued by the British Government to their Port Admirals to respect these passports thus given by their minister or agent here; so the United States left their own merchants to carry their sugar and coffee as they might, but obtained passes for ships, in the proceeds of whose sales they were interested. What a strange circumstance, this! The American Government sailing secure under passes—the private merchant exposed!

But it is asked, if this Treaty be so unfavorable to commerce, why are the merchants so much in favor of it?

They explain the reason themselves. They are influenced by the present rather than future interests. Five millions of spoliations they look to the Treaty to repay; their property afloat, they fear to be taken, and war they dread; but is there really weight in these arguments? I am as largely interested as any individual among them in shipping, and have suffered the loss of one of my cargoes at Bermuda, for which my underwriters have made me only a partial allowance; but I neither dread any war on the part of England, situated as she now is, nor expect any payment of my loss from the Treaty. To a nation to whom she offers bounties to carry her provisions, and who is so excellent a customer for her manufactures, she will not be easily induced to offer hostilities that shall go to the extent of war; and the Commissioners on Spoliations are to act in London merely as arbitrators of the law of nations, on whom our claim of spoliations is at best but a very uncertain dependence. The merchants in sundry parts of the United States having thought it so, have claimed the interference of Congress in advancing them the money, they rather doubted getting any where else.

Considering, then, this Treaty as merely a bargain exhibiting little or no profit and much to lose, I separate it from all considerations foreign to itself. I judge it on its own merits, and these must lead me to vote for the proposition to suspend appropriations, especially in a moment when our seamen continue to be impressed and our ships to be taken.

SATURDAY, April 16.

Execution of British Treaty.

The House then resolved itself into a Committee of the Whole on the state of the Union, and took up the resolution for carrying into effect the Treaty with Great Britain.

Mr. NICHOLAS said, he was sorry to find gentlemen unwilling to go into a discussion of the merits of the Treaty, as he anticipated considerable benefits to the community from a fair investigation. He did not know, as had been said, that it could have no effect on the minds of members of the House, but he thought it necessary that the people should be enabled to form a just opinion of the merits of this compact, that neither opposition nor their attachment, should go beyond just bounds; that fair investigation was the most likely means of producing that calm in the public mind which he wished to see produced whenever Government had finally decided, and he would

venture to say, there was no place which could be resorted to for more sound information.

In considering the merits of the Treaty itself, Mr. N. said, he would consider the subjects which pressed themselves on the negotiator and demanded provision. These were chiefly the disputes arising under the Treaty of 1783, late depredations on our trade, and the settlement of contested principles to guard us against future misunderstandings.

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The cases arising under the Treaty of 1783, as heretofore contested, were negroes and other property carried away contrary to its stipulations; the territorial claim under it, and on the part of Great Britain, an interference in the recovery of private debts.

Of the negroes, nothing is said in the present Treaty. It is to be expected in negotiations, that some concessions are to be made for the sake of accommodation, and this sacrifice of private interests becomes sometimes unavoidable. This claim was of considerable importance to a class of the citizens of the United States, but it was of still greater importance, as it justified the United States from the charge of breaking the Treaty of Peace. In this respect it was highly incumbent on the negotiator to procure satisfaction. It will not be contended that it should have been a *sine qua non* in the negotiation, and it would not now be mentioned, if it was not necessary to a fair estimate of some of the stipulations of the Treaty, and if there had not been so uniform a surrender of the interests of the United States as to compel a calculation. It is now said, indeed, that the meaning of the Treaty of 1783 was mistaken, and that the engagement was only to refrain from carrying away negroes, &c., which should be found in possession of the inhabitants at the time peace should take place. It is not necessary now to go into a construction of the words of the article, as its meaning has certainly been fixed by the interpretation of the parties in the ten years which elapsed after it. In all that time the United States have asserted the claim, and it cannot be shown that Great Britain ever contested the construction of the article. It is said, that one of the Commissioners, (Mr. Adams,) who concluded the Treaty of 1783, in behalf of the United States, informed the Senate, in their deliberations on this Treaty, that it was the unquestionable meaning of the article, to save all negroes and other property then in the hands of the British; that the article was inserted after all other points had been settled at the instance of Mr. Laurens, who just then arrived from his confinement in London, and the reason assigned by him was, that many of the people of the United States would be disabled from complying with the part of the Treaty which respects debts unless this provision was made; that the same gentleman, who was afterwards Ambassador from the United States to the Court of London, also informed the Senate that, during his embassy, this construction of the article was never denied, and that it seemed to be understood by the Ministry, that, on a settlement with the United States, compensation must be made. This subject was fully investigated by the negotiator of the Treaty (Mr. Jay) while he was Secretary of Foreign Affairs; all the reasons which now arm the friends of the Treaty against this claim were examined by him, and then his decision was, that we were entitled to compensation. The reputed author of the best defence of the Treaty, (Mr. Hamilton,) in the year 1783, introduced a resolution into Congress, declaring that the negroes, &c., had been carried away by the British armies, contrary to the true intent and meaning of the Treaty. Mr. N. thought it too late to extort a meaning from a contract after it had existed more than ten years; and he did not doubt every candid mind would be satisfied by the acquiescence of Britain, and the evidence which he had produced of a perfect understanding between the two countries on the subject. If the new construction of the article could not be established, the first infraction of the Treaty of 1783 remained indisputable. Before the Treaty became binding, Great Britain, by carrying away the negroes, put it out of her power to execute the contract which she had made, while, on the part of the United States, no act had been done which was inconsistent with the Treaty, provided the acts of the States did not continue to operate after the ratifications were exchanged.

Before he examined the cases provided for in this Treaty, it was necessary to remark, that the Treaty declares its intention to be to settle the disputes of the two countries without regard to former criminations, and all the writers in favor of the Treaty, declare that it was necessary to waive the first infraction of the former Treaty. This was a proper principle, and he only asked that it should have been pursued. This spirit of conciliation must have meant to put both parties on the same footing, either by agreeing that neither party had been the cause of the Treaty not being executed, or that both had been equally guilty. He would examine whether either of these concessions had been pursued.

To obtain a surrender of the posts, and the territory withheld from us, we have sanctioned the subsequent alienations of land by the King of Great Britain. We have confirmed the claims of the inhabitants and dispensed with their allegiance, by permitting them to remain subjects of Great Britain; we have opened our frontier to all their citizens, and permitted them to retain a share of the Indian trade. Mr. N. did not pretend to judge of the commercial effect of the intercourse between the frontiers, but he apprehended that, in another respect, this concession would destroy the whole value of the acquisition. The traders would be enabled to maintain their accustomed influence over the Indians, and would have more inducements than when they had a monopoly of the trade to embroil them with the United States. Formerly, they were interested in their continuing in peace, as war prevented the acquisition of skins and furs; but when American traders shall embark in the trade, they will have an obvious interest in war as the certain means of banishing their rivals. It appears, then, that the Treaty of 1783, in this respect, is not revived—that there is a new contract with respect to the posts, and much less will be obtained than if that Treaty had been executed.

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When the claims of Great Britain, under the Treaty of 1783, became the subject of the present Treaty, the stipulations discover a different principle. The United States give up the claim for

negroes, and agree to receive the posts on terms which greatly diminish their value; but, when the debts due from citizens of the United States to subjects of Great Britain are to be provided for, there is not a stipulation that they may now be pursued without hindrance, but there is an engagement, on the part of the United States, to pay all losses which have arisen from the infraction of the Treaty of Peace, so far as it respects them. On what ground could this assumption have been made? Why is this penalty imposed on the United States? There can be but one justification, and that is, that they had been guilty of the first infraction of the Treaty of Peace, and must make amends; but there was to be no concession of this kind, so that if damages were to be given at all, they should be given on both sides. It seems clear, then, whatever pretences are made by the Treaty or its advocates, that the first infraction of the Treaty of Peace is fixed on the United States, and that they are to make compensation for an injury. Where does the conciliating temper of Great Britain manifest itself? Had she a claim under the Treaty of 1783, which is forgotten? Does she not receive every thing which she could have demanded in relation to that Treaty? The United States are to indemnify her citizens completely for the non-execution at the time, and are to receive less than was promised them without the least compensation for the delay. But it is somewhere said, that the damages could not be demanded for withholding the posts, because they could not be computed. It will be agreed by those who press the acceptance of this Treaty in order to obtain the posts, that they are important to the United States. If of the consequence which they are represented to be, twelve years dispossession must have been a real injury, and the claim on Great Britain will be indisputable, although the amount may not be certain. This might be a good pretext for evading a payment to the United States, if this claim stood unconnected with any other; but it must be considered as a very shameless suggestion to enforce the payment of damages incurred by them. It is certainly a sufficient justification for retaining what is in their hands until Great Britain shall offer something on this account; otherwise she will be screened by her cunning in causing the subject of injury. Again, it has been said that this inequality in the Treaty was proper, because the right to recover debts returned with the peace, and did not depend merely on the Treaty. It is to be remembered, that the United States justify it as a retaliation for breach on the part of Great Britain, and that, in forming this Treaty, it was agreed to waive the right to retaliate: or, rather, the question, who first infringed the Treaty. It is only to be inquired, then, whether this was a proper subject of retaliation? and if it was, the United States ought to escape all penalty for using it, or Great Britain must be equally subject to compensation for her infractions. (For this, see *Marten's Law of Nations*, page 268, where it is said that it matters not, in this respect, whether rights are innate, or whether they have been acquired by express or tacit covenant, or otherwise.)

Another class of claims which may fall on the United States is still more alarming—those for war-interest. The Treaty has explicitly authorized the commissioners to judge of all claims of British subjects lost by legal impediments, whether of principal or interest, and they are to determine according to justice, equity, and the law of nations. In the correspondence on this subject between the two Governments, the right has been asserted and denied; and it will depend on the commissioners to say whether war-interest is due or not; and it being to be supposed that the commissioners will advocate the principles of their respective Governments, the United States are to depend on the chance election of the fifth commissioner for safety. If it shall be determined that it is due, the mischief will be insufferable. It will not merely be recovered in those cases where the principal is unpaid, nor will it be confined to those cases where it has been lost by actual judgment of a court, but will extend to all cases of private settlement, where the decision of the Judiciary of the State had previously settled the principle.

It appears, then, that on the subject of the disputes arising under the Treaty of 1783, there is no cause for congratulation. The claims for negroes carried off are abandoned; the posts are to be delivered up, on terms not unusual and dishonorable, but extremely dangerous to the future peace of the United States, and to obtain them in this manner we incur an obligation to pay a sum which probably will not fall short of five millions of dollars, and which may possibly amount to fifteen millions. When it is remembered that these claims commenced with our independence, and that they were the concessions to our infant struggles, what American is there who will not feel the disgrace to our manhood in abandoning them? All must blush at a comparison of the Treaty we obtained with our arms, with that which has been dictated by fear.

The next subject which claimed the attention of a negotiator was the injury recently sustained in the commerce of the United States; and on this subject it will be proper to review the circumstances in which the negotiator left this country. The losses sustained had been considered here as outrages of so serious a nature that all parties had concurred in demanding reparation; some had attempted at once to use coercion, and those who approved the mission declared that war must follow a failure. In this situation, where the sense of Government and people was decided, and where the injury was not only intolerable in itself but was likely to be repeated, it seems astonishing that a man could be found who would conclude a Treaty which gives to the United States no compensation, but more astonishing that partisans could be found here who approved his conduct. It may be asserted that no compensation is secured by the Treaty, and that under its operation it is equally probable that none will be received. See the article. It has been doubted, and is, perhaps, very doubtful, whether the Courts of Great Britain are not made the judges of irregular and illegal captures and condemnations, and whether the orders of the King are not admitted as good cause of seizure; but it never has been contended that compensation is promised in any particular case, or that any principles are established by the Treaty which are to govern the commissioners. In the construction of their powers, insisted on by the advocates of the Treaty, their guides are justice, equity, and the laws of nations. Nobody can complain of these principles, if their fair operation was secured; but a moment's attention will show that this was

nothing but an evasion of the subject.

It will not be understood that I suppose it was in Mr. Jay's power to make his own terms, but I complain of his treating at all on the terms he did. It is said that it was not in his power to extort what he wished, but I complain that he yielded to the extortion of Great Britain. What has he left her to ask, what has he not surrendered? While professing, as the Treaty does, that there were important points of our commerce left for future negotiation, why bind us to continue to Great Britain the fullest share of our commercial privileges? If the Treaty had been the most complete and satisfactory, would it not be necessary to leave something to enforce its execution? What weapons have we which can reach her? The Treaty makes war indispensable, as the only redress of injuries, and how will war from the United States reach Great Britain? It was certainly improper to give up all power of restricting her commerce until the same instrument contained the fullest satisfaction as to our own. It was improper to give up all the power of seizing on the debts of her subjects, for this, when the power of restricting her commerce was bartered for equal privileges, would be the only means of maintaining respect. It is not necessary that weapons of any sort should be used, but it is more dangerous to surrender them. I am no friend to interference in private contracts, and I can truly say, I never was willing to resort to this remedy till all others had been tried; but if there was an impossibility of doing it, the want of the power would immediately be felt. The impolicy and immorality of sequestration have been dwelt on. Contrast it with war, for which it is a substitute, and it will be found in both respects unequal to it. All national remedies are attended with great mischiefs to those who use them, and they must be adopted only on comparison in this respect, and with regard to their effects on the enemy. In this last respect there seems to be no choice to the United States; they have no other weapon that can reach Great Britain, and I greatly fear that, when this is lost, we are completely disarmed.

MONDAY, April 18.

Treaty with Great Britain.

The House then resolved itself into a Committee of the Whole on the state of the Union; when the resolution for carrying the British Treaty into effect being under consideration—

Mr. GILES said it was much to be regretted that all the information which could throw light upon the subject of discussion should not be before the committee. A sense of responsibility arising from the peculiarly delicate nature of the question had induced the House to take every step with more than a common degree of caution. Before they proceeded to deliberate upon the expediency or in expediency of providing for carrying the Treaty into effect, they made a request to the PRESIDENT for the papers which attended the negotiation. This request has been refused; not because the call itself contained any thing unconstitutional; not because the contents of the papers called for were of such a nature as to render the disclosure thereof at this time improper. Neither of these causes being intimated in the Message, but because principles were advocated by individual gentlemen in the course of the argument inducing the call which the PRESIDENT thought not warranted by the constitution. Mr. G. said, he did not propose to animadvert upon the conduct of the Executive in departing from the resolution itself, and in noticing the arguments of individual members, nor upon any other part of the proceedings of the Executive relative to the call of the House and his refusal. He only meant to remark, that being perfectly convinced of the propriety of the call itself, of the utility of the information embraced by it, and not being satisfied by the arguments of the PRESIDENT of the propriety of withholding the papers called for, he should have been willing to have suspended all further proceeding respecting the provision for the Treaty, until the papers should be laid before the House. He would have firmly placed himself on that ground, and in that position hazarded his responsibility. The extreme sensibility excited on the public mind by the agitation of the Treaty question, he had supposed, would have furnished an irresistible argument in favor of complying with the request of the House, provided no inconvenience would have attended the disclosure; and in his opinion, under all the circumstances of the case, the House would have been completely justified in suspending all further proceeding upon the question of providing for the Treaty, until they received that information which they deemed necessary to guide their deliberations. But as the House had thought proper to take a different course, and had proceeded to the consideration of the question, with such lights as they possessed, he would explain the motives which would probably finally influence his vote.

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Mr. G. said he should discuss the subject in two points of view. He would first examine the contents of the Treaty itself, and then the probable consequences of refusing or of giving it efficacy.

In examining the contents of the instrument itself, he proposed to go through it article by article, unless the task prescribed to himself should exceed the bounds usually allowed to members for the delivery of their sentiments. He should do this, because he wished to treat the subject with the utmost candor, and to avoid any possible imputation of intending to exhibit the bad and avoid the good parts of the Treaty, if any such there were. He meant, however, to state merely the purport of many of the articles, without any animadversion, and to dwell only upon such as appeared to him the most material.

The first object of the negotiation respected the inexecution of the Treaty of Peace.

On the part of Great Britain, two articles had been unexecuted: The restoration of certain property in possession of the British at the close of the war, and the surrender of the Western

posts. On the part of the United States, one article was suggested to remain unfulfilled; it respected the promise that no legal impediment should be thrown in the way to the recovery of debts due to British subjects.

The claim of compensation for the property carried away in contravention of the Treaty of Peace is wholly abandoned, and the value of the surrender of the posts very much lessened by the annexation of conditions which made no part of the stipulations of surrender in the Treaty of Peace. The United States are more than bound to fulfil the article heretofore unfulfilled by them; for instead of continuing the courts open for the recovery of debts in the usual way, as was the promise in the Treaty of Peace, they are made to assume the payment of all debts, interests, and damages in cases of insolvencies, and a mode of adjustment is proposed for ascertaining the amount which furnishes the greatest latitude for frauds against the United States which could be devised. This will appear in the future examination of the subject. Hence it is obvious that the stipulations of the Treaty abandoned the very principle of adjustment assumed by a gentleman from Connecticut (Mr. SWIFT.)

Mr. G. would first premise, that if the article did not intend the restoration of property mentioned in it, the insertion of it in the Treaty was not only unnecessary, but mischievous, as it would necessarily produce embarrassment to the parties to the instrument.

The British army, at the termination of the war, was at New York; the negroes, which constituted the species of property in question, were in the Southern States; so that if the article did not include that species of property taken in the course of the war, and in the possession of the British at the end of it, it was worse than nonsense. It never could have been supposed that, upon the first dawn of peace, the British would have left New York and invaded the Southern country, for the purpose of plundering the inhabitants of their negroes. The peace article itself was a sufficient security against this conduct, and of course no specific provision could have been necessary for that purpose. This was not only the uniform construction of the article by the United States, but, as he always understood and believed, Great Britain had acquiesced in the construction until the negotiation of the present Treaty. As an evidence of these facts, Mr. G. observed, that American commissioners were permitted to make a list of the negroes in the possession of the British at the close of the war by the British commander; that the list was entered upon the files of Congress; that there were resolutions of Congress claiming compensation for the property carried away in contravention of that article in the Treaty of Peace, perhaps without even the intimation of a doubt as to the construction; that, during the administration of Lord Caermarthen, he had always understood that the claim of compensation for property carried away, was admitted, whenever British subjects were indemnified for the debts due to them from citizens of the United States. But here he had to regret the want of the papers called for by this House, as they contained all the evidence upon which this important fact depends. Hence it appears that Great Britain herself had yielded her assent to this construction, and ought not to have been permitted to have withdrawn it afterwards. These circumstances seemed to him to be conclusive, and ingenuity itself would pause for arguments against facts so stubborn and irresistible.

Mr. G. then proceeded to the examination of the articles of the Treaty. The first article, he said, was declaratory of peace, &c., between the two countries, which, he said, was a very desirable thing, provided it could be established upon principles compatible with the national honor and the national interests. The second and third articles contained the stipulations for the surrender of the Western posts, and the conditions accompanying the surrender.

The surrender of the Western posts, he said, would be an extremely desirable object, if conformable with the Treaty of Peace, and it were unattended with any conditions.

Here, he said, he was desirous of giving credit to every part of the instrument which would admit of it, and was not disposed to exaggerate its imperfections. He was willing to admit that the surrender of the posts, even with the conditions annexed, was of some importance; but he would assert that the surrender lost a great portion of its value to the United States, in consequence of the conditions attached to it. He observed, two objects of primary importance were to be effected by the unqualified surrender of the posts. The one was to obtain the influence over the Indians in their neighborhood, which the British now possessed. The other, the participation, at least, in the fur trade carried on with those Indians. The conditions accompanying the surrender, will, in his opinion, very much impede the one, and completely defeat the other object.

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The stipulation in the second article, which authorizes British subjects who are now living within the precincts or jurisdiction of the posts, still to continue and to reside there, with the free use of their property; and to elect either to remain British subjects or to become American citizens at pleasure, will, in his opinion, very much impede, if not wholly obstruct, the salutary influence of the United States over the numerous tribes of Indians in that quarter; which is one great object hoped for from the possession of those posts. The effects of the stipulation will appear more obvious, when it is compared with the stipulations in the next article, by which the trade with the Indians is regulated. The second object, to wit, the participation in the fur trade, he believed, would be completely defeated by the regulation of that trade in the third article; that article stipulates an equality of duties between American citizens and British subjects, a free communication through that country, upon an equality of portages and ferriages. These conditions, in his opinion, would secure a complete monopoly of the fur trade to Great Britain; because the superiority of the British capital employed in that trade, and the inferiority of duties paid upon goods imported for that trade into Canada, would, in his judgment, wholly exclude American citizens from a participation in that trade, through any channel in the United States. The United States had no mode left to counteract this monopoly but by a system of drawbacks,

which appeared to him, from the nature and trade of the country, to be almost impracticable; or if not absolutely impracticable, it would compel us to purchase the trade at a price greater than it was worth. It appeared to him that Great Britain had foreseen these consequences, and that these articles are as well calculated to produce them, and to obstruct the views of the United States, as sagacity itself could have devised. Hence it appears to him that the value of an unqualified surrender of the posts is very much lessened by the accompanying conditions. The gentleman from Connecticut observed, that the surrender of the posts was absolute, and that no conditions were annexed to it. It is a sufficient answer to say that his observation is a mere criticism upon terms. If they be not conditions of the surrender, they are accompanying engagements, and are to be executed with good faith by the United States.

The sixth article was, in his judgment, highly objectionable. This article assumes the payment of all debts, interests, and damages, due from American citizens to British subjects, previous to the Revolution, in all cases where insolvencies have ensued, and where legal impediments to the recovery of the debts have existed. He would remark, that this was an assumption of debt by the public, which they did not owe, and never promised to pay, and that it is bettering the condition of the British creditor under the Treaty of Peace, without any obligation on the United States to do so. He said that, as, amongst the fashionable calumnies of the day, this article had been a fertile source of misrepresentation against the State he had the honor to represent, he was anxious to place this subject in its true light; and, as he professed to be well acquainted with it, he hoped to be indulged with some minutiae of explanation. He said, this subject presented two aspects to the public; the one, as it respected States, the other, as it respected individuals of the United States. As to the first, he admitted that if a greater proportion of debts of this description were due from Virginia than from other States, which had not, however, been ascertained, and which he doubted, in the same proportion, as a State, Virginia would receive an advantage over the rest of the States, by a common assumption of the debts; but as it respected the individuals in that State who were not debtors, they stood precisely on the same footing with individuals in other States, because they were, in common with others, to contribute to the payment of debts which they never owed. It is of very little consolation to them that they live in the neighborhood of those whose debts they are to contribute to pay; for propinquity or distance can make no difference in the state of interest between the individuals who do not owe, but who are to contribute to pay. As a very small proportion of the inhabitants of Virginia come under this description of debtors, the phenomenon of an opposition of that State, to this particular article, is thus explained.

It is to be remarked, that this article contains no limits as to the amount of debts assumed by it, nor are there any precise data furnished for calculation. But it has been said, that if the debts be due, they ought to be paid, be the amount what it may. He said, that gentlemen should reflect, that the amount would depend very much upon the mode of adjustment, and that the mode adopted by the Treaty was the most objectionable that could be devised.

He observed, that the principle established for the adjustment of the debts, instead of preserving the conflicting interests of debtor and creditor, would produce a complete union of interests; and of course would furnish the greatest temptations to frauds against the United States from both debtor and creditor. Hence the amount of debts assumed by the United States would probably be greatly increased beyond what would be the amount, if the debtor and creditor should be left to the ordinary course of judicial proceedings to adjust their own differences, under the principle of opposing interests. To entitle the creditor to a claim upon the United States, it is necessary for him first to establish his demand against his debtor, and then to show that his debtor was solvent at the commencement of the late war, and has since become insolvent; and that some legal impediment had intervened to prevent the recovery of the debt. Hence it becomes the interest of both debtor and creditor to establish these facts, because the debtor will be relieved from his debt, by the assumption of the United States, and the claim of the creditor will be transferred from the individual to the United States, which he would, in all cases, prefer, particularly as the assistance of the debtor will often become necessary to facilitate the establishment of the debt. This, he said, was the natural operation of the union of interest produced by the assumption of the debts by the United States, and there was more danger to be apprehended from it, from the impossibility of checking it, by any vigilance on the part of the United States, and from the peculiar circumstances attending those debts.

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The greatest proportion of debts remaining unpaid, he believed, stood upon open accounts. In many cases, when the debts were evidenced by specialties, payments had been obtained, either by the usual course of judicial process, or by compromise between the parties. There were two circumstances attending the open accounts which would give great scope to the fraudulent combinations between the debtor and creditor. The one respected the evidence, the other the substantial causes of difference in the accounts of the creditor and debtor. In the reign of George II. an act was passed for the more easy recovery of debts due to His Majesty's subjects from His Majesty's plantations in America. This act authorized the merchant in Great Britain to establish his debt against a colonist by affidavits taken before the commencement of the suit, and authenticated in the usual mode. This deprived the defendant of all opportunity of cross-examination, so essential to the discovery of truth, and the jury of all knowledge of the character and credibility of the deponent.

In Virginia, the affidavits taken in pursuance of this act, have been deemed incompetent to the establishment of the debt, because the act itself destroys the very nature and properties of evidence. Hence, in all disputed claims founded upon this act, judgments have been rendered for the defendants. If this should be deemed a legal impediment to the recovery, this whole

description of debts would probably come under the description of debts assumed. He observed, that the words used in the Treaty were calculated, in his opinion, with a view to this construction, and must have been dictated by persons better informed of the nature of this business than he presumed the Envoy Extraordinary of the United States could have been.

The other circumstances arose from the nature of the remittances. These were generally made in tobacco. The sales of this article were intrusted solely to the merchant residing in Great Britain, and the American shipper had no check whatever upon the merchant making the sale. Upon tendering these accounts, the tobacco is often set down at a price very inferior to the average price of that article in Europe, at the time of making the sale. A great number of controversies have taken place upon this ground, which remain unsettled; but, if the United States should assume the debts of the individuals thus circumstanced, they would have no inducement to contest these accounts in a course of judicial proceedings, and the promise of exoneration from the creditor, will often induce the debtor to facilitate the establishment of the claims against the United States. He said he had not overlooked the clause in this article of the Treaty, which compels an assignment of the claim from the creditor to the United States, but that would have little or no operation to check the practice invited by this article, because the debtor is presumed to be insolvent before the assignment is made, and he believed the United States would be but unsuccessful collectors from insolvent debtors.

From these circumstances, he concluded, that this assumption of debt, without any obligation for so doing, was extremely improper, particularly when it is recollected that this article sweeps away all acts of limitation, and relates to the whole extensive scene of business carried on in the United States, from the extremes of New Hampshire to the extremes of Georgia, for an unlimited time before the Revolution. He observed, if he were to make a conjecture as to the amount, it would be a loose one; but if he were to choose between indemnification to the American merchants for recent spoliations committed upon their commerce, or the payment of these debts, he should not hesitate to prefer the first alternative; because, to that there were known limits; to the other there were not, nor any data for calculation under the mode of adjustment prescribed by the Treaty. He, therefore, cautioned gentlemen against the assumption of this unascertained debt, for he believed it would be attended with a responsibility which they could not answer to their constituents, nor would the responsibility be alleviated by the recollection of the merits of the individuals for whose benefit it is made. The increase of the debt of the United States by these artificial means, without any obligation to do so, he thought highly objectionable.

The 10th article, he said, was of a very extraordinary complexion. It was remarkable, both as to the matter it contained, and the manner in which it was expressed. It is in the following words:

"Neither the debts due from individuals of the one nation to individuals of the other, nor shares, nor moneys which they may have in the public funds, or in the public or private banks, shall ever in any event of war, or national differences, be sequestered or confiscated, it being unjust and impolitic that debts and engagements contracted and made by individuals having confidence in each other and in their respective Governments, should ever be destroyed or impaired by national authority on account of the national differences and discontents."

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Mr. G. remarked, that this article also had assumed the resemblance of reciprocity; but no reciprocity in fact.

British subjects have great sums, both in public and private funds, in the United States. American citizens have little or no property in public or private funds in Great Britain. Hence the evident and substantial inequality of this reciprocal stipulation. On the other hand, American citizens have a great share of property on the water, with very little naval protection, and of course subject to the naval superiority of Great Britain.

If, therefore, Great Britain had stipulated, in case of war, that in consideration of a refusal on the part of the United States, to sequester property of British subjects upon land, she would not molest the property of American citizens upon water, there would then have been a substantial, instead of a nominal reciprocity; as the article now stands there is an important right conceded, and no compensation obtained.

This article, however, has been highly applauded by a particular description of persons interested in it, in consequence of the affectation of morality professed by it.

It has been said to be dishonest and immoral to take the property of individuals for the purpose of compensating national wrongs. He observed, that he could see no difference between the morality of taking the property of individuals upon water, and the property of individuals upon land. The difference of the element could make no difference in the morality of the act. However strongly, therefore, this moral impulse was operating upon the American Envoy whilst engaged in the construction of this article, it had entirely dissipated before he had arrived at the 25th article; for, in that article, the principle of privateering is not only admitted, but its operation facilitated; so that, unless the interest of Great Britain is to be the criterion of the Envoy's morality, what he has gained by the morality of the 10th article must be at least balanced by the immorality of the 25th. But, Mr. G. remarked, that sequestration was always admitted as part of the law of nations, and hence he presumed it was not immoral under certain circumstances. He said it appeared to be the opinion of some, that where the property of an individual was sequestered on account of the act of his nation, that the individual was to sustain the loss, but that was not the case. The sequestration itself imposes upon the government, to which the individual belongs, an obligation of reimbursement. Hence the sequestration does not ultimately rest upon the individual, but upon the Government, for whose wrong the property was taken. This is also conformable to the laws of

nations. It was the course pursued by Great Britain for all sequestrations made during the American war, and is the course which would be pursued by all nations.

Mr. G. said, that war itself was immoral in most cases; and justified, in his opinion, only in the case of self-defence; but if a stipulation had been inserted in this Treaty, which prohibited the United States from declaring war, it would have been justly and universally reprobated. The present article prohibits the United States from resorting to the best means not only of preventing war, but the most efficacious means of supporting it. Hence, the surrender of the right was the most impolitic concession, and is infinitely aggravated by its being a voluntary concession; no equivalent being received in return. Mr. G. said, it was dishonorable to the United States because it evidenced a want of confidence in the discretion of the constituted authorities. The right of sequestration is admitted to be essential to national sovereignty; but, lest it should be indiscreetly used by the United States, its guardianship is transferred to Great Britain. Mr. G. said, he viewed sequestration as an extraordinary remedy, to be resorted to only on extraordinary occasions. And although he would admit that but few cases would justify a resort to it, yet it was one of our best instruments of defence, considering our relationship to Great Britain, and ought not therefore to have been surrendered. He said, too, that this restraint was imposed upon the United States for an unlimited time, and was the more objectionable, as it was a species of legislation against the discretion of legislation.

Upon the whole, he conscientiously believed the Treaty to be a bad one. He believed it contained the most complete evidence of British interference in our internal affairs, and had laid the foundation for the further extension of British influence. It has restricted the exercise of some of the important rights of national sovereignty. It has voluntarily hazarded the neutrality of the United States in the present European war, and destroyed all pretensions to its character of impartiality. It has not afforded protection to our neutral rights, which was amongst its great objects; and in the adjustment of the differences resulting from the inexecution of the Treaty of Peace, it is unequal and unjust. All these important circumstances considered, and when it is also considered that the British persevere in impressing our seamen and seizing our vessels, in violation of the clearest rights of neutral nations, even since the signing of the Treaty, he could not consent to be the instrument of giving it efficacy. He believed that it was one of those extraordinary cases which justified strong and extraordinary resistance.

When Mr. GILES had concluded his speech,

Mr. GOODHUE addressed the Chair as follows: Mr. Chairman: Much noise has been made, and every art has been practised to prejudice the people against the Treaty now under consideration. I mean to look at it and see if it be the horrid thing it is represented to be, and particularly to examine the commercial part, to know whether we have made a good bargain or not, I will take notice of some objections that have been made, and then touch on the great evils that may justly be apprehended, if we refuse to carry it into effect. And here let me observe, the subject is the most momentous that ever came before this House, and I mean to put no false colors on it, or to paint any evils that will follow a rejection, beyond what, in such an event, I most conscientiously believe will be realized. I will now state what new sources of commerce are opened to us by the Treaty that we had not before, and then see what we have given for them. 1st. We have got by the Treaty a perfectly free trade across the land, and by means of the lakes with Canada, that we had not before, and on the same terms with British subjects, which I estimate as a great advantage to this country; for it is evident, that we can introduce into Canada—up the North river and across the Lakes—almost any kind of goods, at less expense and on better terms than the British can up the river St. Lawrence, which is very lengthy, and frozen up six or seven months in the year. Having this advantage, can it be doubted that we have not industry and enterprise to improve it? No, sir, the enterprise of our people is such, that we shall unquestionably carry on almost all the trade of Upper Canada, and that great Western country which will be opened to us; by which means we shall have at least an equal share in their fur trade also with them, which we have so long wanted. But it is said, the portages or carrying places being common to both, they will run away with the greater part of the trade. Why so? I am not afraid but the citizens of the United States, if they are put on an equal footing with others, will make their way equal with any people on earth. But it is said, by way of lessening the advantages of this trade, that goods imported into Canada pay little or no duty, and the goods that we import are by our laws subject to high duty, and that no drawback of the duty can be established upon their being sent into Canada, and therefore, we cannot supply them on equal terms. To this, I reply, that I do not know what duty they impose on goods when imported into Canada, but I believe it is considerable; and I do not believe but it is possible to devise a plan for a drawback of the duty which may have been paid on our goods when they are sent into Canada, and that at any rate the ease by which we can send them there up the North river, compared with their being introduced by the St. Lawrence, will more than compensate for any difference of duty, in case a drawback should not be admitted.

2. We have got established by the Treaty, a right to trade with all their settlements in India on the same terms with their own subjects, and thus we have laid open to us a free trade with those vast possessions of theirs in that quarter of the globe, which, it is said, contains twenty or thirty millions of inhabitants. Let me inform the committee, that our trade to India is already very great and profitable. In the town of Salem only, in which I live, we have thirty sail of Indiamen, and doubtless, in the United States, the whole amount must be nearly a hundred; and the number will increase in such a manner, as by our superior enterprise, industry and economy, that we shall not only supply our own wants, but those of the West Indies and Europe, in a great measure, with India articles; for though, by the Treaty which gives us this free trade, we are not permitted to carry India goods from their settlements directly to Europe, yet there is no doubt, in my mind,

but we can export from hence thither cheaper than they can get them any other way, for this obvious reason, because their trade to India is carried on by their companies, in which despatch and economy is by no means so much attended to, as it is when managed by an individual. But it is said we had this trade before the Treaty. I answer, it is true we had, but it was only by way of indulgence, subject to be deprived of it whenever they thought fit; and let me ask, is it not vastly better to have it secured as a right, than to have it rest on the precarious tenure of indulgence? Here, Mr. Chairman, let me remark, that they have granted to us this free trade to India, which their own subjects (except the India Company) are entirely shut out from. What must be the feelings of British subjects when they see their Government has given to strangers a perfect freedom of trade to their India settlements, and shut them out from it altogether? And what must be their astonishment when they hear that some people amongst us think that Great Britain has conferred no favor upon us by doing it? Hear what the famous Mr. Grattan, the great Irish patriot, said in the Irish Parliament, on the subject:

"This very America, which the British Minister insulted and then crouched to, had, by the late Treaty of Commerce, been admitted to all the British settlements in the East and West Indies, to the latter of which Ireland was only conditionally admitted, and from the former unconditionally excluded; yet Ireland was a loyal, attached nation, and America an alien."

These are the commercial acquisitions we have obtained by the Treaty; and let me ask, what have we given to Britain in return for them? I answer, nothing more than they have all along enjoyed in our ports, by the laws of the United States, in common with other foreign nations. No new commercial advantages have we given them; they can come here now on no better terms than before. But, it is said, we have tied our hands by the Treaty, that we will not lay any greater duties on their commerce than we do on all other foreign nations. Pray, let me ask, if Great Britain have not equally tied their hands? And can we be so unreasonable as to suppose that they would ever consent to a Treaty that had not such terms of reciprocity?

It is again said, by way of objection, that they have reserved to themselves the right of countervailing the difference of duty, which we, by our laws, have established between our own citizens and foreigners, and that she will now exercise that right by imposing equal duties on our vessels in the ports of Great Britain. Let me answer this objection to the Treaty, by asking if she had not this same right, and even an unlimited one, of imposing what duties she saw proper on our vessels in her ports before the Treaty? She did not see fit to exercise it then, neither is it probable she will now. And, lest it should be said she will now do it, because we are restrained by the Treaty from increasing the duty on her ships beyond what it now is, and, therefore, she has not the same fear operating to prevent it that she had before, let me remark, that if she was restrained by any such considerations, this same restraint would be in force again in two years after the present war ceased, being the period of the existence of those articles of the Treaty—a time so short as to render it highly probable she will not think it worth while to make the experiment.

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A great cry has been made against the commercial part of the Treaty, and I must confess I never could see on what ground, for it is a certain fact we have given Great Britain no new privileges in our Atlantic ports by the Treaty, and no other in their intercourse by the way of Canada, than they have given us; and, therefore, it may fairly be said that, by the Treaty, we have given them no new commercial privileges they were not before enjoying in our ports; and they, on their part, have given us considerable; and consequently, on our side, the bargain must be a good one.

Let me ask, why there is for ever so much complaint against Great Britain because she does not open all her colonies freely to us? Does Portugal open the Brazils? No; she shuts out all foreigners. Did Holland, before the present war, open to us all her rich possessions in the East Indies? No. Does Spain open her rich islands in the East and West Indies, and her immense possessions in South America? No. Does she, in the Treaty lately made, open even Florida, as Great Britain has Canada? No. Did France before this war give us free trade to her colonies? No. And do not all those nations, as well as every other, come into our ports on the same terms with the British? Why, then, make this rant about the British? Let them fare as well in our ports as other foreigners, inasmuch as they certainly grant as much to us as most others do, is all I contend for. I do not wish they should fare better.

The impressment of our seamen by the British is made use of as an objection to our carrying the Treaty into effect. It is, to be sure, a mortifying circumstance, and must excite our utmost detestation of such conduct. But let not our passions get the better of our judgment. We have no kind of evidence that such conduct is countenanced by their Admiralty, but the evidence we have is of a contrary nature, for, upon our Minister's remonstrating to the British Ministry on this point, they assured him that orders had been issued, and should be repeated to the commanders of their ships, not to commit such violences on our rights, at the same time observing, that, speaking the same language as we do, it was difficult in all cases to distinguish their seamen from ours. In this situation let us believe that a firm and spirited remonstrance will be made by our Executive against such outrages; and let us hope that it may have the desired effect. But, let me ask, if the Treaty should not be carried into effect, will that relieve that deserving class of our citizens? Will it not have probably a contrary effect, and be the means of increasing the evil tenfold more than it exists at present?

TUESDAY, April 19.

Execution of British Treaty.

The House then resolved itself into a Committee of the Whole on the state of the Union, on the motion for making provision for carrying into effect the Treaty with Great Britain; when

Mr. HEATH rose and addressed the Chair as follows:

Mr. Chairman: In the discussion of this so momentous and important a subject, and so big at the same time with the dearest interests of our common country, I shall not attempt any critical analysis upon the good and bad parts of the instrument, as the gentlemen preceding me in this debate have already done, but only confine myself to a few remarks, to justify my conduct to God and my country for the vote I shall give in the ultimate decision of the question. Mr. Chairman, permit me here to remark, that during the recess of the last Congress, when the American mind was roused with so much irritation and sensibility through all parts of the Union against this paper, after its first appearance in public print, I was one of those who kept aloof from the storm, suspended my opinion, became of no party, considering myself hereafter bound to discharge the important duties of an American Representative on the occasion. And now since the commencement of the present session, though two-thirds of my time overwhelmed with disease, and daily languishing in the bed of pain, even under such a dreadful personal calamity, my reflections were not turned aside from the awfulness of the subject before us; which before and during this discussion, I confess, as often as I have revolved in my mind, with a review of the situation of my country, I have frequently paused, not knowing the best expedient to pursue to avoid impending evils.

Mr. Chairman, I have strange forebodings on this occasion. By the second and third articles of the instrument before you, in the surrender of the posts, British subjects have a right to reside with us; Indians have a right to pass and repass from post to post from our district to their portages and ferriages free, all in the vicinity within gun-shot. Will not their traders continue their old acquaintanceship with them in spite of us? Are not their capitals for trade larger than ours? Where, then, are the real profits anticipated? All visionary, like the beggar's dream, grasping mountains of gold, and when the morning sun shakes off his slumber, it dissipates the delusion. But time will make more converts than reason. Further, before I quit this subject of inequality, I wish to remark, by way of reply to my much respected friend from Connecticut, who was up a few days ago, in language nearly similar, and the same sort of ingenuity of a celebrated champion, who has dedicated much labor in favor of this instrument, under the signature of *Camillus*, that Great Britain had never violated the seventh article of the Treaty of Peace in not restoring the slaves and other property; that they were taken in war, and their freedom offered to them by the British commanders, and were not taken after a cessation of hostilities; and, therefore, were not proper objects of surrender. Oh, the deceit, the sophistry of this construction! I shall just answer it by reading from the Journals of the old Congress what the real *Camillus*, or, in other words, the learned Mr. HAMILTON, thought of that article at that time. He read the Journals of 1783, where Mr. HAMILTON moved in Congress for commissioners to be sent to New York to the British commander to request an explanation respecting an infraction of that article. So was Mr. HAMILTON's opinion at that time, so was the prevalent opinion of all America at that time. My second point, the want of reciprocity in the instrument, has been so well explained by my worthy colleague from Virginia, that I confess I am curtailed in my sentiments a little here. But, suffice it to say, that the local circumstances of this country will make the suspension of the law of alienage more advantageous by tenfold, than could be reaped by American citizens over the other side of the water. Witness the great disproportion between American citizens holding lands in Britain and British subjects in this country. I wish it may not revive old proprietary rights, with its long train of tenure, fealty, and vassalage. Perhaps my fears may ensue from residing in that of Virginia, where this tenure once prevailed. I now come to the third objection, and the most important. Other objections, though they have their weight in my mind, yet perhaps they might yield their force, were it not for this the more insurmountable. This might be said with propriety to be the foundation of the call for papers from the Executive respecting the Treaty.

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By the various articles embracing this subject, the House of Representatives of the United States, in the Treaty-making power, have lived to see the day, which I am sure no human sagacity could have ever divined, that they may be considered as a perfect collective cypherical body of men in legislation, reduced to a mere Committee of Ways and Means, subservient to Executive policy, just called together, for voting the necessary supplies of money for foreign negotiation, or for the current annual expenses of Government. America is here totally disarmed of every alternative to resort to in the hour of distress—to prevent the horrors of war, no sequestration, no embargo, no commercial restriction, can be the subject of future legislation against the tender and humane people of Britain.

Is this right, is this just, that all our rights should be thus bartered away under a Treaty-making power? If it is so, and it must be borne, dreadful, dreadful, indeed, must be the calamity of future generations of America, under the operation of this Government; for any one of them, or all together, I would resort to an awful national crisis, sooner than sound the trumpet of war, and let the banners of blood loose upon the earth.

Mr. WILLIAMS said, that various opinions had been delivered upon the various subjects involved in the Treaty. He should take the liberty of stating to the committee his sentiments on the occasion, and then inquire into the policy or impolicy of carrying the Treaty into effect. But, in the first place, he conceived it to be necessary to take a view of its origin, the division, and party dissensions which then prevailed—the critical posture of our affairs, the depredations committed on our commerce, and the probability of a war.

Let us, said Mr. W., take a view of the debates of that House in the year 1793 and 1794, and he believed it would be discovered that if the business of negotiation had not taken place, this

country must have been involved in a war. It would be remembered, that a gentleman from Virginia, (Mr. MADISON,) on the 3d of January, 1794, laid on the table of this House seven resolutions. The object of which was to compel Britain to come to some terms of accommodation, and to prevent further depredations on our commerce.

After a discussion of several weeks, the first resolution, which was for imposing an additional duty on the importation of a great variety of manufactures from nations having no Commercial Treaty with the United States was agreed to by a small majority. Britain had, said he, ever since the end of the war, declined entering into any Commercial Treaty with us. In the mean time, the danger from British depredations augmented with such rapidity that those resolutions became insufficient, by reason of the seizure of an immense number of our vessels, in consequence of instructions that had been given by the British Ministry on the 6th of November, 1793; and other resolutions were then moved for the sequestration of British property, but the result was an embargo and negotiation.

Was it not then urged by members of that House that the British nation refused to negotiate with them? It was, indeed, supposed it would be attended with considerable difficulties, and that a considerable class of citizens, let the consequences be what they might, would not be satisfied with the result. However, it was thought best to adopt the measure.

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But, said Mr. W., let us waive this subject, and inquire if negotiation had failed, whether war would not have been the consequence? Can it be supposed that, after the British had committed certain spoliations on our commerce; after their Order of the 6th of November, 1793; after the declaration of Lord Dorchester to the Indians, that war would not have followed? The national pride of Great Britain could not have yielded to compulsion without self-degradation; and it would be remembered, too, that from the relation in which the two countries have stood to each other, it must have cost more to the pride of Britain to have received the law from us than from any other power. And if war had been the consequence, how were we to have recovered the amount of the spoliations committed on the property of our merchants? How were we to act? Were we to demand satisfaction? We have no protection to our commerce, and therefore the British can at any time arrest it without additional expense to themselves, having near 500 vessels of war at command.

What had been our situation ever since the negotiation? Have we not, said he, been one of the happiest nations upon earth? Yet we are about to oppose the necessary appropriations to carry into effect that Treaty which hath been the means of keeping us in a neutrality, and thereby hazard a war which may be our ruin.

But, if we arrest the Treaty by refusing to make the necessary appropriations, can we suppose Great Britain will carry the Treaty into effect on her part? It would be inconsistent to think so. Great Britain was certainly acquainted with what was going on within these walls, and would refuse to give up the posts at the time specified. Who had been the cause of the posts being so long kept from the United States? The State of New York had been too long kept from its just due; that State had not prevented the British from obtaining their debt, and the people now looked with anxious expectation to the time when the posts were to be given up. They were, at present, considerably alarmed, lest the British Treaty should not be carried into effect. He had received letters that morning, from some of his constituents, who were at New York, endeavoring to sell their produce (for a number of the farmers in that part of the country which he came from, did not sell their produce to the merchants, but attended the market with it themselves.) They write the price of flour had already fallen three dollars a barrel, and wheat four shillings per bushel. Who were to be the losers, under these circumstances? The farmers. Who had the most produce to sell? The farmers in the State of New York. The other day a resolution was laid upon our table, proposing to lay an embargo on the exportation of corn. This, if it had been agreed to, would have had an immediate effect on the State of New York.

What was the effect of the embargo in 1794? The farmers were obliged to sell their produce for what they could get. Whatever loss was experienced, fell upon the farmer; and so it will be with respect to their present proceedings. If merchants cannot get insurance, will they send their vessels out? No; and they will certainly give no more produce than they can sell their articles for, with a trade profit.

The great objection against the Treaty was, that payment for the negroes which were carried away by the British, at the close of the war, was not provided for. It appears that this, at best, was a doubtful point. General Carlton, previous to his leaving New York at the close of the war, and when the negroes were demanded of him, said, that many slaves had been declared free by his predecessors before his own arrival; over these, he said, he neither possessed nor could assume any control. He considered them as at liberty to go to any part of the world which they thought proper. He was unwilling to suppose that the British Ministry could stipulate, by any Treaty, to make themselves guilty of a notorious breach of public faith to people of any color. He considered restoration, where inseparable from a violation of that faith, as, in itself, utterly impracticable.

It was acknowledged by every gentleman that the Treaty of 1783 was broken by the United States; and, if so, what could their negotiator do? The British Government would not come into the same terms as the Treaty of 1783, in the sense and meaning of the gentleman from Virginia, nor would they admit that that Treaty compelled them to give up or make restitution for the negroes. Their negotiator, thus situated, no doubt concluded that the amount of the negroes was not an object which ought to prevent a negotiation so desirable at that time, and agreeable to the law of nations. The Treaty of 1783 had been violated. Here Mr. W. quoted several authorities,

among which was *Marten's Law of Nations*: "The violation of one article only of a Treaty, by one party, may, at least successively, give the other a right to violate the whole Treaty, unless this right has been formally renounced."

The United States having violated that Treaty, there was no other way than commencing a negotiation. And would gentlemen say that the negotiation had not been attended with beneficial consequences to this country? Was not peace the most to be desired, especially in our present situation? Had not the managers of our Government kept a watchful eye on our affairs? Had not our neutrality been the occasion of our wealth and prosperity? And having now entered into a Treaty with Spain, Algiers, and Natives, let us carry that with Great Britain into effect, and secure to us peace with all the world.

When Mr. WILLIAMS had concluded—

Mr. HILLHOUSE rose and said, the subject now under consideration was one of the first in magnitude he had ever been called to deliberate upon, and that the circumstances under which it came up were peculiar, for previous to the Treaty's being either promulgated or known, a hue-and-cry had been raised, and the prejudices of the people as much as possible excited against it, and he confessed it had not been without its effect upon his own mind. When the Treaty came out, therefore, he was led to examine it with attention, compare it with our Treaties with other nations, and those between Great Britain and other nations; the result of this inquiry was, that he found that no privilege or advantage given by Great Britain to the other nations was withheld from us; that advantages were secured to us which were enjoyed by no other nation, nor even by her own subjects: that we gave her little that was not enjoyed by every other nation; and, on the whole, that it was as good a Treaty as we had a right to expect, and as he had ever expected to obtain. He was sensible that prejudice, which, like a sentinel at the door of the human mind to keep out truth and argument, had induced many good citizens of the United States at first to be opposed to the Treaty, who, upon being prevailed on to give it a more candid examination, had declared in favor of it; but he hoped the Representatives of the people, called to decide on a question which might affect the dearest interests of millions, would, as much as possible, divest themselves of prejudice and passion: to do it entirely, he believed, was impossible.

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The first, and, if well-founded, the most important objection which he had heard made against the Treaty was, that a claim for negroes and other property carried away from New York had been wholly overlooked or given up by our Minister. Here, he said, he was sensible any argument he might adduce would be opposed by the party opinions formed at the time—when judging in our own case, and when we felt a great degree of sensibility for the losses and injuries we had recently experienced. He was not unapprised that Congress had claimed that the construction of the 7th article of the Treaty was such as to require the delivering up of the negroes, and had passed the resolution read by the gentleman from Virginia, (Mr. HEATH,) and that that opinion had, without examination, been implicitly followed by many respectable characters; but he hoped at this distance of time, he might expect a candid hearing, whilst he examined their arguments and the law of nations, to which alone resort can be had to decide differences between sovereign and independent nations. To his mind they were conclusive that we had not a well-founded claim; to every mind, he believed, they would render the claim at least doubtful.

His first inquiry, he said, should be, whether negroes were to be considered as property? This, he believed, must be admitted: they were thus recognized by the article itself, which says "negroes or other property." Negroes being mentioned amounts only to a specification of one kind of property; as, in the constitution, it says "capitation or other direct taxes," which is a conclusive recognition that a capitation tax is a direct tax, within the meaning of the constitution. Upon no other ground than that of property could the United States claim them; as men, they had a right to go where they pleased. Our commissioners, at the time of the embarkation, had no hesitation in declaring that they considered "negroes, horses, and other property," as being precisely on the same footing, and selected a claim for a horse as one of the strongest that could be found to enforce a compliance with this construction of the article. The claim was in these words:

"Mr. Vanderburgh had a horse stolen from him, out of his stable in Beekman's Precinct, in Dutchess County, 26th February, 1780, and the horse was conveyed by the person who stole him to a then British post, in Westchester County, where he has since been detained; so that Mr. Vanderburgh could not recover him again. The horse is now in the possession of Col. James De Launcy, of this city, from whom Mr. Vanderburgh has demanded him, and who refuses to deliver him to Mr. Vanderburgh."

In the letter of the Commissioners to General WASHINGTON, on this subject, they say:

"In the interview between the 15th and 24th, numbers applied to us for a restitution of their negroes and other property in the possession of others, but we supposed it most eligible to defer a requisition till a clear unequivocal case, similar to that of Mr. Vanderburgh's, where the proofs were at hand and not embarrassed with the circumstances of a capture in war or other pretences under which property is withheld here, should present itself; sensible that if restitution was denied in such an instance, it would inevitably be in every other."

It therefore appears clear that negroes, horses, and other property, were, by this article, placed upon the same footing, and that it was as much a violation of the Treaty to carry away a horse as a negro.

He next proceeded to inquire what was the situation of this property, and in whom, according to

the law of nations, it was vested at the time of executing the Treaty? This point, he said, Mr. JEFFERSON had fully settled to his hand, and read out of his collection the following extracts:

"We now come together (says Mr. Jefferson) to consider that instrument which was to heal our wounds, and begin a new chapter in our history. The state in which they found things is to be considered as rightful; so says the Law of Nations.—*Vattel*. The state in which things are found at the moment of the Treaty, should be considered as lawful, and if it is meant to make any change in it, the Treaty must expressly mention it. Consequently, all things about which the Treaty is silent, must remain in the state in which they are found at its conclusion.—*Bynk*. Since it is a condition of war that enemies may be deprived of all their rights, it is reasonable that every thing of an enemy's, found among his enemies, should change its owners, and go to the Treasury. It is moreover usually directed, in all declarations of war, that the goods of enemies, as well those found among us as those taken in war, shall be confiscated."

These authorities, he said, clearly proved that all negroes and other property which in the course of the war had been taken, or in any way had fallen into the hands of the British, had shifted their owner, and were no longer the property of the American inhabitants. In the case of negroes, the British Commander-in-Chief had exercised the highest act of ownership, by manumitting such of them as should conform to certain stipulations, pointed out in his proclamation. If any change was intended to have been made by the Treaty in the circumstances of these negroes, and it had been intended they should be again returned into bondage, there would have been some express stipulation to that effect in the Treaty. The words are, "and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies," &c. There is nothing that indicates the least intention that this article should have a retrospective operation. It can only relate to property then belonging to the American inhabitants. Wherever any article was intended to have a retrospective operation, some expression is used that clearly shows such intention. In this same article, speaking of delivering up records, deeds, &c., these words are added, "which in the course of the war may have fallen into the hands of his officers," &c. In the 4th article, "debts heretofore contracted." Any other construction would have required the restoration of vessels which had been taken from the Americans, and were then in New York, under the term "other property," as well as negroes and horses. If any negroes or other property, in the possession of the American inhabitants at or after signing the preliminary articles, were carried off, it was no doubt a violation of the Treaty, but he had not understood that they refused to deliver up property of that description, or that such property was carried off to any great amount.

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But this matter does not rest only on there being no words in the Treaty which can be construed to have a retrospective operation, but it is fairly to be inferred from the papers contained in this same collection of Mr. JEFFERSON, that it was so understood by the negotiators; for, in the course of that negotiation; it appears to have been a primary object with the British Minister to obtain restitution of the Tory estates, or compensation for them. They almost made a *sine qua non*, and a refusal to comply had well-nigh broken off the negotiation; and to induce the British Minister to relinquish that article, our commissioners brought in a claim for negroes and other property which had been taken, and towns and villages which had been destroyed during the war. He here read the following letter from Mr. Oswald, the British Minister, to our commissioners, viz:

"You may remember, that from the very beginning of our negotiation for settling a peace between Great Britain and America, I insisted that you should positively stipulate for the restoration of the property of all those under the denomination of Loyalists or Refugees, who have taken part with Great Britain in the present war; or if the property had been resold, and passed into such variety of hands as to render the restoration impracticable, (which you assert to be the case in many instances,) you should stipulate for a compensation or indemnification to those persons adequate to their losses. To those propositions, you said, you could not accede. Mr. Stachey, since his arrival at Paris, has most strenuously joined me in insisting upon the said restitution, compensation, or indemnification, and in laying before you every argument in favor of the demands, founded on national honor, and upon the true principles of justice. Those demands you must have understood to extend, not only to all persons of the above-mentioned description who have fled to Europe, but likewise to all those who may now be in any part of North America, dwelling under the protection of His Majesty's arm, or otherwise. We have also insisted on a mutual stipulation for a general amnesty on both sides, comprehending thereby an enlargement of all persons who, on account of offences committed, or supposed to be committed, since the commencement of hostilities, may now be in confinement, and for an immediate repossession of their properties and peaceable enjoyment thereof, under the Government of the United States. To this you have not given a particular and direct answer. It is, however, incumbent on me, as Commissioner of the King of Great Britain, to repeat the several demands, and without going over those arguments upon paper, which we have so often urged in conversation, to press your immediate attention to these subjects, and to urge you to enter into proper stipulations for their restitution, compensation, and amnesty, before we proceed further in this negotiation."

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To which our commissioners returned the following answer:

"In answer to the letter you did us the honor to write on the 4th instant, we beg

leave to repeat what we often said in conversation, viz: that the restoration of such of the estates of the refugees as have been confiscated, is impracticable, because they were confiscated by laws of particular States, and in many instances have passed by legal titles through several hands. Besides, sir, as this is a matter evidently appertaining to the internal policy of the separate States, the Congress, by the nature of our constitution, have no authority to interfere with it. As to your demand of compensation to those persons, we forbear enumerating our reasons for thinking it ill-founded. In the moment of conciliatory overtures, it would not be proper to call certain scenes into view, over which a variety of considerations should induce both parties at present to draw a veil. Permit us, therefore, only to repeat, that we cannot stipulate for such compensation, unless on your part it be agreed to make restitution to our citizens for the heavy losses they have sustained by the unnecessary destruction of private property. We have already agreed to an amnesty more extensive than justice required, and full as extensive as humanity would demand; we can therefore, only repeat, that it cannot be extended further. We should be sorry, if the absolute impossibility of our complying further with your propositions, should induce Great Britain to continue the war, for the sake of those who caused and prolonged it; but, if that should be the case, we hope that the utmost latitude will not be again given to its rigors. Whatever may be the issue of this negotiation, be assured, sir, that we shall always acknowledge the liberal, manly, and candid manner, in which you have conducted it."

In consequence of information from our commissioners that the claim was made and pertinaciously insisted on by the British Minister, Congress passed the following resolutions, viz:

"*Resolved*, That the Secretary for Foreign Affairs be, and he is hereby, directed to obtain, as speedily as possible, authentic returns of the slaves and other property which have been carried off or destroyed in the course of the war by the enemy, and to transmit the same to the Ministers Plenipotentiary for negotiating peace.

"*Resolved*, That, in the mean time, the Secretary for Foreign Affairs inform the said Minister, that many thousands of slaves, and other property to a very great amount, have been carried off or destroyed by the enemy, and that, in the opinion of Congress, the great loss of property which the citizens of the United States have sustained by the enemy, will be considered by the several States as an insuperable bar to their making restitution or indemnification to the former owners of property which has been or may be forfeited to, or confiscated by, any of the States."

Dr. FRANKLIN, in a letter to the British Minister, says:

"I must repeat my opinion, that it is best for you to drop all mention of the refugees. We have proposed, indeed, nothing but what we think best for you as well as ourselves. But if you will have them mentioned, let it be in an article which may provide that they shall exhibit accounts of their losses to commissioners hereafter to be appointed, who shall examine the same, together with the accounts now preparing in America of the damages done by them, and state the account; and that if a balance appears in their favor, it shall be paid by us to you, and by you divided among them, as you shall think proper. And if the balance is found due to us, it shall be paid by you. Give me leave, however, to advise you to prevent so dreadful a discussion, by dropping the article, that we may write to America and stop the inquiry."

The following article was accordingly drawn up and proposed to be inserted in the Treaty, viz:

"It is agreed that His Britannic Majesty will earnestly recommend it to his Parliament to provide for and make compensation to the merchants and shopkeepers of Boston, whose goods and merchandise were seized and taken out of the stores, warehouses, and shops, by order of General Gage, and others of his commanders or officers there; and also the inhabitants of Philadelphia, for the goods taken away by his army there; and to make compensation also for the tobacco, rice, indigo, negroes, &c., seized and carried off by his armies under Generals Arnold, Cornwallis, and others, from the States of Virginia, North and South Carolina, and Georgia: And also for all vessels and cargoes belonging to the inhabitants of the said United States, which were stopped, seized, or taken, either in the ports or on the seas, by his Governors, or by his ships of war, before the declaration of war against the said States. And it is further agreed that His Britannic Majesty will also earnestly recommend it to his Parliament to make compensation for all the towns, villages, and farms, burnt and destroyed by his troops or adherents in the said United States."

After pressing the matter to the utmost extent, we find, by Mr. ADAMS's journal, that on the evening previous to signing the Treaty, Ministers on both sides came to the following result: [Pg 725]

"Upon this I recounted the history of Gen. Gage's agreement with the inhabitants of Boston, that they should remove their effects, upon condition that they would surrender their arms; but as soon as the arms were secured, the goods were forbid to be carried out, and were finally carried off in large quantities to Halifax. Dr. Franklin mentioned the case of Philadelphia, and the carrying off effects there, even his own library. Mr. Jay mentioned several other things; and Mr. Laurens added the plunder in Carolina, of negroes, plate, &c. After hearing all this, Mr.

Fitzherbert, Mr. Oswald, and Mr. Stacey, retired for some time, and returning Mr. Fitzherbert said, that upon consulting together, and weighing every thing as maturely as possible, Mr. Stacey and himself had determined to advise Mr. Oswald to strike with us according to the terms we had proposed, as to our ultimatum respecting the fishery, and the loyalists. Accordingly we all sat down, read over the whole Treaty and corrected it, and agreed to meet to-morrow at O.'s house, to sign and seal the Treaties."

Will any candid man say, after reviewing these circumstances, that the 7th article was meant to secure the restitution of negroes and other property taken in the course of the war? If that had been meant, would it not have been improper to have urged it as an argument against the introduction of an article which would have subjected this country to immense embarrassment and expense?

It is true that the United States did challenge negroes and other property, which had fallen into the hands of the British previous to signing the Treaty. This circumstance, for the reason he had mentioned, and others that might be suggested, ought to have very little weight, for it is well known that recrimination of a violation of the Treaty soon commenced on both sides, and each mustered up every tolerable claim; many of which have since been admitted on both sides to be groundless. A circumstance which strongly corroborated what he said was, Sir Guy Carlton's letter on that subject had also been so grossly misunderstood and misrepresented, from that time to this, and now advanced by a gentleman on this floor, (Mr. GILES,) and even by Mr. JEFFERSON—in this instance departing from that candor which is so conspicuous in almost every other part of this excellent performance—for, when speaking on this subject, he says, "here there was a direct, unequivocal, and avowed violation of this part of the 7th article, in the first moment of its being known." Mr. JEFFERSON has given us a copy of Sir Guy Carlton's letter to General WASHINGTON, which is relied on to support this assertion, which is so far from speaking such a language, that in his opinion, it was directly the reverse, and that in a very pointed manner. His words are:

"I must confess, that the mere supposition that the King's Minister could deliberately stipulate in a Treaty an engagement to be guilty of a notorious breach of the public faith towards people of any complexion, seems to denote a less friendly disposition than I could wish, and I think less friendly than we might expect. After all, I only give my own opinion. Every negro's name is registered, the master he formerly belonged to, with such other circumstances as serve to denote his value, that it may be adjusted by compensation, if that was really the intention and meaning of the Treaty. Restoration was inseparable from a breach of public faith, and is, as I think all the world must allow, utterly impracticable."

Gen. WASHINGTON, at that time, seemed disinclined to give an opinion on that subject, but intimated the propriety of leaving any doubtful clause of the Treaty to be settled by future negotiation; for in a letter from him to our commissioners in New York, dated June, 1783, who had written to him for particular and pointed instructions on this very subject, there is this passage:

"It is exceeding difficult for me, not being a witness to the particular cases, or acquainted with the particular circumstances which must fall under your view in the course of the evacuation, to give you a precise definition of the acts which you are to represent as infractions of the Treaty; nor can I undertake to give an official construction of any particular expression or terms of the Treaty, which must, in cases of ambiguity or different interpretations, be explained by the Sovereignities of the two nations, or their commissioners appointed for that purpose."

A letter drawn up with great caution and extremely characteristic of that great man, who has always been extremely careful never to commit himself, but upon mature deliberation and upon sure ground. Here, Sir Guy Carlton, as a public officer of Great Britain, had made an explicit declaration on the subject, and that was directly against our claims; for his directing an inventory of the negroes, was only an evidence of his being disposed to conduct candidly in the matter, and give us an opportunity to recover a compensation, if we could afterwards make out our construction of the Treaty to be right.

Both in the United States and Great Britain it is admitted, as a sound rule of construction, that where any law or instrument is doubtful, and the liberty of any one, even of a slave, to be affected by it, that construction was to be preferred which was favorable to liberty. Under this rule, ought this Treaty to be so construed as to reduce to slavery three thousand persons who had obtained their liberty, by putting themselves under the protection of the British arms, unless there was some positive unequivocal stipulation in the Treaty which could admit of no other construction, he hoped, for the honor of America, they would make no such challenge. There was another circumstance which he had never seen mentioned, which, in his opinion, greatly weakened our claims, which was the doubts he entertained of our right to demand of a foreign nation the restitution of a runaway slave. The United States are now at peace with all the world; suppose a slave should escape into the dominions of a foreign nation, and on demand they should refuse to deliver him up? he very much doubted whether we should have just ground of complaint. On the other hand, if any of our citizens may be so unfortunate as to be reduced to slavery by any of the Barbary powers in Africa, should make their escape into the dominions of any of the European nations, and upon being claimed by such powers, should be delivered up, he did believe we should have good ground of complaint against such nation, as being unjust and inhumane. And, so far as principle is concerned, what difference does it make whether the citizens of the United States are carried into slavery in Africa, or the inhabitants of Africa are brought into slavery in

the United States? He knew of no principle that made a difference between the natural rights of a white or black man. The first principle that is laid down in the rights of man, is, that all men are born free and equal; it does not say all *white* men. He did not believe, he said, that the House would ever admit so absurd a doctrine, as that the different shades in a man's complexion would increase or diminish his natural rights. He hoped no gentleman would take any exception to what he had said on this point; he did not mean to give offence, or to throw any reflection on any part of the Union, on account of their having a larger proportion of slaves. It was an evil which existed at the commencement of our Revolution, and he trusted every part of the Union would get rid of the evil as soon as it should be practicable and safe. What he had said, was only what he felt himself bound to do in justification of our Minister for his having given up that claim.

Mr. HILLHOUSE requested gentlemen to pause a moment, and reflect what will be our situation if this Treaty is rejected. The peace of 1783 is agreed on both sides to have been infracted, since that Great Britain has committed depredations on our commerce to an immense amount. Is it supposed that all this matter can go off without any noise or combustion? As to treating again, no one can suppose that we could do it to any advantage, after such rejection. What may Great Britain expect, if we will not settle our differences by negotiation? Will she not expect that we shall resort to more violent measures—such as reprisal, sequestration, or stopping of intercourse? And to guard herself against such measures, may we not expect she will lay her hand upon all our property on the ocean? He said he looked upon such events as the natural consequences of our rejecting the Treaty. What may we expect will be the conduct of our own citizens? Will they tamely submit to be robbed of their property, when they lose all hope of aid or protection from the Government? They will not; they will defend it even to the shedding of blood; and not only so, but they will also take every opportunity they have to make reprisal for the property they have already lost upon those who did them the injury, whether they belong to one nation or another. What, he asked, could be the end of all these things but war?

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WEDNESDAY, April 20.

Treaty with Great Britain.

The House then resolved itself into a Committee of the Whole on the state of the Union, and the resolution for carrying the British Treaty into effect, being under consideration,

Mr. PAGE said, that he had heard no arguments in favor of the resolution before the committee, but such as might be used to influence a vote at any other time, and upon almost any occasion; for we are told that war, or popular discontent, and great inconvenience and distress to merchants, underwriters, and others, will be the consequence of its rejection. If such threats can influence this House upon the present occasion, an unhappy and mortifying comparison may be made between the Congress of 1776, and that of the present day. They despised and encountered the dangers of war actually commenced. He wished, when members were disposed to mention their fears of such dangers, they would first clear the galleries; for such communications ought to be secret. Did members really believe that Great Britain will declare war against the United States, if this House should refuse to be accessory to the violation of the constitution, the destruction of their own rights, of the rights of neutral nations, and of the interests of their constituents? If they do believe this, is their belief founded on conjecture alone, or on the negotiator's declaration, that the British Ministers threatened him with war, declaring that war should be the consequence of a rejection of the Treaty? If the latter be the case, and nothing less can justify such repeated assertion that war will be the consequence of a refusal to carry the Treaty into effect, the Treaty ought to be deemed null and void on account of that threat; and if the former, they may be assured that they are mistaken, and that Britain is not so frantic as to engage in a war with the United States upon such slight grounds. The citizens of the United States wish not to be at war with the British nation; nor can the people of Britain desire a war with them. Both must wish for peace, and a full commercial intercourse upon liberal terms; and as the Executive authority of both countries are well disposed to each other, and have, as far as in their power, carried the Treaty into execution, what reason can be assigned why we should be involved in a war? It has been said that the United States will be obliged to declare war, on account of the British refusal (which may be expected) to deliver up the posts, and to make compensation for spoliations of our commerce; but I see no necessity for such conduct. For my part, should Britain never give up the posts, I would not vote for war, nor be at the expense of a single regiment to take them; nor would I go to war to recover losses sustained by spoliations. For, if we reject the resolution before you, sir, we may be at liberty to pass such a bill as we I passed in the year 1794, by a majority of twenty-four members, and for which thirteen Senators then voted; and should the Senate concur with us in passing it, we might use it more effectually than a declaration of war for the recovery of the posts, and reparation of wrongs. As to war, as my colleague yesterday said, I have reason to deprecate it, for the sake of my constituents, and for my own sake; for I have experienced enough of its evils; but I cannot think that I ought to sacrifice their dearest interests merely from an apprehension of the dangers of war. The arguments, therefore, which I have heard, cannot induce me to vote for the resolution before you. Indeed, sir, I must vote against it; because I think that the Treaty is unconstitutional and pernicious; and even if it were constitutional in every respect, and as advantageous to the United States as it has been represented, I should think it impolitic and dishonorable in this House to lend its aid to carry it into effect during the present war, and a continuance of the British depredations on our commerce, and impressment of our seamen. The Treaty appears to me unconstitutional, because it takes from Congress that very power with which it was invested by

the constitution, and to invest them with which, the constitution itself was expressly formed; a power which I think should be held as precious and unalienable. I mean the power of regulating the commerce of the United States with Great Britain; so as to induce her to fulfil all the conditions of the Treaty of Peace, and to put the trade of the United States with her upon a footing of reciprocity. It appears also unconstitutional, because it violates a solemn act of Congress passed in conformity to the express words, and I may say, in obedience to the injunction of the spirit of the constitution: I mean the act for establishing a uniform rule of naturalization, and this violation, too, operates partially, and in favor of British subjects alone. It is moreover unconstitutional, because it interferes with the authority of the Judiciary, by establishing a Court of Commissioners, a kind of supreme court of appeals, within the United States, with powers to proceed, unknown to our laws; with temptations to defendants to make no defence; with a right to bind the United States to pay debts which they owe not, and to any extent or amount which that court may think fit to decree; and it is unconstitutional, because it authorizes the PRESIDENT to create certain offices, and annex salaries thereto. In these instances, at least, I think the Treaty unconstitutional; for I think that Congress cannot authorize the PRESIDENT to do away the power of Congress or to establish a court of appeals superior to the Federal Supreme Court; that, whatever would be unconstitutional, if done by Congress, cannot be constitutional if done by the PRESIDENT and British King. But, sir, if the Treaty were not unconstitutional, that is, if the PRESIDENT and Senate had a right to deprive Congress of the power it claims, and to interfere with the Judiciary, yet the exercise of that right in the present case, ought to be viewed as so pernicious to the United States as to render the Treaty null and void; or, at least, it ought to be viewed as an argument of sufficient weight to induce this House to refuse their aid towards carrying this Treaty into operation. And were it even constitutional and advantageous to the United States in every article, yet, as it acquiesces in a violation of the rights of neutral nations in favor of Great Britain, and in some instances, to such a degree as to be thought even by the PRESIDENT himself, to afford just ground for discontent on the part of our allies, it will be dishonorable and highly impolitic in this House to be in any manner instrumental in carrying it into effect. As it has not been in the power of the United States to assist their Republican allies, when fighting in fact their battles, the least they can do, or the least that the world and those allies can expect from them, must be, that they will not put the enemies of those allies into a better condition than they were by making Treaties with them during the present war.

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Mr. FINDLAY said he should not think it necessary to resume any of the arguments relative to a principle which had already been settled in that House; yet, he observed, that every gentleman who spoke on the subject seemed to argue what were the rights of that body upon the subject of Treaties, as if no question had already been had on the occasion.

It had been insisted upon, notwithstanding the decision which had been had, that a Treaty was a law when it came before that House, and they had no power but to appropriate to carry it into effect. He said this opinion was directly contrary to the opinion held on the constitution at the time it was accepted in Pennsylvania. Moral discretion, he said, was necessary to be exercised in every decision of that House, except the constitution had prescribed to them some positive rule of action. In ratifying the constitution in the State of Pennsylvania, this was the understanding of it. The minority in the convention did not wish so much power placed in the Executive, and he appealed to gentlemen in that convention, if this was not the doctrine asserted by the majority in answer to the objections of the minority. Indeed, if they were not to have exercised a moral obligation upon the Treaties, the constitution would have expressly said so, as in the case of the PRESIDENT'S salary, the pay of the Judges, Army appropriations, &c. If they had not been limited in these articles by the constitution, they certainly would have had the power to have changed them if they had thought proper.

But, passing over this consideration, there had been pretty large views taken of the manner in which the Treaty came before them. The gentlemen from New York and Virginia had entered into the subject. He must beg leave to differ from the gentleman from New York as to the matter of fact relative to that House in the concerns of Government two years ago. He had no apprehensions at the time the Envoy was sent to Britain to negotiate a Treaty, that Britain would have commenced a war if that measure had not been adopted; so far from it, that a majority of that House thought differently. He had no doubt that war, and the destruction of liberty altogether, had been meditated by Great Britain; but before the negotiation was commenced, circumstances occurred which caused her to give up this extravagant design. Before the negotiator was appointed, it is well known that the plundering Order of the 6th November was revoked. The gentleman from Virginia (Mr. GILES) had given a very good narrative of events in Europe, which fully showed the cause of this change of conduct. That gentleman had also gone through the Treaty, article by article, in a manner so much to his satisfaction, that he should not attempt to follow him. Before the negotiation took place, we had suffered considerably by British spoliations, and that House thought of various means to make it the interest of that power not to continue their depredations. First one plan was proposed and then another. It need not be mentioned that amongst these was the plan of sequestration, the future power of doing which this Treaty proposed to deprive them of. It was discussed in the House, but no question taken on it, to show that negotiation was not thought necessary. He mentioned a conversation which had taken place betwixt a gentleman then in the Cabinet (now no more) and himself, which confirmed his opinion of the propriety of the measures. A bill for regulating commerce in such a manner as to make it the interest of Britain to refrain from injuring us, and redress the wrongs we had suffered by spoliations, was agreed to by the House, but negatived in the Senate. So far from being then afraid of war, they were more and more convinced that it was in their power to make

it the interest of Britain to refrain from their acts of violence towards us.

Mr. MOORE.—Mr. Chairman, I rise with diffidence to give my sentiments on so important a question as that now before you, especially as I have been preceded by gentlemen whose superior abilities have enabled them to investigate the subject with more accuracy than I am capable of. I consider the object as important of itself. It is rendered more so by the warmth with which it has been discussed—the irritation it has produced, both in this House and on the public mind. I lament that improper motives should be imputed to gentlemen on either side. I am disposed to believe, that gentlemen aim at doing what will best promote the public interest. I entertain no suspicion of designs against the Government by any member of this House, or any branch of the Government. Gentlemen have predicted a war and dissolution of the Government, if provision is not made for carrying the Treaty into effect. I have no apprehensions of either. It is highly improper to attempt to influence the votes of members by such declarations. I hope gentlemen will believe that members who differ from them in opinion, are equally zealous with themselves in discharging their duty, and have firmness enough to repel every attempt to intimidate. For myself, I have equal confidence in every part of the Union, that they have no wish to dissolve it. The suggestion is unfounded, and ought not to be made.

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Mr. Chairman, the vote which I shall give on the question before us, will, in some degree, be influenced by a constitutional principle, which I consider as involved in the decision. On the resolution calling for the instructions given to Mr. Jay, and other papers relative to the Treaty, it was insisted on by members of this House, that the Executive has a right, by Treaty, to supersede all Legislative powers vested in Congress by the constitution. The Executive gives the same construction to the constitution. If, under these circumstances, I vote for the resolution before you, I consider myself as admitting, as recognizing the principle contended for. This I cannot do. On the admission, or rejection of this principle, I am of opinion, the future course, the future operations of Government materially depend. By this it will be decided, whether it is wholly Executive or not: whether this House depends on the courtesy of the Executive for their right to interfere in legislation.

It has been argued, that this extensive, unlimited power, was necessarily vested in the Executive, subject only to the control of the Senate. In order to support the sovereignty and independence of the small States, I do conceive that a branch of the Legislature in which the States are equally represented, was all that could be claimed. Can it be conceived to be necessary, just, or proper, that the regulation of all the important interests of the Union should be at the disposal of the Executive? Can gentlemen seriously believe that the citizens of the United States, who opposed, at so great an expense of blood and treasure, the claim of Great Britain to tax us unrepresented, would admit all their interest to be represented by so unequal a representation as that contended for? It has been asked, Is not the Senate as worthy of the confidence of the citizens of the United States as this House? I will ask, are they more? This Legislative power is restrained and checked by the constitution; particular modes and restrictions are prescribed, but no checks are imposed on the Executive. Were the people jealous of this House, and not of the other branches? Did they suspect the Legislature of doing wrong? When this House was connected with the other branches, were they to regulate their interests; and have they reposed unlimited confidence in the other branches when acting without this? Did they consider this House as the only branch from which any danger was to be apprehended? It is impossible, yet this must have been the fact, if the construction given to the constitution is a just one.

A gentleman from Connecticut has said, that gentlemen had prejudged the Treaty; they come forward with prejudices against it, determined to vote against it. It is not so with me. I was strongly inclined to vote for it; to make some degree of sacrifice rather than defeat it.

Gentlemen, on reflection, must be convinced that the question has not been prejudged. The Envoy was appointed at the moment when this House was deliberating on means for preventing further spoliations on our commerce. Commercial regulations were proposed, and other means from which they might have been forced to abandon their unjust and oppressive system. I remember well the arguments then used were convincing to my mind; that those were the only weapons of defence within our power; that they would be effectual. But these were arrested by the despatch of an Envoy Extraordinary. Some of the leading features of the Treaty were then predicted; the event has corresponded with those predictions. Principles were then discussed, which the Treaty contains, before the negotiator was appointed.

This shows there was no prejudging in the manner gentlemen have stated. By this Treaty all the measures then contemplated by the Legislature are arrested; an eternal veto is imposed against our ever carrying the measures then contemplated into effect. This shows that the Executive claims not only the constitutional right of forcing this House to pass what laws they please, but also, by Treaty, to declare what they shall not do.

We have passed a resolution, which is now on your files, declarative of the sense of this House as to their constitutional rights. The question is, however, undecided. The Executive and Senate will proceed to act on their own construction. They may, on their own construction, make a Treaty, which will imply a still more imperious and commanding necessity to provide for its execution, than even the present case. This necessity may force a relinquishment of the right contended for by this House. It may force an acquiescence in the Executive regulating all the interests of the Union. I believe it was not the sense of the framers of the constitution. It is not the sense of the people who adopted it. It never can be mine.

The merits of the Treaty have been ably and accurately discussed. I will make but a few remarks on it. I must disagree with the gentleman from Connecticut, who mentioned, as a well-known

principle in judging of Treaties, that all property, (by fair construction, and by the established law of nations,) if not excepted particularly in a Treaty, remains in the same state in which it was found when the Treaty was made. Those in possession retain the possession. From this he has concluded, that negroes, taken during the war, had become the property of the captors, or rather, were emancipated. The words of the Treaty of Peace are, "negroes and other property."

This plainly shows, in his opinion, that, by negroes, was not meant those taken during the war; they were not American property. The property was changed. It could only be intended, such negroes as were taken after the peace. I will ask, was it ever known in a Treaty, that a stipulation was made to give up property plundered after the peace? Is it not an established principle amongst all civilized nations, that plundered property shall be given up? Is it necessary, or was it ever thought so, to make it a stipulation by Treaty? I believe, if his construction is a just one, it is a new case, the provision was at least nugatory.

But if the principle he lays down is a just one, how does it happen that debts due to British subjects, paid by the debtors into the Treasury under the sanction of a law, and appropriated to the use of the State, are now recoverable by the British creditor? An important case of this kind has been decided in the Federal Court, and judgment given for the British creditor. Was the property less changed by the law of a sovereign and independent State, than by the proclamation of a British commander? This cannot be. The fact is, however, that in two cases, found in the same instrument, there are claims founded on the same principle; the one, a British claim, is established, the other, a claim of the United States, is rejected. This involves in it an absurdity. By those opposed modes of construction, an important claim of the citizens of the United States is given up by the Treaty, a claim against them to a great amount is established.

The claim as against us is admitted; our claim is rejected, in cases where the same principle fairly applies, and where, by gentlemen's own showing, there is no dissimilarity which can justify such opposite constructions. There is another provision of the Treaty, by which an important interest has been sacrificed. British subjects held lands within the United States before the war; many of those claims were barred; the claimant being an alien could not recover; his being an alien was the only bar. It was effectual—such has been the decision of the Courts. But by the Treaty, being aliens shall not bar the claim of British subjects—thus, many of the extensive claims are restored. In some of the States more than half their territory will be re-vested in proprietors. What could induce this grant? What equivalent do we receive for this sacrifice? Sir, I am constrained to think the Treaty a bad one, in those instances I have mentioned, more so than in any others. And when I connect with the Treaty itself the important constitutional question which has been discussed, I cannot vote for the resolution before you.

Mr. KITTERA.—Since the 4th of July, 1776, the Councils of America have not been agitated by so momentous a question as that at present before the committee. At the period to which I allude, the question was, whether we should tamely submit to an abject and disgraceful slavery, with all its concomitant evils, or, by a Declaration of Independence, an exertion of our internal strength, with the advantages of foreign aid, make a bold and manly effort to obtain the blessings of freedom—the solid rewards of well-earned liberty. The present question is, whether we shall supply the means of carrying into execution a Treaty of Commerce and Amity with a powerful nation, entered into by a Minister of the United States, and solemnly ratified by the authorities constituted by the people for such purposes; or, by refusing, perhaps unconstitutionally refusing those means, hazard the peace, interrupt the prosperity, and tarnish the honor of the country? In a question of such magnitude, prudence calls me to pause, duty to reflect. My country's faith is plighted, a solemn contract is made; it would therefore be unwise and impolitic, as it concerns the interest, and dishonorable, as it regards the character, of this nation, in the infancy of its existence, to violate so solemn a contract.

Two causes have contributed much to prejudice the American mind against the Treaty. 1st. An enthusiasm for France, struggling in the cause of liberty, against the combined Monarchs of Europe, in which combination, the very power with whom the Treaty was made, formed a prominent part. 2dly. Strong resentment against Britain, for injuries received during a tedious and cruel war, and those injuries renewed by a detention of our Western posts, exciting and aiding the savage Indian tribes in the commission of hostilities on our frontiers, with strong indication of a design to contract our boundaries, and their lawless depredations on our commerce. I will not add, that there are amongst us some irreconcilable enemies to this Government, who opposed its adoption, predicted its downfall, and whose pride and political consequence are suspended on the fulfilment of this prediction. For the honor of human nature, and for the character of my country, I hope there are few to answer this description; if, however, there are any, the poet's execration is to them peculiarly applicable: "Cursed be the man who owes his greatness to his country's ruin?"

There are some things in which the candid part of those who hear me will not disagree. 1st. That our Envoy was a wise and honest man; he was a tried patriot, skilled in diplomatic life, and rendered to his country important services during the late war. The tale of his receiving British gold was made for children and fools, and need only to be told, to be disbelieved. 2dly. He made the best bargain he could. I will not mention, in proof of this, the ratification of the contract, eight months afterwards, by the PRESIDENT, (in whom this country has certainly an unbounded confidence,) with the advice of two-thirds of the Senate; but I have proof positive. The letter of Mr. Pinckney, our Minister resident at London, and conversant with every part of the negotiation, in strong and decided terms advises Mr. Jay to accept the contract as the best that could be procured, and as one that would promote the interests of this country. 3dly. If negotiations had been unsuccessful; if the Treaty, on the terms offered, had been rejected, war must have ensued.

Our national honor would have forbidden a tame submission under so many insults and injuries; such submission would have invited new insults, and our own safety would have made resistance and retaliation necessary.

The Treaty naturally presents itself under two general heads: 1st. Such parts of it as are permanent, to wit, the first ten articles. 2dly. Such parts of it as are temporary, to continue for two years after the expiration of the war in which Great Britain is now engaged. Three great points are embraced under the first arrangement: a surrender of our Western posts, compensation for the spoliations committed on our commerce, and the payment of British debts. However lightly my colleague from the western part of Pennsylvania (Mr. FINDLAY) spoke yesterday of the Western posts, I consider the acquisition as an important treasure to this country. It will not only increase the value of our Western lands, and open to us a new source of commerce, but it will relieve us from the expense and horrors of an Indian war. Those were the sentiments of the gentleman himself, on this floor, two years ago. The spoliation on our commerce has generally been estimated at five millions of dollars. On a rejection of the Treaty, I wish the gentlemen in the opposition to point out how the American merchants are to be reimbursed for their loss. Nothing can be expected from new negotiations. It would be a solemn mockery of justice to the claim of those citizens. Payment out of the Treasury has been talked of, and a resolution to that effect is now on your table. This can never be done. It would be without a precedent, and Congress has heretofore refused the claim. And how can you discriminate such claims from those rising from savage depredations on your frontier settlers? The protection of the Government was, at least, as much due to the peaceable farmer as the speculating merchant; and if losses have arisen for want of such protection, compensation is as justly due in the one case as in the other. But why are we to subject the Government to this payment, or our citizens to this loss, when compensation is offered by the nation that has done the wrong? As to British debts, the committee have had various calculations of their amount.

I believe some of the estimates have been exceedingly exaggerated. If they are even half the enormous sum that has been stated on the other side, we have not much difficulty in accounting for the extraordinary opposition to the administration of this Government that has appeared in a certain quarter of the Union. Whatever may be the amount, the nation is bound by the strongest ties of justice and national honor to secure the payment.

Mr. HOLLAND said, he would submit some considerations to the committee, that, together with those which had been given, would influence his vote upon the resolution on the table; a subject, as had been said by all who advocated the resolution, of the first importance—an issue on which depended peace or war. He said, he considered the question of some importance, particularly as it related to their constitutional powers; but the conceptions of gentlemen had exaggerated the result of the present question. It was nothing more or less than, would they or would they not now appropriate moneys to carry the British Treaty into effect? He said, he had ever felt a disposition to that purpose; not because the faith of the nation, as had often been said, was pledged; not because they were under moral obligations, as had been contended for—neither of which he could admit; but because a respect was due to the negotiator, to the Senate who advised, and to the PRESIDENT who ratified it; for, it was to be presumed, until the contrary appeared, that they exercised their judgments for the good of the nation. But it was possible the means they have adopted may not produce the end intended; they may have been mistaken.

When he first examined the instrument, he was in hopes that there was something extrinsic existing, which, when communicated to him, would do away the exceptions on the face of the instrument, and therefore he was silent and suspended his judgment. It was for that purpose he had voted for the papers relative to the negotiation to be laid on the table, in hopes of obtaining further information, previous to his being called upon to carry it into effect. But, unfortunately for him, no further information was to be obtained. The useful papers, an innocent and humble request, were not granted. He was not possessed of any other information than could be drawn from the instrument, from the writers on that subject, and the arguments that had been advanced by the gentlemen who had advocated the resolution; to the whole of which he had with candor attended, and with regret informed the committee, that nothing had been advanced, that had convinced him of the reason, propriety, necessity, or fitness, of the stipulations contained in the instrument.

Those gentlemen, instead of reasoning, have endeavored to alarm. They have said that, if we do not carry this Treaty into effect, that we shall be plunged in a war; that Britain is a proud and haughty nation; that they will lay their hands upon all our property, &c. This was an address to our fears and not our reason, and were our fears once on the wreck, there is no knowing the result, or where we should land. But, in this instance, we would not be governed by panic, or dread of the power of that haughty nation, as they had been called; but as the Representative of a free and independent nation, he felt himself perfectly at liberty to exercise his reason in the most cool and deliberate manner. Not apprehending any danger, the time has been, and now is, that we are perfectly secure in asserting our equal and reciprocal rights with that nation. We have done it in a state of infancy and inexperience, at a time much more unfavorable, taking each side of the question into view, than the present. And shall we now hesitate, and tamely suffer them to dictate to us? And are we bound to accept the Treaty, lest they should be offended and treat us with contempt for not accepting, as it is said, a more favorable offer than they have given to other nations? Are we not the sole judges; have we not a right to determine for ourselves? And as this is a mere naked stipulation, they can receive no damage, nor, on this early notice, can they charge with deception, or have any right to complain. One thing is certain; so long as Great Britain finds it for her interest to be pacific, she will adopt measures calculated to preserve

peace; but when interest dictates the contrary, her invention will not seek a pretext for a different conduct. The history of that nation gives abundant proof of this.

Mr. SWANWICK objected that his colleague (Mr. KITTERA) had charged him with a want of candor. He was liable to mistake, he said, equally with any other man; but he trusted he should not be charged with knowingly misstating any thing with respect to the East India trade; he had reserved to himself a future opportunity of speaking on that subject, which, however, the length of debate seemed likely to prevent. He had said that the American vessels were permitted to trade to the East Indies as all other nations were, but that they were obliged to land their goods in the United States, whilst the Danes, Swedes, &c., could go there and carry the goods which they purchased from thence to any part of the world, except to the British dominions; and that was the situation of America antecedent to the present Treaty. A ship of his, some time ago, earned a good freight from Bengal to Ostend, and another he knew had lately made one to Hamburg; but, by the Treaty before the House, whatever advantages might be made by going to a foreign port their vessels were deprived of, and must return direct to the ports of the United States. These, he said, were stipulations which no other nation lay under; and though, perhaps, no nation had special leave stipulated by Treaty to go there, yet they all, nevertheless, did go, and never met with any opposition.

FRIDAY, April 22.

Execution of British Treaty.

After the presentation of several petitions on this subject, the House resolved itself into a Committee of the Whole on the state of the Union, when the resolution for carrying into effect the British Treaty being under consideration—

Mr. COIT said, that the importance of the resolution before the committee would preclude all necessity of analogy for any member's asking their attention to his observations. He should only add to it, that he should endeavor not to repeat what had been already said.

He observed, that the discussion of the merits of the Treaty came before the committee under peculiar disadvantages, for, besides the prejudices against it that might be supposed to have been caused by extraneous circumstances, the agitation of the important constitutional question relative to the right of the Legislature to concur in giving validity to this Treaty, which was claimed to be valid and complete without that concurrence, and the refusal of a call for papers had very naturally a tendency to give a bias to the minds of some gentlemen against the Treaty; for himself, he was fully satisfied the Legislature had no constitutional connection with the business of making Treaties.

Mr. C. said he should attempt to run through the objections which had been made to the Treaty, and consider its merits independently of the peculiar circumstances under which it was now presented to the committee, and then give his own view of it as relative to those peculiar circumstances.

The objects of the negotiation, he said, very naturally were divided into three parts—the inexecution of the Treaty of 1783; mutual complaints between the United States and Great Britain relative to transactions independent of the Treaty; and arrangements for the intercourse between the two nations, commercial and political. But as gentlemen had made their objections generally in the order in which the several articles of the Treaty had been arranged, he should follow the same order in his observations in answer to them.

The first objection which had been made was, that no compensation had been stipulated to the United States for the supposed breach of the Treaty of 1783, in carrying off the negroes. This objection, he had supposed, was so completely answered by his colleague, (Mr. HILLHOUSE,) who had been up the day before, that he should not have added on that head, but that he had since found gentlemen still insisting on that objection. He was particularly surprised to hear the gentleman from Pennsylvania (Mr. FINDLAY) stating that he conceived the negro article to have been put into the Treaty expressly as a compensation or set-off for the engagement to pay the British debts. This pretension, he thought, had been fully refuted by the extract from Mr. Adams's journal, quoted by Mr. Jefferson in his correspondence with Mr. Hamilton, and which had been read by his colleague. From that extract, it appeared that a claim for negroes and other property which had been plundered, carried off, and destroyed by the British, was made by our commissioners, as a set-off against a claim made by the British commissioners for restoration of confiscated estates; and that the one of those claims was abandoned with the other. Had the gentleman from Pennsylvania taken the pains to examine the journal of Mr. Adams, which might be seen by any member of the committee at the office of the Secretary of State, he would have found how the article came to be inserted.

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Before the *signing of the Treaties* with which the extract made by Mr. Jefferson is closed, stands in the original the history of this article in these words:

"Mr. Laurens said, there ought to be a stipulation that the British troops should carry off no negroes or other property; we all agreed. Mr. Oswald consented, and *then the Treaties were signed,*" &c.

This, Mr. COIT said, was all the mention he could find respecting this article, except in a subsequent part of the same letter, in which Mr. Adams observes:

"I was very happy that Mr. L. came in, although it was the last day of the

conferences, and wish he could have been sooner. His apprehension, notwithstanding his deplorable affliction under the recent loss of so excellent a son, is as quick, his judgment as sound, and his heart as firm as ever. He had an opportunity of examining the whole, and judging and approving; and the article which he caused to be inserted at the very last, that no property should be carried off, which would most probably, in the multiplicity and hurry of affairs, have escaped us, was worth a longer journey, if that had been all, but his name and weight is added, which is of much greater consequence."

From these extracts, it appeared, the article was not a subject of negotiation, but inserted at the close of the transaction, without discussion, as a matter of course, and which Mr. Adams supposes might, in the multiplicity and hurry of affairs, have been omitted, if Mr. Laurens had not suggested it.

Mr. C. said, he would candidly acknowledge that it was very extraordinary to him, that the construction which had been generally put on the article in America, should have so universally prevailed, if it was not the true one, that Congress should have adopted it; and that such should have been the idea of the commissioners appointed to superintend the embarkation at New York, in the year 1783. Still more extraordinary was it to him, to find Mr. Jay himself, when Secretary for Foreign Affairs, in the year 1786, in a report he then made to Congress on the subject, considering the carrying off of those negroes as a violation of the Treaty, and saying further, that he understood from Mr. Adams, then at the Court of London, that the British Minister had no objections to making compensation for them. Still he believed, the true construction of the article was, that it was designed only to prevent plunder by the British troops, and carrying off of American property, according to the ordinary agreements in Treaties, which stipulate for the giving up of conquered countries. True, it might be asked, why say negroes or other property? The expression, he agreed, was not correct, unless a doubt might have been entertained whether negroes were property; but the word negroes must be qualified by other property, with which it is connected, and could operate only as if it had said horses or other property, which no person would contend amounted to a stipulation not to carry off what had once been, but by the laws of war and nations, before the close of the war, had ceased to be the property of American inhabitants. Four gentlemen from Virginia had insisted on this objection, and not one of them had deigned to remark on the construction of the article itself. They had all relied upon the common understanding of it. That this understanding could not change the sense of the article, if it was not doubtful, could not be denied. Their leaving the article and resorting to the common understanding of it, he conceived to be a tacit acknowledgment of the gentlemen, that the instrument itself would not bear the construction they wished to give it.

Whether the negotiator had urged this construction of the article, and found he could not obtain its admission, or even an arbitration upon it, he did not know; from his opinion of the good sense and understanding of Mr. Jay, however, he was for himself satisfied that, whatever might have been his former opinions, on attending to the subject, he had found what had been called the American construction was not the just one, and had therefore abandoned it.

Mr. C. said, he was aware that the construction he contended for had been called the British construction, and *Camillus's* construction; that he had himself, however, adopted more than two years ago, the first time he had paid any attention to the article, upon no other impulse or authority than his own judgment, on the perusal of it, and even before he had ever heard of any other construction of it than that he contended against, he was aware that there was a kind of patriotism which claimed every thing for one's country, whether consistently with truth, justice, and candor, or not; for himself, he had no pretensions to such patriotism. He believed Mr. Jay had none, and if he was convinced that the American construction of this article was unfounded, he thought it for his honor, and the honor of this country, that he had abandoned it.

When Mr. COIT had concluded—

Mr. S. SMITH rose and said, the subject then before the committee appeared to him to be of an importance at least equal to the great constitutional question which agitated the House during the present session; it has had, and he trusted would continue to have, the same calm attention paid to its discussion. He hoped and expected that it would ultimately be determined with a view to the real interest of the nation, under the existing state of things.

When the Treaty was first published he had read it with attention, and although he had not seen all those faults with which it has since been charged, yet there was, to his view, so little good contained in it, and so much of evil to be apprehended from it, that he had felt a hope that the PRESIDENT would not have ratified it. He had been disappointed, yet he had not a doubt but the PRESIDENT, after the most mature consideration, had given his signature; being possessed, as he was, of every information relative to a subject so very important, he could better determine on the policy of its adoption than those who were less informed. Still there were many articles, particularly the commercial, which every man might judge of from the face of the instrument. On these he did not hesitate to give an opinion: which was, that they promise not one solitary advantage, and shackle our commerce in many important points. He would not trouble the committee with going deeply into a subject that has already been so ably discussed. He, however, could not refrain from a few remarks on the right to countervail our extra duties on tonnage of goods imported in foreign bottoms. He asked what would this countervail be? Could any man tell? It was not specified in the article; it was then discretionary with the British; discretionary with a nation whose rule of right has always been the measure of its power, whose conduct has invariably been to cramp and distress the commerce of all other nations. To such a nation was it proper to trust a latitude of that extent? Will she make her countervail oppressive and unjust? It

is more than probable she will, and if she should, what remedy have we? None: for we are forbidden by the same article to legislate further on the subject.

He said he would take leave to explain the 13th article which relates to the East India trade, and which it has been said gives such solid advantage as to counterbalance all the evils arising out of the Treaty. He had taken some pains to inform himself on this subject, and he had found that the Americans, in common with all other nations, traded to the British and other ports of India, and were every where received with that sort of kindness which grows out of the interest that the vender has in selling his goods for ready money, and to a great profit; that our trade is so much the interest of the India Company, and of all its officers and factors, as well as of the private traders residing there; that it was ridiculous to suppose the India Company would prevent it; and, if they should, what would be the evil? Little or none; for there were other ports, belonging either to other European powers or to the natives, in the neighborhood of all the English ports, who would receive us with open arms, and supply us for our silver, on terms equal, or nearly so. He then stated that our ships could now carry from one port in India to another, to China, or to Europe; an employment that had been found very lucrative. Under the Treaty they must proceed with whatever they purchase in an English port direct to America. The article says, His Majesty consents to your trade to India, and this is called a boon. It appeared to him just as ridiculous as if his Majesty had said, he consented to our going to Great Britain to purchase its manufactures.

To enumerate the many faults he found with the Treaty, as well of omission as commission, would take up too much of their precious time; yet he trusted he should be excused for taking a short view of its leading features.

When the envoy was sent to Great Britain, he was principally to demand restitution for the cruel depredations committed on our commerce. We find that object attended to so vaguely that our best-informed men seem doubtful whether much will ever be recovered under the Treaty; they find that in every instance the loser must first pursue his remedy through their tedious and expensive Courts. We find, that by fair construction, we have acknowledged ourselves to have been the infractors of the Treaty of Peace; for what was the ground on which some of the States placed legal impediments to the recovery of British debts? Why, that Lord Dorchester had refused to deliver up or pay for the negroes which, by that Treaty, ought to have been restored, and which slaves would have assisted their masters by their labor to pay those debts; yet we see no mention of them in the Treaty; and we find, to our surprise, men, since this Treaty, defending the construction lately put on the Treaty of Peace by the British, and which had never before been heard of; thus acquiescing in the charge of our being the first aggressors. But this only relates to our honor, and of course can be of little consequence to a nation whose rule of conduct is to submit to every thing, provided, that on the whole account, there appears to be a balance of profit in its favor.

After having thus formed his opinion relative to the Treaty, his next inquiry was, is the Treaty constitutional? On that point he had held himself open to conviction, and waited its discussion. He had not heard any gentleman declare it unconstitutional, except one, (Mr. PAGE,) who seemed to give his opinion as if he still doubted; and having carefully considered the subject, he was now of opinion that there was nothing directly repugnant to the constitution in the instrument. He then inquired whether, under the existing state of things, the Treaty ought to be rejected? whether it contained stipulations so extremely injurious to the United States as ought to induce the House of Representatives to reject a compact made by the other branches of the Government? In the ten first articles, which are permanent, he found some objections. The third article, which, like many others, cannot be well understood, seems to say that goods imported in British bottoms to the ports of the Lakes, shall pay extra duty. If this be a true construction, it will then be necessary to repeal our restraining duties, to make the Treaty by law consistent with the constitution, which requires that all duties shall be equal. The tenth article ties our hands against sequestration, a power which ought not to be exercised, except on some very extraordinary occasions; yet it was a power which, considering our relative situation to Great Britain, it was imprudent to part with; still, on fair consideration, he did not find that there was sufficient cause, on the account, to reject the Treaty, in the situation we are now placed. The residue will expire in two or three years.

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TUESDAY, April 26.

Execution of British Treaty.

Mr. DWIGHT FOSTER observed, that as the subject before the committee had been minutely discussed, it was not to be expected any new arguments, either on the one side or the other, would be adduced. Hitherto, he had been silent—though silent, he had not been inattentive—he had listened with candor to every thing which had been offered; he had formed his opinion upon serious deliberation, and was ready to give it whenever the question should be taken.

When the resolution requesting the PRESIDENT to lay before the House a copy of the instructions, correspondence, and other documents relative to this Treaty, was under consideration, Mr. F. observed, that he had intended to have expressed his sentiments on the subject; but the great length of time which was spent in that discussion, and the extreme impatience discovered by many members to have the question taken, induced him, as it might several others, to be content with expressing a silent vote, as he did with the minority, on that occasion. This he was the more willing to do, as it was then well known that the Treaty itself would be before the House; that some appropriations would be requisite, on their part, to carry it into effect; and, it was not to be

doubted but every gentleman who wished to express his opinion would have an opportunity. The time had now arrived, and several days had been spent already, he believed not unprofitably, in deliberating on an instrument which had been the cause of great agitation in the United States.

He was heretofore one of those who considered the negotiation as advisable; it appeared to him the only means by which the horrors of war were to be avoided. He therefore rejoiced when the PRESIDENT appointed an Envoy for the purpose of negotiation; nor did he yet find any reason to apprehend the measure was injudicious. Far otherwise. He believed it was right, proper, and advisable; and that the result would prove highly advantageous and fortunate for our country. He further said, that he had critically examined the various articles of the Treaty; that he had weighed the arguments for and against them, jointly and severally; that he had considered them all with the attention their importance required; and though, in some instances, we might have wished an extension of advantages on our side, he was bound, in conscience, to declare that he thought the Treaty as beneficial to us as we had a right to expect.

The right of the PRESIDENT, by and with the advice and consent of the Senate, to make Treaties, is a principle clearly defined by the constitution. Not a single power delegated by the constitution to any one branch of the Government is defined in terms more explicit, or less liable to be misunderstood, than those which define the Treaty-making power of the United States; and, during the whole course of the former and present debates, Mr. F. observed, he had not been able to raise a doubt in his own mind on the subject. The Treaty under consideration had been duly made and ratified by the proper authority, constituted for this purpose by the people of the United States; as such it was now before the committee and demanded their serious attention and respect. The subject was allowed by all to be of importance. To him it appeared more momentous than any other which, at any time since the establishment of the Government, had engrossed the attention of Congress. He viewed it not as a question of peace or war only, but as involving questions of far greater magnitude. He meant the present unexampled prosperity of this country, our political happiness, our excellent constitution, and probably, in its consequences, the existence of the national Government.

Mr. KITCHELL said, he could throw no new light upon the subject under discussion; he wished only to express a few ideas which would lead him to support the resolution in its present form. He did not believe the Treaty to be that box of Pandora, which was to scatter evils of every kind upon the land. He believed there were stipulations in favor of the United States, as well as in favor of Great Britain; and when the Ministers of the two nations enter into contract, it must be expected that stipulations will be agreed to on each side which will not appear perfectly satisfactory to either, as certain concessions must be made on both sides.

He would mention only the probable consequences of rejecting the Treaty. The disposition of the two nations towards each other at the time of entering into negotiation was well known. The spoliations and injuries done to the American vessels had wound up American resentment to the highest pitch. Happily for America, Britain saw cause to change her system of aggression. He believed, with some other gentlemen, that Britain had not only formed the plan of crushing the rising liberties of France, but also of extending her views to America; but, from a reverse of fortune, she found it necessary to employ all her resources against France. There was another thing, the people of England were clamorous on account of the injuries done to the vessels of America; they were seen to be unjust, and were publicly reprobated. These circumstances were favorable to our negotiation, and he believed they could at no time have got a better Treaty, than at the time the present was agreed upon.

He said, they had only three alternatives. Either to give aid to the Treaty, continue to bear the insults of Great Britain, or else to determine resolutely on the dernier resort, war.

Mr. GRISWOLD said, that in his opinion, the extensive view which the committee were taking of the merits of the Treaty with Great Britain was unwarranted by the Constitution of the United States; that he did not believe any part of the Treaty-making power had been delegated to the House of Representatives; and that the committee might with as much propriety examine the merits of the constitution itself, for the purpose of deciding whether they would execute it or not, as to examine the Treaty in the manner which had been adopted in the committee. He had, on a former occasion, delivered his opinions on that subject, and he would not attempt to repeat them; but since the committee had thought proper to take an extensive view of the merits of the Treaty, he would follow the example which had been set him, and submit a few observations upon that subject—more particularly as he believed that no discussion would prove injurious to that instrument. He should not, however, attempt to take a very extensive view of the subject, as gentlemen who had preceded him had exhausted almost every part of the subject and left little to be said at that period of the debate.

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Mr. G. said the Treaty embraced three great objects:

1. The execution of those parts of the Treaty of 1783, which remained unexecuted.
2. The settlement of disputes.
3. Stipulations for regulating the commercial and other intercourse between the two nations.

He said that it would be agreed on every side of the House that these objects were important; and if they had been justly and fairly secured by the stipulations of the Treaty, it would not be said that the committee ought to feel dissatisfied with that instrument. He believed that this was really the case, and that the United States had no just cause to complain of the terms therein contained.

Several objections, however, had been made to that part of the Treaty which provided for the execution of the Treaty of 1783. It had been said that this Treaty did not provide for every part of the Treaty of Peace which remained unexecuted; and that conditions were annexed to the execution of those parts of that Treaty which had been provided for highly injurious to the interest of the United States. He said, if those objections were well founded, they formed a very serious objection to the present Treaty: but he could not find them by comparing or examining the two Treaties. The only article of the Treaty of Peace which it was said had been violated by the British Government, and was not provided for by the present Treaty, was that which respected the negroes and other property of the American inhabitants. He said he would not detain the committee with many remarks on this part of the subject, as it had been very fully and ably explained by gentlemen who had gone before him: he only mentioned it for the purpose of reading that part of the journal of Mr. Adams, one of the American negotiators of the peace, which immediately related to this subject. The same journal had been already read by different gentlemen, in detached parts, but he wished to bring the whole journal at one view before the committee. He said, however, that he ought to repeat what had been already said on the floor, that the article in question did not want any exterior aid to assist the committee with an explanation. The words of the article were certain and explicit; they declared that the evacuation should be made "without carrying away any negroes or other property belonging to the American inhabitants;" and as it was universally agreed that the negroes who had been carried away consisted either of those who had fled from their masters during the war, on a promise of emancipation, or of those who had been taken as plunder in the period of hostility, no doubt could exist but that in all those cases the property in the negroes was changed; that they were no longer the property of American inhabitants, and of course it was no violation of the Treaty to carry them away. And whatever might have since been said on that subject, he was convinced that the American Commissioners, at the close of the negotiation, had no idea of including in the Treaty of Peace a stipulation to secure a restoration of negroes then in the possession of the British army. To evince this fact, he said he would now read the journal he had before alluded to. [He read some paragraphs from that journal.]

Mr. G. said that it appeared, from the journal he had read, on what ground the negotiation respecting the negroes stood. The British agent claimed a restitution of confiscated estates. To rebut this demand, the American Commissioners, among other things, claimed compensation for negroes and other property which had been taken as plunder in different periods of the war. Finding, however, that no agreement could be obtained on these contested points, they were all relinquished as impracticable; and the claim for negroes, which had been made for no other purpose than to rebut the claim for confiscated estates, was given up of course, and, at the moment of signing the Treaty, the article in question was inserted—not to secure a restitution of property which had been changed by the events of the war, but to secure by stipulation, that the evacuations should be made without any destruction, or carrying away property really belonging to the American inhabitants. He said that it had always been a matter of surprise to him that any gentleman had put a different construction on this article; and he thought the parties had done wisely in excluding from the present Treaty a claim which did not possess even the shadow of justice.

Mr. GALLATIN said he would not follow some of the gentlemen who had preceded him, by dwelling upon the discretion of the Legislature—a question which had already been the subject of their deliberation, and been decided by a solemn vote. Gentlemen who had been in the minority on that question might give any construction they pleased to the declaratory resolution of the House; they might again repeat that, to refuse to carry the Treaty into effect, was a breach of the public faith, which they conceived as being pledged by the PRESIDENT and Senate. This had been the ground on which a difference of opinion had existed since the beginning of the discussion. It was because the House thought the faith of the nation could not, on those subjects submitted to the power of Congress, be pledged by any constituted authority other than the Legislature, that they had resolved that, in all such cases, it was their right and duty to consider the expediency of carrying a Treaty into effect. If the House thought the faith of the nation already pledged, they could not claim any discretion; there would be no room left to deliberate upon the expediency of the thing. The resolution now under consideration was merely "that it was expedient to carry the British Treaty into effect," and not whether they were bound by national faith to do it. He would, therefore, consider the question of expediency alone; and, thinking as he did, that the House had full discretion on the subject, he conceived that there was as much responsibility in deciding in the affirmative as in rejecting the resolution; that they would be equally answerable for the consequences that might follow from either.

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It was, however, true that there was a great difference between the situation of this country in the year 1794, when a negotiator was appointed, and that in which we were at present; and that consequences would follow the refusal to carry into effect the Treaty in its present stage, which would not have attended a refusal to negotiate, and enter into such a Treaty. The question of expediency, therefore, assumed before them a different and more complex shape than when before the negotiator, the Senate, or the PRESIDENT. The Treaty, in itself, and abstractedly considered, might be injurious; it might be such an instrument as, in the opinion of the House, ought not to have been adopted by the Executive; and yet, such as it was, they might think it expedient, under the present circumstances, to carry it into effect. He would, therefore, first take a view of the provisions of the Treaty itself, and in the next place, supposing it injurious, consider, in case it was not carried into effect, what would be the natural consequences of such refusal.

The provisions of the Treaty relate either to the adjustment of past differences or to the future

intercourse of the two nations. The differences now existing between Great Britain and this country arose either from the non-execution of some articles of the Treaty of Peace, or from the effects of the present European war. The complaints of Britain in relation to the Treaty of 1783 were confined to the legal impediments thrown by the several States in the way of the recovery of British debts. The late Treaty had provided adequate remedy on that subject; the United States were bound to make full and complete compensation for any losses arising from that source, and every ground of complaint on the part of Great Britain was removed.

Having thus done full justice to the other nation, America had a right to expect that equal attention should be paid to her claims arising from infractions of the Treaty of Peace, viz: compensation for the negroes carried away by the British; restoration of the Western posts, and indemnification for their detention.

On the subject of the first claim, which had been objected to as groundless, he would observe, that he was not satisfied that the construction given by the British Government to that article of the Treaty was justified even by the letter of the article. That construction rested on the supposition that slaves came under the general denomination of booty, and were alienated the moment they fell in the possession of an enemy, so that all those who were in the hands of the British when the Treaty of Peace was signed, must be considered as British, and not American property, and were not included in the article. It would however appear by recurring to *Vattel*, when speaking of the right of *postliminium*, that slaves were not considered as part of the booty which was alienated by the act of capture, and that they were ranked rather with real property, to the profits of which only the captors were entitled. Be that as it may, there was no doubt that the construction given by America was that which had been understood by the parties at the time of making the Treaty. The journals of Mr. Adams, quoted by a gentleman from Connecticut, (Mr. Corr) proved this fully; for when he says that the insertion of this article was alone worth the journey of Mr. Laurens from London, can it be supposed that he would have laid so much stress on a clause which, according to the new construction now attempted to be given, meant only that the British would commit no new act of hostility? would not carry away slaves at that time in possession of Americans? Congress had recognized that construction by adopting the resolution which had been already quoted, and which was introduced upon the motion of Mr. Alexander Hamilton; and it had not been denied that the British Ministry, during Mr. Adams's embassy, had also agreed to it.

But when our negotiator had, for the sake of peace, waived that claim; when he had also abandoned the right which America had to demand an indemnification for the detention of the posts, although he had conceded the right of a similar nature, which Great Britain had for the detention of debt; when he had thus given up every thing which might be supposed to be of a doubtful nature, it might have been hoped that our last claim—a claim on which there was not and there never had been any dispute—the Western posts should have been restored according to the terms of the Treaty of Peace. Upon what ground the British had insisted, and our negotiator conceded, that this late restitution should be saddled with new conditions, which made no part of the original contract, Mr. G. was at a loss to know. British traders were all allowed, by the new Treaty, to remain within the posts without becoming citizens of the United States, and to carry on trade and commerce with the Indians living within our boundaries, without being subject to any control from our Government. In vain was it said, that if that clause had not been inserted we would have found it our interest to effect it by our own laws. Of this we were alone competent judges; if that condition was harmless at present, it was not possible to foresee whether, under future circumstances, it would not prove highly injurious; and, whether harmless or not, it was not less a permanent and new condition imposed upon us. But the fact was, that by the introduction of that clause, by obliging us to keep within our jurisdiction, as British subjects, the very men who had been the instruments used by Great Britain to promote Indian wars on our frontiers,—by obliging us to suffer those men to continue their commerce with Indians living in our territory, uncontrolled by those regulations, which we had thought necessary, in order to restrain our own citizens in their intercourse with these tribes, Great Britain had preserved her full influence with the Indian nations; by a restoration of the posts under that condition, we had lost the greatest advantage that was expected from their possession, viz: future security against the Indians. In the same manner had the British preserved the commercial advantages which resulted from the occupancy of these posts, by stipulating as a permanent condition a free passage for their goods across our portages, without paying any duty.

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The remaining provisions of the Treaty had no connection with past differences; they made no part of the Convention which had been the avowed object of Mr. Jay's mission; they applied solely to the future intercourse of the two nations as relating to commerce and navigation; and had they been entirely omitted, our differences would have been nevertheless adjusted. It was agreed on all hands, that so far as related to our commerce with Great Britain, we wanted no Treaty. The intercourse, although useful perhaps to both parties, was more immediately necessary to England, and her own interest was a sufficient pledge of her granting us at all times a perfect liberty of commerce to her European ports. If we want to treat with her, it must be in order to obtain some intercourse with her colonies, and some general security in our navigation.

The twelfth and thirteenth articles had been obtained by our negotiator with a view to the first object. The twelfth article, however, which related to our intercourse with the West Indies, was found, upon examination, to be accompanied by a restriction of such a nature, that what had been granted by Great Britain as a favor, was rejected by the Senate as highly injurious. The thirteenth article, which related to the East Indies, and remained part of the Treaty, was, like the twelfth, conferring a favor limited by restrictions, and so far as he could depend upon the opinion

of the best-informed judges on that subject, those restrictions put the trade in a more disadvantageous situation than it was before the Treaty. As the West India article had declared that we should not re-export any produce of those islands to Europe, so the East India article, at the same time it granted us the privilege, which we enjoyed before, and which we enjoyed because it was the interest of the East India Company to grant it to us, that of being admitted in the British seaports there, had forbidden our carrying any articles from thence to any place except to America; which regulation amounted to a total prohibition to export East India articles to China, or to obtain freights back to Europe; and, upon the whole, he could not help thinking, from what had fallen on that floor, and what he had heard elsewhere from gentlemen of great commercial knowledge, that if the East India commerce had been as generally understood in America as the West India trade, that so much boasted of article would have met the same fate in the Senate with the twelfth article.

During the American war, in the year 1780, so fully convinced were the neutral nations of the necessity of introducing that doctrine of free bottom making free goods, that all of them, excepting Portugal, who was in a state of vassalage to, and a mere appendage of Great Britain, had united in order to establish the principle, and had formed for that purpose the alliance known by the name of the Armed Neutrality. All the belligerent powers, except England, had recognized and agreed to the doctrine. England itself had been obliged, in some measure, to give for a while a tacit acquiescence. America had completely, at the time, admitted the principle, although they were then at war, [Mr. G. quoted on this subject the Journals of Congress of the year 1780, page 210, and of the year 1781, page 80,] and it had been introduced in every other Treaty we had concluded since our existence as a nation. Since the year 1780, every nation, so far as his knowledge went, had refused to enter into a Treaty of Commerce with England, unless that provision was inserted. Russia, for that reason, would not renew their Treaty, which had expired in 1786, although he believed that, during the present war, and in order to answer the ends of the war, they had formed a temporary convention, which he had not seen, but which, perhaps, did not include that provision. England had consented to it in their Treaty with France in 1788, and we were the first neutral nation who abandoned the common cause, gave up the claim, and, by a positive declaration inserted in our Treaty, had recognized the contrary doctrine. It had been said, that under the present circumstances, it could not be expected that Great Britain would give up the point: perhaps so; but the objection was not, that our negotiator had not been able to obtain that doctrine, but that he had consented to enter into a Treaty of Commerce (which we did not want, and which had no connection with an adjustment of our differences with Great Britain) without the principle contended for making part of that Treaty. Unless we could obtain security for our navigation, we wanted no Treaty; and the only provision which could give us that security, should have been the *sine qua non* of a Treaty. On the contrary, we had disgusted all the other neutral nations of Europe, without whose concert and assistance there was but little hope that we should ever obtain that point, and we had taught Great Britain that we were disposed to form the most intimate connections with her, even at the expense of recognizing the principle the most fatal to the liberty of commerce, and to the security of our navigation.

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Mr. G. was not going to enter into a discussion of the immorality of sequestering private property. What could be more immoral than war? or the plundering of the high seas legalized under the name of privateering? Yet self-defence justified the first, and the necessity of the case might, at least in some instances, and where it was the only practicable mode of warfare left to a nation, apologize even for the last. In the same manner the power of sequestration might be resorted to, as the last weapon of self-defence, rather than to seek redress by an appeal to arms. It was the last peace-measure that could be taken by a nation; but the Treaty, by declaring that in case of national differences it should not be resorted to, had deprived us of the power of judging of its propriety, had rendered it an act of hostility, and had effectually taken off that restraint which a fear of its exercise laid upon Great Britain.

Thus it appeared that, by the Treaty, we had promised full compensation to England for every possible claim they might have against us, that we had abandoned every claim of a doubtful nature, and that we had consented to receive the posts, our claim to which was not disputed, under new conditions and restrictions never before contemplated. That, after having obtained, by those concessions, an adjustment of past differences, we had entered into a new agreement, unconnected with those objects, which had heretofore been subjects of discussion between the two nations; and that, by that Treaty of Commerce and Navigation, we had obtained no commercial advantage which we did not enjoy before; we had obtained no security against future aggressions, no security in favor of the freedom of our navigation, and we had parted with every pledge we had in our hands, with every power of restriction, with every weapon of self-defence, which was calculated to give us any security.

From the review he had taken of the Treaty, and the opinions he had expressed, Mr. G. said, it was hardly necessary for him to add that he looked upon the instrument as highly injurious to the interests of the United States, and that he earnestly wished it never had been made; but whether, in its present stage, the House ought to refuse to carry it into effect, and what would be the probable consequences of a refusal, was a question which required the most serious attention, and which he would now attempt to investigate.

Should the Treaty be finally defeated, either new negotiations would be more successful, or Great Britain would refuse to make a new arrangement, and leave things in the situation in which they were, or war would be the consequence. Mr. G. said that he would, in the course of his observations, make some remarks on the last supposition; he did not think that the first would be

very probable at present, and he was of opinion that, under the present circumstances, and until some change took place in our own or in the relative political situation of the European nations, it was to be apprehended that, in such a case, new negotiations would either be rejected or prove unsuccessful. Such an event would have perhaps followed a rejection of the Treaty even by the Senate or by the PRESIDENT. After the negotiator employed by the United States had once affixed his signature, it must have become very problematical, unless he had exceeded his powers, whether a refusal to sanction the contract he had made would not eventually defeat, at least for a time, the prospect of a new Treaty. He conceived that the hopes of obtaining better conditions, by a new negotiation, were much less in the present stage of the business than they had been when the Treaty was in its inchoate form before the Executive; and in order to have a just idea of the consequences of a rejection at present, he would contemplate them upon that supposition which appeared to him most probable, viz: that no new Treaty would take place for a certain period of time.

As he was not sensible that a single commercial advantage had been obtained by the Treaty, he could not mention the loss of any, as a mischief that would attend its rejection. If, however, the East India article was supposed to be beneficial, it must, on the other hand, be conceded that we had enjoyed every benefit arising from it for a number of years, without Treaty, and consequently, because it was the interest of the East India Company that we should enjoy them; and that it was not probable that circumstances would so far change there, during the short period to which that article was limited, as to induce that Company to adopt a different policy towards us.

But it was said that war must be the consequence of our delaying to carry the Treaty into effect. Did the gentlemen mean that, if we rejected the Treaty, if we did not accept the reparation there given to us, in order to obtain redress, we had no alternative left but war? If we must go to war in order to obtain reparation for insults and spoliations on our trade, we must do it, even if we carry the present Treaty into effect; for the Treaty gives us no reparation for the aggressions committed since it was ratified, has not produced a discontinuance of those acts of hostility, and gives us no security that they shall be discontinued. But the argument of those gentlemen, who supposed that America must go to war, applied to a final rejection of the Treaty, and not to a delay. He did not propose to refuse the reparation offered by the Treaty, and to put up with the aggressions committed; he had agreed that that reparation, such as it was, was a valuable article of the Treaty; he had agreed that, under the present circumstances, a greater evil would follow a total rejection than an acquiescence to the Treaty. The only measure which had been mentioned in preference to the one now under discussion, was a suspension, a postponement whilst the present spoliations continued, in hopes to obtain for them a similar reparation, and assurances that they would cease.

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But, was it meant to insinuate that it was the final intention of those who pretended to wish only for a postponement, to involve this country in a war? There was no period of the present European war at which it would not have been weak and wicked to adopt such measures as must involve America in the contest, unless forced into it for the sake of self-defence; but, at this time, to think of it, would fall but little short of madness. The whole American nation would rise in opposition to the idea; and it might, at least, have been recollected that war could not be declared except by Congress, and that two of the branches of Government were sufficient to check the other in any supposed attempt of that kind.

But to the cry of war, the alarmists did not fail to add that of confusion; and they had declared, even on this floor, that if the resolution was not adopted, Government would be dissolved. Government dissolved in case a postponement took place! This idea was too absurd to deserve a direct answer. But he would ask those gentlemen, by whom the Government was to be dissolved? Certainly not by those who would vote against the resolution; for, although they were not, perhaps, fortunate enough to have obtained the confidence of the gentleman who voted against them, still, it must be agreed, that those who succeeded in their wishes, who defeated a measure they disliked, would not wish to destroy that Government, which they held, so far, in their hands, as to be able to carry their own measures. For them to dissolve the Government would be to dissolve their own power. By whom, then, he would ask again, was the Government to be dissolved? The gentlemen must answer, by themselves, or they must declare that they meant nothing but to alarm. Was it really the language of those men, who professed to be, who distinguished themselves by the self-assumed appellation of friends to order, that if they did not succeed in all their measures, they would overset the Government? And had all their professions been only a veil to hide their love of power? a pretence to cover their ambition? Did they mean, that the first event which would put an end to their own authority should be the last act of Government? As to himself, he did not believe that they had such an intention; he had too good an opinion of their patriotism to permit himself to admit such an idea for a single moment; but he thought himself justifiable in entertaining a belief, that some amongst them, in order to carry a favorite, and what they thought to be an advantageous measure, meant to spread an alarm, which they did not feel; and he had no doubt that many had contracted such a habit of carrying every measure of Government as they pleased, that they really thought that every thing must be thrown into confusion the moment they were thwarted in a matter of importance. He hoped that experience would, in future, cure their fears. But, at all events, be the wishes and intentions of the members of this House what they may, it was not in their power to dissolve the Government. The people of the United States, from one end of the continent to the other, were strongly attached to their constitution; they would restrain and punish the excesses of any party, of any set of men in the Government, who would be guilty of the attempt; and on them he would rest as a full security against every endeavor to destroy our Union, our constitution, or our Government.

But, although he was not afraid of a dissolution, he felt how highly desirable a more general union of sentiment would be; he felt the importance of an agreement of opinion between the different branches of Government, and even between the members of the same branch. He would sacrifice much to obtain that object; it had been one of the most urging motives with him to be in favor, not of a rejection, but only of a suspension, of a delay. But even as a matter of opinion, it was difficult to say which mode of proceeding, in this House, would best accord with the general sentiments of the people. So far as related to the petitions before them, the number of signatures against the Treaty exceeded, at the moment he was speaking, the number of those in favor of the Treaty.

True it was, that an alarm which had produced a combination, had lately taken place amongst the merchants of this and some other seaports. What effect it would have, and how successful they would eventually be, in spreading this alarm amongst the people at large, he could not tell; but there were circumstances accompanying their petition, which, in his opinion, much diminished the weight they otherwise might have had. They had, undoubtedly, a right to petition upon every public measure, where they thought themselves interested, and their petitions would deserve equal regard, with those of their fellow-citizens throughout the United States. But on this occasion, in order to create an alarm, in order to induce the people to join them, in order to force the House to pass the laws relative to the Treaty, they had formed a dangerous combination, and affected to cease insuring vessels, purchasing produce, and transacting any business. A gentleman from New York (Mr. WILLIAMS) had been so much alarmed himself, that he had predicted a fall in the price of every kind of produce, and seems, indeed, to have supposed, that the clamors of a few individuals here would either put an end to, or satisfy the wants of those nations which depended on us for supplies of provisions. Yet, it had so happened, and it was a complete proof that the whole was only an alarm, that whilst they were debating, the price of flour, which was of very dull sale two weeks ago, had risen in equal proportion with the supposed fears of the purchasers.

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He could not help considering the cry of war, the threats of a dissolution of Government, and the present alarm, as designed for the same purpose, that of making an impression on the fears of this House. It was through the fear of being involved in a war, that the negotiation with Great Britain had originated; under the impression of fear, the Treaty had been negotiated and signed; a fear of the same danger, that of war, had promoted its ratification; and now, every imaginary mischief which could alarm our fears, was conjured up, in order to deprive us of that discretion, which this House thought they had a right to exercise, and in order to force us to carry the Treaty into effect.

The Son of the Marquis Lafayette.

Mr. LIVINGSTON, Chairman of the committee for carrying into effect a resolution respecting the son of the Marquis LAFAYETTE, reported that he had arrived in this country; that he had received the patronage of the PRESIDENT OF THE UNITED STATES; that he was in New Jersey for education, and to show that he had no occasion for pecuniary assistance, the committee subjoin a well-written, affecting letter to the Chairman of the committee, in answer to one from him, expressive of his gratitude for the kind attention shown to him by the Legislature of the United States, by the PRESIDENT, and to every person to whom he was made known; that he had no wants; that he was as happy as he could be; that if he should in future have occasion for assistance, he would apply to Congress, who had been so kind and attentive to his welfare.^[77]

THURSDAY, April 28.

Execution of British Treaty.

The House then resolved itself into a Committee of the Whole on the state of the Union; when, the resolution for carrying the British Treaty into effect being under consideration—

Mr. PRESTON rose and spoke as follows: Mr. Chairman, I voted for the question yesterday, for the first time since this discussion began. I was then prepared to give my opinion, but, since the House has thought proper to devote another day to this important subject, I will take the liberty to offer my sentiments, and claim the indulgence of the committee for this purpose. I make this claim for their indulgence with the more confidence, as I have heretofore occupied but little of the time of the House on any occasion, and as I mean to be short on the present—not intending to take that comprehensive view of the subject which many gentlemen have done who have preceded me. With this apology I will proceed, conceiving, however that no apology is necessary on this or any other occasion where our duty impels us to come forward. But I must confess it has been painful to me to hear the recriminations that have taken place on this occasion. I had hoped, on a subject so important, on which it is said the peace and happiness of this our common country rests—whose welfare must be equally dear to all—that temperance and calmness would have marked our deliberations; that all our efforts would have been made to enlighten the minds and convince the judgments of each other, instead of lessening one another in our estimation, and that of our constituents, by dishonorable imputations, and which, I trust, every member would spurn. As to myself, Mr. Chairman, I stand here regardless of any imputations that ill-nature may cast upon me in this House, or abuse which may be conferred without doors. I shall not be deterred from pronouncing that opinion which my best reflections have enabled me to form.

Sir, in considering this subject, I had hoped every information possessed by any of the departments of Government would have been freely afforded us; and I cannot but lament that the PRESIDENT, by a too strict adherence to what he has supposed to be his constitutional duty, refused the request of this House for certain papers, which request seemed to me not only proper, but innocent—proper, because they might have afforded information that would reconcile many of the objections entertained of the Treaty, and finally produce its adoption; it was innocent, because, if there was no unfair procedure respecting this business, why not publish the transaction to the world—at all events to the Representatives of the people, who, it is acknowledged by all, were not only to act on the Treaty in some way, but were intrusted with the management of some of the dearest rights of their fellow-countrymen? If, then, the people confide in us such important concerns, might not the Executive have reposed some degree of confidence, and complied with a request so decorously and respectfully made? But he has told us his duty forbids it. We are then reduced to the necessity to judge of the thing from the face of it, without the wished-for information. And I must confess it has always presented such a hideous and deformed aspect to my mind, that I have ever disliked it—which, together with the unfriendly sentiments of my constituents to it, has produced my prejudices. But I had determined, as the PRESIDENT and Senate had ratified it, and many approved it, to keep my mind open for every information the subject was capable of. As, then, none has been offered to operate a change of my opinion, and as the most likely source is shut against us, my prejudices, instead of being lessened, have become firmly fixed in the opposition.

But we are told the British committed no infraction of the Treaty of 1783, by withholding the posts; for we, having thrown legal impediments in the way of the recovery of their debts, became the first infractors thereof, whereby they were left free to comply or not. Let us, for a moment, inquire into this fact. By the 4th article of that Treaty, creditors on either side were to meet with no legal impediment to the recovery of their debts. By the 7th article of the same Treaty, His Majesty was, with all convenient speed, to withdraw his armies and garrisons from every post and place. Now, sir, on comparing these articles, can it be presumed by any one that the latter stipulation was to remain unexecuted until the creditors recovered their debts? Was it to remain as a pledge for the performance of the other? No one can entertain the idea for a moment. Suppose the creditors had gone on in the collection of their debts without interruption, would it be said that the stipulations of the 7th article would be suspended until all the creditors were wholly satisfied? It is absurd, particularly when we reflect that the commissioners who negotiated that Treaty must have contemplated the recovery of those debts by lawsuits; therefore, if the latter clause was intended to coerce the former, we would certainly not have had the insertion of the words "with all convenient speed," which implies an early compliance. If the opposite construction was just, I would venture to say, the British Government would never have agreed to surrender the posts, but in consequence of such concessions as it now gets; for it would have the advantages of the fur trade, and the faith of this country pledged for the payment of the debts, which were accumulating by interest. This was a pleasing situation; but what was the situation of the British debtors? Deprived of their negroes, which were to be returned by the Treaty; deprived of the advantages of the trade with the Indians, whereby they might be enabling themselves to discharge those debts; harassed and worn down with taxation, to support the Indian wars excited by their creditors. In this situation of things, was it not natural for them to look around for security or indemnity against these evils; and would any thing more naturally present itself, than withholding the payment of the money to the very cause of these evils? None, sir; and I cannot conceive it so dishonorable as some gentlemen pretend to view it.

But, sir, I will endeavor to show that the laws which were enacted by States for prohibiting the recovery of the British debts, were not an infraction of the Treaty of 1783. By the little book, which the gentleman from Connecticut (Mr. HILLHOUSE) says is so precious, and which he hopes will be preserved for some time to come, we find that Mr. JEFFERSON has, in consequence of complaints from the British Minister, respecting the impediments to the recovery of British debts, inquired into the facts, in those States where the complaints originated; the result of these inquiries was, that though there were State laws prohibiting, yet a number of gentlemen, of the first abilities and great integrity,—generally professional characters, and who have been engaged in proceedings of this kind,—certify, that wherever attempts were made to recover these debts, they have met with no more obstruction than other creditors. Besides, those gentlemen were generally of opinion that, on the final ratification of the Treaty of 1783, it repealed all laws at variance with it. If, then, it had such a powerful attribute as to repeal former laws, it follows as a consequence, that subsequent laws opposing it were mere nullities. These opinions were cited the other day by a gentleman from Massachusetts, (Mr. SEDGWICK,) and relied on. I hope they will have their due weight on the application now to be made of them. So that, on the whole, it does appear to me the British creditor had nothing more to struggle with than other creditors had, except the well-founded prejudices imbibed by our countrymen against that nation, which, though the laws might in some measure correct, they could never eradicate. That these prejudices have produced irregularities in many instances and delay of collections, I have no doubt; but from the nature of things it is well known no foresight or protection could guard against it. Indeed, they might have been expected, for can it be supposed that men would stand calmly and see their families reduced to penury and want by an unrelenting British creditor, who had aided to impair the very means of his debtor to pay, and whose Government was by their acts daily increasing the evils, by exciting the Indians to war against us, whereby our citizens were borne down with burdens to defend themselves? I say, would not such reflections, with ruin before our eyes, produce a degree of irritation in the most calm amongst us? I owe none of these debts, I never did, and I never will, if I can help it. I spurn the idea of involving my country in a debt of an incalculable amount, when millions of them never received any benefit thereby. It is

wrong, it is unjust. I again repeat, that it does appear to me, on an impartial view of this subject, that the United States are not chargeable with the first infraction of the Treaty of 1783, and that therefore, we are not bound now to enter into a compact which appears to me to be warranted neither by the principles of reciprocity nor justice.

But I undertake to say, and with some confidence too, that Great Britain committed the first infraction of that Treaty, by withholding the posts, and also carrying away the negroes, which she had expressly stipulated to give up; and, to my astonishment, it is now contended that the taking away the negroes was not a violation of the Treaty, as they came into their possession by the rights of war, and being deemed property were vested in the captors. Admit, for a moment, they were that kind of property, and they became as much the property of their captors as any they had possessed themselves of in the same way, what then? Certainly, that it followed of course, they had a right to dispose of them in any way they chose, either to emancipate them, retain them in slavery for their own use, or return them to their original owners. Which of these alternatives have they elected to do? [Here he read the following sentence from the Treaty of 1783.] "And His Britannic Majesty shall, with all convenient speed, and without causing any destruction or carrying away any negroes or other property of the American inhabitants, withdraw all his armies," &c., &c. Now, sir, was not the carrying away the negroes a violation of this article? All America once thought so. No other construction ever entered the head of man till this Treaty appeared; owners so construed it, and in virtue thereof made demands. Congress, and even "*Camillus*," once thought so, and so they declared it in the most solemn manner. And so it would be construed by all descriptions of people, from the schoolboy to the Senator, to use the expression of the gentleman from New York, (Mr. COOPER,) had our minds remained in the same state they were in a dozen years ago. Sir, if there be modern constructions of the constitution, I will venture to say there is the same of Treaties. But another clause of the same article justifies my construction, to wit: the leaving in all fortifications the American artillery that may be therein. Gentlemen will hardly say this means fortifications garrisoned by American soldiery; this would be absurd, for it is pretty well known that American artillery guarded itself better than British Treaties did. Was not this artillery, which had fallen into the hands of the enemy, a vested property, till the chances of war or the Treaty had made a disposal thereof? Unquestionably it was. Were not the archives, records, deeds, &c., which had also fallen into the hands of the enemy, their property? There can be no doubt of it. Yet we find these things stipulated to be given up.

If, then, they chose to yield one species of property, might they not another? But, it is said, the negroes were not our property at the time of signing the Treaty; so neither did the archives, records, &c., belong to the States—they were the property of the enemy; but certainly the British Minister had as much right to stipulate for the return of the one as for the other, and he has in as explicit terms. This must have been the understanding of the commissioners who negotiated that Treaty, although one of them has been traced to his slumbers, the evening before the sealing the Treaty, for a different construction. So that, in this instance, the British have certainly committed the first infraction, by carrying off the negroes. And is it not extraordinary that, notwithstanding this, no claim is made for them, and yet we are bound to pay the British debts, when the very means of doing it are taken from the debtor by the creditor? Sir, this is a serious oppression, and though not of a very great magnitude, will nevertheless be felt in an interesting manner, and if submitted to will be so under much disquietude.

But the rejection of the Treaty is tremendously alarming, indeed. War, and war's alarms, are echoed on all sides. We shall be attacked on one side by savage barbarity; up the Mediterranean by Algerine cruelty; our commerce prostrated, and our cities laid under contribution by the British. In short, the dogs of war let loose on us, and America, once happy America, will become the scene of bloodshed and desolation. Great God! What man is there here that can be wicked enough to involve his country in such incalculable miseries? Who has firmness enough to meet so foul a deed? Particularly when we reflect on the dreadful act we are about to do, that will produce such scenes of horror and devastation! namely, refuse to accept a bargain derogatory to our national honor! This, sir, is to produce the dreadful catastrophe. But the measure of woe is not yet filled. There will be disunion; and American citizens will become American enemies, imbruing their hands in each other's blood. Civil wars will rend our happy country. Heavens! What a shock to suffering humanity here will be! And all about some commercial regulations and political differences with a foreign nation, who, I believe, in principle, is our inveterate enemy.

Mr. Chairman, I am one who, though I have but little confidence in the British Government, yet I cannot believe that she, or any other nation on earth, is so arrogant, and lost to every principle of humanity, as to go into such dreadful excesses, because we will not enter into a contract that will suit her interest. I fear war as much as any man, when a pretext is given; but can it be seriously said a rejection of this Treaty is a cause of war? I cannot believe that such can possibly be the event.

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As to disunion, it is idle to talk of it; for I do believe if, instead of a minority of this House, every man in it were to return home full of spleen and disappointment, and were to use every exertion, every artifice in their power, to bring about a disunion, they would fail in so traitorous an attempt. The people, sir, would scoff them, would turn them out of office, and place therein more deserving characters.

As then, Mr. Chairman, I cannot believe that war or disunion will be the result of a rejection of the Treaty, and as I think it is one from which we ought to withhold our assent, I must give it my negative. And if, in this, time shall prove me wrong, I shall lament the error with the greatest sincerity, but I shall have the pleasing consolation to know it was an error of the head, and not of

the heart.

When Mr. PRESTON had taken his seat—

Mr. AMES rose, and addressed the Chair as follows:

Mr. Chairman: I entertain the hope, perhaps a rash one, that my strength will hold me out to speak a few minutes.

In my judgment, a right decision will depend more on the temper and manner with which we may prevail on ourselves to contemplate the subject, than upon the development of any profound political principles, or any remarkable skill in the application of them. If we should succeed to neutralize our inclinations, we should find less difficulty than we have to apprehend in surmounting all our objections.

The suggestion, a few days ago, that the House manifested symptoms of heat and irritation, was made and retorted as if the charge ought to create surprise, and would convey reproach. Let us be more just to ourselves, and to the occasion. Let us not affect to deny the existence and the intrusion of some portion of prejudice and feeling into the debate, when, from the very structure of our nature, we ought to anticipate the circumstance as a probability, and when we are admonished by the evidence of our senses that it is a fact.

How can we make professions for ourselves, and offer exhortations to the House, that no influence should be felt but that of duty, and no guide respected but that of the understanding, while the peal to rally every passion of man is continually ringing in our ears.

Our understandings have been addressed, it is true, and with ability and effect; but, I demand, has any corner of the heart been left unexplored? It has been ransacked to find auxiliary arguments, and when that attempt failed, to awaken the sensibilities that would require none. Every prejudice and feeling have been summoned to listen to some particular style of address; and yet we seem to believe, and to consider a doubt as an affront, that we are strangers to any influence but that of unbiased reason.

It would be strange that a subject which has roused in turn all the passions of the country, should be discussed without the interference of any of our own. We are men, and, therefore, not exempt from those passions; as citizens and Representatives, we feel the interest that must excite them. The hazard of great interests cannot fail to agitate strong passions: we are not disinterested, it is impossible we should be dispassionate. The warmth of such feelings may becloud the judgment, and, for a time, pervert the understanding; but the public sensibility and our own, has sharpened the spirit of inquiry, and given an animation to the debate. The public attention has been quickened to mark the progress of the discussion, and its judgment, often hasty and erroneous on first impressions, has become solid and enlightened at last. Our result will, I hope, on that account, be the safer and more mature, as well as more accordant with that of the nation. The only constant agents in political affairs are the passions of men—shall we complain of our nature? Shall we say that man ought to have been made otherwise? It is right already, because He, from whom we derive our nature, ordained it so; and because thus made, and thus acting, the cause of truth and the public good is the more surely promoted.

But an attempt has been made to produce an influence of a nature more stubborn and more unfriendly to truth. It is very unfairly pretended that the constitutional right of this House is at stake, and to be asserted and preserved only by a vote in the negative. We hear it said that this is a struggle for liberty, a manly resistance against the design to nullify this assembly, and to make it a cypher in the Government. That the PRESIDENT and Senate, the numerous meetings in the cities, and the influence of the general alarm of the country, are the agents and instruments of a scheme of coercion and terror, to force the Treaty down our throats, though we loathe it, and in spite of the clearest convictions of duty and conscience.

It is necessary to pause here and inquire, whether suggestions of this kind be not unfair in their very texture and fabric, and pernicious in all their influences? They oppose an obstacle in the path of inquiry, not simply discouraging, but absolutely insurmountable. They will not yield to argument; for, as they were not reasoned up, they cannot be reasoned down. They are higher than a Chinese wall in truth's way, and built of materials that are indestructible. While this remains, it is in vain to argue; it is in vain to say to this mountain, be thou cast into the sea. For, I ask of the men of knowledge of the world, whether they would not hold him for a blockhead that should hope to prevail in an argument whose scope and object it is to mortify the self-love of the expected proselyte? I ask, further, when such attempts have been made, have they not failed of success? The indignant heart repels a conviction that is believed to debase it.

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The self-love of an individual is not warmer in its sense, or more constant in its action, than what is called in French, *l'esprit de corps*, or the self-love of an assembly; that jealous affection which a body of men is always found to bear towards its own prerogatives and power. I will not condemn this passion. Why should we urge an unmeaning censure, or yield to groundless fears that truth and duty will be abandoned, because men in a public assembly are still men, and feel that spirit of corps which is one of the laws of their nature? Still less should we despond or complain, if we reflect that this very spirit is a guardian instinct that watches over the life of this assembly. It cherishes the principle of self-preservation; and, without its existence, and its existence with all the strength we see it possess, the privileges of the Representatives of the people, and immediately the liberties of the people, would not be guarded, as they are, with a vigilance that never sleeps, and an unrelaxing constancy and courage.

If the consequences, most unfairly attributed to the vote in the affirmative, were not chimerical,

and worse, for they are deceptive, I should think it a reproach to be found even moderate in my zeal to assert the constitutional powers of this assembly; and, whenever they shall be in real danger, the present occasion affords proof that there will be no want of advocates and champions.

Indeed, so prompt are these feelings, and when once roused, so difficult to pacify, that, if we could prove the alarm was groundless, the prejudice against the appropriations may remain on the mind, and it may even pass for an act of prudence and duty to negative a measure which was lately believed by ourselves, and may hereafter be misconceived by others, to encroach upon the powers of the House. Principles that bear a remote affinity with usurpation on those powers will be rejected, not merely as errors, but as wrongs. Our sensibilities will shrink from a post where it is possible they may be wounded, and be inflamed by the slightest suspicion of an assault.

While these prepossessions remain, all argument is useless; it may be heard with the ceremony of attention, and lavish its own resources, and the patience it wearies, to no manner of purpose. The ears may be open, but the mind will remain locked up, and every pass to the understanding guarded.

Unless, therefore, this jealous and repulsive fear for the rights of the House can be allayed, I will not ask a hearing.

I cannot press this topic too far—I cannot address myself with too much emphasis to the magnanimity and candor of those who sit here, to suspect their own feelings, and while they do, to examine the grounds of their alarm. I repeat it, we must conquer our persuasion, that this body has an interest in one side of the question more than the other, before we attempt to surmount our objections. On most subjects, and solemn ones too, perhaps in the most solemn of all, we form our creed more from inclination than evidence.

Let me expostulate with gentlemen to admit, if it be only by way of supposition and for a moment, that it is barely possible they have yielded too suddenly to their alarms for the powers of this House; that the addresses which have been made with such variety of forms, and with so great dexterity in some of them, to all that is prejudice and passion in the heart, are either the effects or the instruments of artifice and deception, and then let them see the subject once more in its singleness and simplicity.

It will be impossible, on taking a fair review of the subject, to justify the passionate appeals that have been made to us to struggle for our liberties and rights, and the solemn exhortation to reject the proposition, said to be concealed in that on your table, to surrender them for ever. In spite of this mock solemnity, I demand, if the House will not concur in the measure to execute the Treaty, what other course shall we take? How many ways of proceeding lie open before us?

In the nature of things there are but three—we are either to make the Treaty—to observe it—or break it. It would be absurd to say we will do neither. If I may repeat a phrase, already so much abused, we are under coercion to do one of them, and we have no power, by the exercise of our discretion, to prevent the consequences of a choice.

By refusing to act, we choose. The Treaty will be broken, and fall to the ground. Where is the fitness, then, of replying to those who urge upon this House the topics of duty and policy, that they attempt to force the Treaty down, and to compel this assembly to renounce its discretion, and to degrade itself to the rank of a blind and passive instrument in the hands of the Treaty-making power? In case we reject the appropriation, we do not secure any greater liberty of action, we gain no safer shelter than before, from the consequences of the decision. Indeed, they are not to be evaded. It is neither just nor manly to complain that the Treaty-making power has produced this coercion to act. It is not the art or the despotism of that power, it is the nature of things that compels. Shall we, dreading to become the blind instruments of power, yield ourselves the blinder dupes of mere sounds of imposture? Yet that word, that empty word, coercion, has given scope to an eloquence that, one would imagine, could not be tired, and did not choose to be quieted.

Let us examine still more in detail the alternatives that are before us, and we shall scarcely fail to see, in still stronger lights, the futility of our apprehensions for the power and liberty of the House.

If, as some have suggested, the thing called a Treaty is incomplete, if it has no binding force or obligation, the first question is, Will this House complete the instrument, and by concurring, impart to it that force which it wants?

The doctrine has been avowed, that the Treaty, though formally ratified by the Executive power of both nations, though published as a law for our own, by the PRESIDENT'S Proclamation, is still a mere proposition submitted to this assembly no way distinguishable in point of authority or obligation from a motion for leave to bring in a bill, or any other original act of ordinary legislation. This doctrine, so novel in our country, yet so dear to many, precisely for the reason that, in the contention of power, victory is always dear, is obviously repugnant to the very terms, as well as the fair interpretation of our own resolutions, (Mr. BLOUNT'S.) We declare that the Treaty-making power is exclusively vested in the PRESIDENT and Senate, and not in this House. Need I say that we fly in the face of that resolution when we pretend that the acts of that power are not valid until we have concurred in them? It would be nonsense, or worse, to use the language of the most glaring contradiction and to claim a share in a power which we, at the same time, disclaim as exclusively vested in other departments.

What can be more strange than to say, that the compacts of the PRESIDENT and Senate with foreign

nations are Treaties, without our agency, and yet those compacts want all power and obligation until they are sanctioned by our concurrence? It is not my design in this place, if at all, to go into the discussion of this part of the subject. I will, at least for the present, take it for granted that this monstrous opinion stands in little need of remark, and, if it does, lies almost out of the reach of refutation.

But, say those who hide the absurdity under the cover of ambiguous phrases, have we no discretion? And, if we have, are we not to make use of it in judging of the expediency or inexpediency of the Treaty? Our resolution claims that privilege, and we cannot surrender it without equal inconsistency and breach of duty.

If there be any inconsistency in the case, it lies, not in making appropriations for the Treaty, but in the resolution itself, (Mr. BLOUNT'S.) Let us examine it more nearly. A Treaty is a bargain between nations binding in good faith; and what makes a bargain? The assent of the contracting parties. We allow that the Treaty power is not in this House; this House has no share in contracting, and is not a party; of consequence, the PRESIDENT and Senate alone may make a Treaty that is binding in good faith. We claim, however, say the gentlemen, a right to judge of the expediency of Treaties—that is the constitutional province of our discretion. Be it so—what follows? Treaties when adjudged by us to be inexpedient, fall to the ground, and the public faith is not hurt. This, incredible and extravagant as it may seem, is asserted. The amount of it, in plainer language, is this—the PRESIDENT and Senate are to make national bargains, and this House has nothing to do in making them. But bad bargains do not bind this House, and, of inevitable consequence, do not bind the nation. When a national bargain, called a Treaty, is made, its binding force does not depend upon the making, but upon our opinion that it is good. As our opinion on the matter can be known and declared only by ourselves, when sitting in our Legislative capacity, the Treaty, though ratified, and, as we choose to term it, made, is hung up in suspense, till our sense is ascertained. We condemn the bargain, and it falls, though, as we say, our faith does not. We approve a bargain as expedient, and it stands firm, and binds the nation. Yet, even in this latter case, its force is plainly not derived from the ratification by the Treaty-making power, but from our approbation. Who will trace these inferences, and pretend that we may have no share, according to the argument, in the Treaty-making power? These opinions, nevertheless, have been advocated with infinite zeal and perseverance. Is it possible that any man can be hardy enough to avow them, and their ridiculous consequences?

Let me hasten to suppose the Treaty is considered as already made, and then the alternative is fairly presented to the mind, whether we will observe the Treaty, or break it. This, in fact, is the naked question.

If we choose to observe it with good faith, our course is obvious. Whatever is stipulated to be done by the nation, must be complied with. Our agency, if it should be requisite, cannot be properly refused. And I do not see why it is not as obligatory a rule of conduct for the Legislature as for the Courts of Law.

I cannot lose this opportunity to remark, that the coercion, so much dreaded and declaimed against, appears at length to be no more than the authority of principles, the despotism of duty. Gentlemen complain that we are forced to act in this way, we are forced to swallow the Treaty. It is very true, unless we claim the liberty of abuse, the right to act as we ought not. There is but one way open for us, the laws of morality and good faith have fenced up every other. What sort of liberty is that which we presume to exercise against the authority of those laws! It is for tyrants to complain that principles are restraints, and that they have no liberty so long as their despotism has limits.

The consequences of refusing to make provision for the Treaty are not all to be foreseen. By rejecting, vast interests are committed to the sport of the winds, chance becomes the arbiter of events, and it is forbidden to human foresight to count their number, or measure their extent. Before we resolve to leap into this abyss, so dark and so profound, it becomes us to pause and reflect upon such of the dangers as are obvious and inevitable. If this assembly should be wrought into a temper to defy these consequences, it is vain, it is deceptive, to pretend that we can escape them. It is worse than weakness to say, that as to public faith our vote has already settled the question. Another tribunal than our own is already erected. The public opinion, not merely of our own country, but of the enlightened world, will pronounce judgment that we cannot resist, that we dare not even affect to despise.

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Well may I urge it to men who know the worth of character, that it is no trivial calamity to have it contested. Refusing to do what the Treaty stipulates shall be done, opens the controversy. Even if we should stand justified at last, a character that is vindicated is something worse than it stood before, unquestioned and unquestionable. Like the plaintiff in an action of slander, we recover a reputation disfigured by invective, and even tarnished by too much handling. In the combat for the honor of the nation, it may receive some wounds, which, though they should heal, will leave some scars. I need not say, for surely the feelings of every bosom have anticipated, that we cannot guard this sense of national honor, this ever-living fire, which alone keeps patriotism warm in the heart, with a sensibility too vigilant and jealous. If, by executing the Treaty, there is no possibility of dishonor, and if by rejecting there is some foundation for doubt and for reproach, it is not for me to measure, it is for your own feelings to estimate the vast distance that divides the one side of the alternative from the other. If, therefore, we should enter on the examination of the question of duty and obligation with some feelings of prepossession, I do not hesitate to say, they are such as we ought to have; it is an after inquiry to determine whether they are such as ought finally to be resisted.

To expatiate on the value of public faith, may pass with some men for declamation; to such men I have nothing to say. To others I will urge, can any circumstance mark upon a people more turpitude and debasement? Can any thing tend more to make men think themselves mean, or degrade to a lower point their estimation of virtue and their standard of action? It would not merely demoralize mankind, it tends to break all the ligaments of society, to dissolve that mysterious charm which attracts individuals to the nation, and to inspire in its stead a repulsive sense of shame and disgust.

What is patriotism? Is it a narrow affection for the spot where a man was born? Are the very clods where we tread entitled to this ardent preference because they are greener? No, sir; this is not the character of the virtue, and it soars higher for its object. It is an extended self-love, mingling with all the enjoyments of life, and twisting itself with the minutest filaments of the heart. It is thus we obey the laws of society, because they are the laws of virtue. In their authority we see not the array of force and terror, but the venerable image of our country's honor. Every good citizen makes that honor his own, and cherishes it not only as precious but as sacred. He is willing to risk his life in its defence, and is conscious that he gains protection while he gives it. For what rights of a citizen will be deemed inviolable when a State renounces the principles that constitute their security? Or, if his life should not be invaded, what would its enjoyments be in a country odious to the eyes of strangers and dishonored in his own? Could he look with affection and veneration to such a country as his parent? The sense of having one would die within him; he would blush for his patriotism, if he retained any, and justly, for it would be a vice. He would be a banished man in his native land.

I see no exception to the respect that is paid among nations to the law of good faith. If there are cases in this enlightened period when it is violated, there are none when it is decried. It is the philosophy of politics—the religion of governments. It is observed by barbarians that a whiff of tobacco-smoke or a string of beads gives not merely binding force, but sanctity, to Treaties. Even in Algiers, a truce may be bought for money, but when ratified, even Algiers is too wise or too just to disown and annul its obligation. Thus, we see neither the ignorance of savages, nor the principles of an association for piracy and rapine, permit a nation to despise its engagements. If, sir, there could be a resurrection from the foot of the gallows; if the victims of justice could live again, collect together, and form a society, they would, however loth, soon find themselves obliged to make justice—that justice under which they fell—the fundamental law of their State. They would perceive it was their interest to make others respect, and they would therefore soon pay some respect themselves to the obligations of good faith.

The refusal of the posts (inevitable, if we reject the Treaty) is a measure too decisive in its nature to be neutral in its consequences. From great causes we are to look for great effects. A plain and obvious one will be, the price of the Western lands will fall. Settlers will not choose to fix their habitation on a field of battle. Those who talk so much of the interests of the United States, should calculate how deeply it will be affected by rejecting the Treaty—how vast a tract of wild land will almost cease to be property. This loss, let it be observed, will fall upon a fund expressly devoted to sink the National Debt. What then are we called upon to do? However the form of the vote and the protestations of many may disguise the proceeding, our resolution is in substance (and it deserves to wear the title of a resolution) to prevent the sale of the Western lands and the discharge of the public debt.

Will the tendency to Indian hostilities be contrasted by any one? Experience gives the answer. The frontiers were scourged with war till the negotiation with Britain was far advanced, and then the state of hostility ceased. Perhaps the public agents of both nations are innocent of fomenting the Indian war, and perhaps they are not. We ought not, however, to expect that neighboring nations, highly irritated against each other, will neglect the friendship of the savages. The traders will gain an influence, and will abuse it; and who is ignorant that their passions are easily raised, and hardly restrained from violence. Their situation will oblige them to choose between this country and Great Britain, in case the Treaty should be rejected. They will not be our friends, and at the same time the friends of our enemies.

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But am I reduced to the necessity of proving this point? Certainly the very men who charged the Indian war on the detention of the posts will call for no other proof than the recital of their own speeches. It is remembered with what emphasis—with what acrimony—they expatiated on the burden of taxes, and the drain of blood and treasure into the Western country, in consequence of Britain's holding the posts. "Until the posts are restored," they exclaimed, "the Treasury and the frontiers must bleed."

If any, against all these proofs, should maintain that the peace with the Indians will be stable without the posts, to them I will urge another reply. From arguments calculated to produce conviction, I will appeal directly to the hearts of those who hear me, and ask whether it is not already planted there? I resort especially to the convictions of the Western gentlemen, whether, supposing no posts and no Treaty, the settlers will remain in security? Can they take it upon them to say that an Indian peace, under these circumstances, will prove firm. No, sir; it will not be peace, but a sword; it will be no better than a lure to draw victims within the reach of the tomahawk.

On this theme, my emotions are unutterable. If I could find words for them—if my powers bore any proportion to my zeal—I would swell my voice to such a note of remonstrance it should reach every log-house beyond the mountains. I would say to the inhabitants, Wake from your false security! Your cruel dangers—your more cruel apprehensions—are soon to be renewed; the wounds, yet unhealed, are to be torn open again. In the day-time, your path through the woods will be ambushed; the darkness of midnight will glitter with the blaze of your dwellings. You are a

father: the blood of your sons shall fatten your corn-field! You are a mother: the war-whoop shall wake the sleep of the cradle!

On this subject you need not suspect any deception on your feelings. It is a spectacle of horror which cannot be overdrawn. If you have nature in your hearts, it will speak a language compared with which all I have said or can say will be poor and frigid.

Will it be whispered that the Treaty has made me a new champion for the protection of the frontiers? It is known that my voice, as well as my vote, have been uniformly given in conformity with the ideas I have expressed. Protection is the right of the frontier: it is our duty to give it.

Who will accuse me of wandering out of the subject? Who will say that I exaggerate the tendencies of our measures? Will any one answer by a sneer, that all this is idle preaching? Will any one deny that we are bound—and I would hope to good purpose—by the most solemn sanctions of duty for the vote we give? Are despots alone to be reproached for unfeeling indifference to the tears and blood of their subjects? Are Republicans irresponsible? Have the principles on which you ground the reproach upon Cabinets and Kings no practical influence—no binding force? Are they merely themes of idle declamation, introduced to decorate the morality of a newspaper essay, or to furnish pretty topics of harangue from the windows of that State-house? I trust it is neither too presumptuous, nor too late to ask, can you put the dearest interest of society at risk without guilt, and without remorse?

It is vain to offer as an excuse, that public men are not to be reproached for the evils that may happen to ensue from their measures. This is very true, where they are unforeseen or inevitable. Those I have depicted are not unforeseen; they are so far from inevitable, we are going to bring them into being by our vote. We choose the consequences, and become as justly answerable for them as for the measure that we know will produce them.

By rejecting the posts, we light the savage fires—we bind the victims. This day we undertake to render account to the widows and orphans whom our decision will make; to the wretches that will be roasted at the stake; to our country; and I do not deem it too serious to say, to conscience, and to God—we are answerable; and if duty be any thing more than a word of imposture, if conscience be not a bugbear, we are preparing to make ourselves as wretched as our country.

There is no mistake in this case; there can be none. Experience has already been the prophet of events, and the cries of our future victims have already reached us. The Western inhabitants are not a silent and uncomplaining sacrifice. The voice of humanity issues from the shade of their wilderness. It exclaims that while one hand is held up to reject this Treaty, the other grasps a tomahawk. It summons our imagination to the scenes that will open. It is no great effort of the imagination to conceive, that events so near are already begun. I can fancy that I listen to the yells of savage vengeance, and the shrieks of torture. Already they seem to sigh in the west wind; already they mingle with every echo from the mountains.

Are the posts to remain for ever in the possession of Great Britain? Let those who reject them, when the Treaty offers them to our hands, say, if they choose, they are of no importance. If they are, will they take them by force? The argument I am urging would then come to a point. To use force, is war. To talk of Treaty again, is too absurd. Posts and redress must come from voluntary good will, Treaty, or war.

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Such a state of things will exist, if we should long avoid war, as will be worse than war. Peace without security, accumulation of injury without redress, or the hope of it, resentment against the aggressor, contempt for ourselves, intestine discord and anarchy. Worse than this need not be apprehended, for if worse could happen, anarchy would bring it. Is this the peace gentlemen undertake, with such fearless confidence, to maintain? Is this the station of American dignity, which the high-spirited champions of our national independence and honor could endure; nay, which they are anxious and almost violent to seize for the country? What is there in the Treaty that could humble us so low? Are they the men to swallow their resentments, who so lately were choking with them? If in the case contemplated by them, it should be peace, I do not hesitate to declare it ought not to be peace.

Let me cheer the mind, weary no doubt and ready to respond on this prospect, by presenting another, which it is yet in our power to realize. Is it possible for a real American to look at the prosperity of this country without some desire for its continuance, without some respect for the measures which, many will say, produced, and all will confess, have preserved it? Will he not feel some dread that a change of system will reverse the scene? The well-grounded fears of our citizens in 1794 were removed by the Treaty, but are not forgotten. Then they deemed war nearly inevitable, and would not this adjustment have been considered at that day as a happy escape from the calamity? The great interest, and the general desire of our people, was, to enjoy the advantages of neutrality. This instrument, however misrepresented, affords America that inestimable security. The causes of our disputes are either cut up by the roots, or referred to a new negotiation, after the end of the European war. This was gaining every thing, because it confirmed our neutrality, by which our citizens are gaining every thing. This alone would justify the engagements of the Government. For, when the fiery vapors of the war lowered in the skirts of our horizon, all our wishes were centered in this one, that we might escape the desolation of the storm. This Treaty, like a rainbow on the edge of the cloud, marked to our eyes the space where it was raging, and afforded at the same time the sure prognostic of fair weather. If we reject it, the vivid colors will grow pale; it will be a baleful meteor, portending tempest and war.

Let us not hesitate, then, to agree to the appropriation to carry it into faithful execution. Thus we shall save the faith of our nation, secure its peace, and diffuse the spirit of confidence and

enterprise that will augment its prosperity. The progress of wealth and improvement is wonderful, and, some will think, too rapid. The field for exertion is fruitful and vast, and, if peace and good government should be preserved, the acquisitions of our citizens are not so pleasing as the proofs of their industry, as the instruments of their future success. The rewards of exertion go to augment its power. Profit is every hour becoming capital. The vast crop of our neutrality is all seed wheat, and is sown again to swell, almost beyond calculation, the future harvest of prosperity: and in this progress, what seems to be fiction, is found to fall short of experience.

FRIDAY, April 29.

Execution of British Treaty.

Mr. DAYTON (the Speaker) declared that he did by no means intend to follow the gentlemen who had conceived it advisable to enter into a discussion of the merits of the Treaty, article by article.

To those, he said, who regarded this second Treaty with Great Britain with disagreeable sensations—to those who believed that it did not contain in it such terms as the United States had reason to expect, and even a right to demand—to all those whose indignation had been excited at the unwarrantable outrages committed by that nation upon the rights of our neutral powers, who had seen their high-handed acts with astonishment, and the whole conduct of their administration towards this country with abhorrence—to those whose attachment for the French, nobly struggling for their liberties, was sincere, and who ardently wished that their revolution might terminate in the establishment of a good and stable government:—to all of this description, he could, with propriety, address himself, and say, that he harmonized with them in opinion, and that his feelings were in perfect unison with theirs. But if, he said, there should be found in that assembly one member, whose affection for any other nation exceeded that which he entertained for this, whose Representative he was—if there could even be found a single man whose hatred to any other country was greater than his love for America—him, he should consider as his enemy, hostile to the interests of the people who sent him there, utterly unqualified to judge rightly of their concerns, and a betrayer of the trust reposed in him. But, Mr. D. said, he could not believe it possible, that there were any such amongst them, and he was convinced that every one must see and feel the necessity of divesting himself of all his hatred, all his prejudices, and even all attachments that were in the least degree inconsistent with an unbiased deliberation and decision. The good and the prosperity of the people of the United States ought to be the primary object. It was that alone which their Representatives were delegated and commissioned more immediately to promote, and who would deny that it was intimately connected with, and involved in the vote they were about to give?

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That the defects of this instrument of compact with Britain greatly exceeded its merits, was a truth which was strongly impressed upon his mind, long before he had heard the reasoning of the gentleman from Virginia, (Mr. MADISON,) who had opened the debate. Although that gentleman had sketched its deformities in strong colors, and had in some instances, perhaps, exaggerated them; yet, Mr. D. said, he should not have contested the justice of the picture he had exhibited, if he had, at the same time, presented to their view, in true and faithful coloring, the other side of it also. Yet, this was surely necessary in order to enable them to form a right judgment. That member had declared that the House were now called upon to approve the Treaty, but Mr. D. was far from believing such a declaration warranted by the language or nature of the propositions on the table, to which all might assent, without pledging themselves to be the approvers of the instrument itself.

So firmly convinced was he of this, that, if he could subscribe to the truth and force of every objection that had been urged by that gentleman, he should, nevertheless, by no means conclude with him, that the House ought to withhold the appropriations, but, on the contrary, they ought to grant them. This would be his course of conduct, because difficulties and inconveniences alone presented themselves to their view and choice, and he thought he should act unfaithfully, if he endeavored to shun those on the one side only, without regarding the wide scene of dangers into which he might plunge his country on the other. What would be thought of that man, who, because the road he was travelling proved to be an uneven and rough one, should considerably betake himself to an opposite path without exploring the precipice that awaited him there? In the individual it would be deemed an evidence of madness, and such heedless conduct in that House could not escape the imputation of blindness. Under impressions of this sort, as to the importance of the vote he was about to give, he conceived himself bound to extend his views beyond the mere intrinsic merits of the Treaty, and to estimate the evils which must flow from a rejection of it. What, he asked, were these? Would a foreign war, and the dissolution of the Government be the certain fruits of a rejection, as had been represented by some gentlemen whose opinions he respected? These would certainly be amongst the most dreadful calamities which could befall a country, and, especially, one made up of Confederacies like this; and although he did not think them probable, yet, they must be admitted to be possible, and as such, justify those who allow them to influence their minds. But he appealed to those gentlemen who seemed to treat such apprehensions as perfectly chimerical, whether there might not be others, which, though less alarming than a foreign war and dissolution of the Union, would yet exceed—nay, very far exceed, those which are to follow the operation of the Treaty. The first fruit of a rejection would be, Mr. D. said, a claim from the merchants who had suffered by spoliations, to be fully indemnified from the Treasury. He called upon the members who, like himself, represented agricultural States; and he called, also, upon those who represented the landed and agricultural interests in the commercial States, to declare, whether they were prepared to

burden their constituents with a tax of five millions of dollars to be thus applied?

He did not fear that he should be charged, as others had been, with sounding a false alarm. A proposition to that effect had already been laid on the table, and, what was not a little singular, it was founded on a presumption that the Treaty was to be annulled by a vote of the House, and was to derive its support from that very circumstance. Mr. D. thought it his duty to remind gentlemen of the doctrine uttered by the member from New York, (Mr. LIVINGSTON,) when he moved it, as well as of the extent of the principle contained in it. It is an established principle, said the mover, that protection is equally due to the person and property of all citizens, and that where the Government fails to protect, it is bound to indemnify for all the losses that may be sustained by every individual in consequence of such failure. They were, therefore, Mr. D. said, if they rejected the Treaty, to be immediately called upon to recognize a principle which would not only pledge them to tax their fellow-citizens for the five millions, at which the British spoiliations were estimated, but, also, to make compensation for every depredation that might hereafter be made upon their trade; nay, more, for every injury that any American citizen might suffer through want of protection. He was aware that he might be told that the resolution embraced only merchants who had suffered, but he contended that the principle, when established, must extend to all; for he challenged any gentleman to show what better title they who inhabited the frontier next the sea, had to claim Governmental protection and indemnification, than they who inhabited a frontier on the land side? If, therefore, they were determined to compensate from the Treasury the merchant for his plundered cargo, they were equally bound to pay the frontier settler for his stolen horse; and there would be no bounds to such claims, or means to satisfy them.

It had been asked what would be the conduct of Britain, when they should learn that the House of Representatives had refused to make appropriations for the Treaty. He was disposed to think that they would not consider it a cause, or make it a pretext, for the war. Having in their hands the fur trade, the Western posts, and about five millions of dollars, of which they had despoiled the people of these States, they might probably sit down contented with the spoils they had made, after this Government had, by its own act, dissolved the stipulations they had entered into to make restitution and compensation. But what, in this state of things, would restrain their piratical cruisers in the West Indies? They, whether hoping that a war would be the consequence of annulling the Treaty, or that, as the two nations were no longer under that tie, they might again rob with impunity; and would probably seize on American vessels wherever they could meet them, and carry them into those ports in which corrupt Judges stood ready to condemn them.

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So far as this question respected a dissolution of the present Government, it was certainly a very delicate one. Important as the subject under debate unquestionably was, he was free to declare it to be his opinion that no decision, however unfavorable it might seem, could justify, or would produce a separation of the States. He lamented that it had been conceived or mentioned by any one, for he should, whilst he had strength, resist such an event as the most fatal that could befall his country, and would cling to the Union as the rock of their political salvation. But he would not say, nor would any one else seriously say, that there was no room to apprehend that a rejection might produce suspicions, jealousies, distrusts, and discord between the one part of the Union and the other, and such a general fermentation in the public mind as never before prevailed.

He could not here refrain from making a serious appeal to the candor and good sense of the gentleman from Virginia. Having served with him many years in public life—in the old Congress, under the Confederation, in the Federal Convention, and for nearly six years under the present form of Government, he had, upon many and various occasions, witnessed the display of his superior talents, and the efforts of his patriotism, and derived from thence a conviction that, as at no former moment, so neither at the present, could he appeal to those qualities in that gentleman in vain. Mr. D. requested him to turn his attention to the last article of the British Treaty, and particularly that part of it which is in the words following, viz:

"This Treaty, when the same shall have been ratified by His Majesty and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory on His Majesty and on the said States, and shall be by them respectively executed and observed with punctuality and the most sincere regard to good faith," &c.

He called upon the gentleman from Virginia to show in what line or word of it the PRESIDENT had exceeded his authority, or, if that was not pretended, and he believed it was not by any one, he wished that gentleman to reflect for a moment how it was possible to refuse appropriations, and yet preserve inviolate the faith of this country, so solemnly pledged in that article.

Mr. D. concluded with observing that, although he was not pleased with many parts of the Treaty—although he had never felt any strong predilection for an intimate connection with Britain—although he had never seen their encroachments on the rights, nor their depredations upon the property of American citizens with an indulgent eye, or in the temper of tame submission, and although he had long ceased to entertain any respect for the negotiator, yet he should vote for the resolution, because he loved his country, and to that love, would sacrifice every resentment, every prejudice, every personal consideration. He should vote to carry the Treaty into effect with good faith, because he sincerely believed that the interests of his fellow-citizens would be much more promoted by that, than by the opposite line of conduct.

The question was then put on the resolution, which is in substance as follows:

Resolved, That it is expedient to make the necessary appropriations for carrying the Treaty with

Great Britain into effect.

The House divided, forty-nine for the resolution, forty-nine against it.

It remained for the Chairman, Mr. MUHLENBERG, to decide.

He said, he did not feel satisfied with the resolution as it now stood; he should, however, vote for it, that it might go to the House, and there be modified.

The resolution was consequently agreed to, and reported to the House.

[The following statement will show the true sense of the House as to the expediency of carrying the British Treaty into effect:

Forty-nine voted for this expediency.

Forty-nine against it.

The Chairman, Mr. MUHLENBERG, to give an opportunity further to consider the resolution, voted for it.

Mr. PATTON from Delaware was ill, and was necessarily absent. It is, however, well understood, that he is opposed to the Treaty.

Mr. VARNUM was accidentally absent. He is no friend to the Treaty.

Messrs. FREEMAN, SHERBURNE, and VAN CORTLANDT are absent on leave.

Mr. DUVALL has resigned, and his successor has not yet taken his seat.

From which it is evident that there is an actual majority of the House against the expediency of carrying the Treaty into execution.]

SATURDAY, April 30.

Execution of British Treaty.

The House then took up the resolution yesterday passed in a Committee of the Whole, for carrying into effect the Treaty lately negotiated with Great Britain: when

Mr. DEARBORN said, as it appeared that a majority of that House was in favor of carrying into effect the British Treaty, notwithstanding several of those gentlemen who had declared their intention of voting for it, had declared they thought it a bad Treaty, and as he wished to see the opinion the House entertained of the Treaty entered upon their journals, he took the liberty of proposing an amendment to the resolution in the following words:

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"*Resolved*, That, although in the opinion of this House the Treaty is highly objectionable, and may prove injurious to the United States, yet, considering all the circumstances relating thereto, and particularly, that the last eighteen articles are to continue in force only during the present war, and two years thereafter, and confiding also in the efficacy of measures that may be taken for bringing about a discontinuance of the violations committed on our neutral rights, in regard to our vessels and seamen, therefore, &c."

Mr. COIT hoped the yeas and nays would be taken upon the question; which was agreed to.

Mr. GOODHUE hoped the House would not agree to the resolution; he, for one, would never agree to it.

Mr. SWANWICK hoped the amendment would be agreed to; for whatever some gentlemen's opinion might be with respect to the propriety of carrying the Treaty into effect, very few thought it a good Treaty. An amendment, therefore, declaring the motives which actuated that House in passing the resolution for carrying the Treaty into effect was very desirable; it would induce some gentlemen to vote for it, who would otherwise vote against it, and it ought not to excite objection. He appealed to the recollection of gentlemen, the arguments which had been used to enforce the necessity of the appropriations, which laid great stress upon the shortness of time which the most objectionable part of the Treaty was to be in force. He hoped, therefore, these arguments would not be objected to in the form of a resolution.

Mr. HILLHOUSE said, when he prepared the resolution on the table, he thought he had done it in such general terms that every gentleman might vote for it, without expressing a sentiment contrary to what he entertained respecting the Treaty. The amendment proposed, he thought very objectionable. It appeared as if it was intended to force gentlemen to vote against carrying the Treaty into effect rather than vote for the Treaty. For his own part, he could not vote for it, as it would be in direct contradiction to the sentiments which he had before expressed. He thought candor itself could not expect gentlemen who approved of the Treaty to vote for the amendment. It was also a rule to avoid expressing particular sentiments in resolutions of this kind. One part of the proposition, if it was brought forward separately, would be assented to generally, respecting the confidence placed in the PRESIDENT, with respect to future spoliations and impressments of men. In this proposition, it was said, the Treaty was injurious; he did not believe it was so. He believed it would be beneficial to the United States. It would not only be agreeing to an opinion which was contrary to the sentiments of gentlemen, but it would be passing a censure on the other branches of Government. Gentlemen were not required to say it was a good Treaty, and he hoped no one would be forced to say it was a bad one.

[The SPEAKER informed the House that it was then twelve o'clock, and as they had yesterday ordered that there should be a call of the House to-day at that hour, he should direct the Clerk to

make the call. It was accordingly done. MESSRS. BRENT, HARPER, and PATTON were absent. The two former came to the House soon after the call, and, on making apologies, were excused. Mr. PATTON was indisposed.]

Mr. GREGG said he should vote for the resolution in its present state. He did so, not because he thought the Treaty a good one, but because he believed the interest of the United States would be promoted by making the necessary appropriations, and because he was apprehensive worse consequences might arise from defeating it than from carrying it into effect.

Mr. MOORE considered himself as called upon to choose between two evils. He considered the Treaty to be bad. On the other hand, he was apprehensive that evils might arise, if it was not carried into effect, out of the control of that House. He had resolved not to vote for the resolution on the table; but he felt unwilling to take upon himself the responsibility of rejecting the Treaty, which had been sanctioned by the PRESIDENT and Senate. In deciding upon the amendment proposed, he wished the sense of the House to be taken; and if he considered that a single individual would be influenced to vote against the resolution who would otherwise have voted for it, he should wish them to be separated. It was his opinion the Treaty was a bad one, and he believed it was the opinion of a decided majority of that House. He wished the resolution to be so amended that the Treaty might go into effect by a considerable majority, as it would tend to lessen the irritation which had been raised respecting it.

Mr. DEARBORN said, in offering the amendment which he had proposed, he had no intention of taking any thing like an unfair advantage, or of producing what might be thought uncandid or unfair. His own sentiments relative to the Treaty were such as would prevent his consenting to do any thing to carry it into effect, unless with such a provision as he had brought forward. It appeared to him of such a nature, that he was not sure that he could bring his mind to vote to carry it into effect at all. He had supposed there could be nothing improper in taking the opinion of the House relative to the thing itself. If it might be presumed that there were but few gentlemen in that House who thought the Treaty a good one, he, indeed, thought there were none of that opinion, until then, though some gentlemen had praised it in their speeches, but which he had merely considered as adding weight to their arguments, he believed such an amendment was desirable.

As he, therefore, took it for granted that a considerable majority of the House were of the same opinion with himself, he saw no impropriety in having that opinion expressed. The propositions would not interfere with any bill which might be brought in, and gentlemen would have the discretion to vote for it or not. If a majority of the House thought differently from him, and chose to negative the amendment, he should be satisfied. Until he heard something further on the business, to convince him of the impropriety of doing so, he should wish to see a decision of the House upon the proposition as he had offered it.

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Mr. HARPER said he was of the number who thought the measure of passing the resolution on the table a very expedient one; but whilst this was his opinion, he knew there were many, both within and without their walls, of a different opinion. He had no objection to gentlemen's expressing their opinions, but he wished also to be at liberty to express his. He should, therefore, propose that the mover should form his resolution as a preamble. This would answer the purpose of the gentleman from Virginia, (Mr. MOORE.)

He said, when it was so formed, every one would have an opportunity of voting for it, and, if negatived, the resolution would stand as before. He hoped, therefore, the proposal would be agreed to.

Mr. DEARBORN said he considered his motion in the nature of a preamble; and he had no objection to any alteration that would make it more properly so.

Mr. KITTERA appealed to the candor of the gentleman who brought forward the amendment, with respect to the propriety of making his proposition a distinct one. He thought it would be extremely improper to pass a resolution which would say, "We pass this law, though we believe it to be a very bad one." He thought it also directly charging another branch of the Government with improper conduct.

Mr. NICHOLAS had no objection to the amendment being inserted by way of preamble. He urged the propriety of the opinions of members being fairly taken on this important business.

Mr. GREGG wished to offer an amendment, as a substitute to that before the committee. It was, in substance, as follows: "*Resolved*, That under a consideration of existing circumstances, without reference to the merits or demerits of the Treaty, and in confidence that measures will be taken by the Executive to maintain our neutral rights, it is expedient," &c.

This was declared out of order until the amendment was decided on.

Mr. VENABLE had no objection to the propositions being taken separately, as gentlemen would be then left at liberty to vote as they pleased. He conceived there were gentlemen who would vote for the proposition with the amendment, who would not vote for it without it. He did not know that any amendment would reconcile the resolution to him; for, though he should vote for the amendment, he would not bind himself to vote for carrying into effect the Treaty.

Mr. MURRAY said he had not spoken on the subject before. He was stating that the PRESIDENT was armed only with reason; he was stripped of all the symbols of power, and if the Treaty before them was carried into effect, with such a clog as the amendment proposed, he would be debilitated indeed. Their Executive had, in his opinion, done great things, and what would have covered any European Minister with untarnished laurels, by means of reason and policy; for,

however wickedly courts act, they calculate upon the force of the powers with whom they treat. When a Minister goes to negotiate, they inquire into the naval and military force of his country, their appropriations for the army and navy, &c., &c. The Envoy of the United States would be a blank upon such an occasion. What was their interest, then? It was to give energy to their Government. Should they then pass the law in such a manner as almost to warrant the people in resisting it? The only thing which remained for them to do, was, not only to carry the Treaty into effect, but to carry it into effect with good faith. The object was not merely the posts—it was a conciliation of the differences long existing between the two nations; and it was their duty to execute it so as to produce the greatest advantage; whereas, if they were to agree to the amendment proposed, so covered with odium, it would weaken the power of the Executive, already too feeble.

Mr. S. SMITH said he had never seen any cause of gloom. He never doubted that the members of that House would come to right conclusions. They did right yesterday, and he was not afraid of their doing wrong to-day. In their decision yesterday, the Chairman had doubts. He decided in favor of the resolution, in hopes of its undergoing some modification—that modification was now brought forward. It did not entirely please him; but he thought it might be so amended as to please every one. He moved that the words "and may prove injurious to the United States," be struck out. Consented to.

Mr. MUHLENBERG said, when he gave his vote yesterday, he did it in the hope of a modification of the resolution taking place in the House. A modification was now brought forward, and he was ready to vote for some such modification. Whilst he made this declaration, he must add, that he was willing also to vote for the original resolution. He wished the sense of the House to be taken upon the two propositions separately.

Mr. DEARBORN consented to the propositions being taken separately.

Mr. S. SMITH moved to strike out the word "highly," so as to read *objectionable*, instead of "highly objectionable."

The sense of the House was taken, when there were 48 for the striking out, and 48 against it. The SPEAKER gave his vote in the affirmative.

Mr. KITCHELL said, he should vote against the proposition now brought forward, because he thought it wrong to hold up an idea which would have a tendency to weaken the Government. He looked upon it as injurious. The people would judge upon the Treaty from the instrument itself, and what had been said of it. They ought never to alarm the people unnecessarily. It was not from any fear of going to war, or any other apprehension but what he had mentioned, which caused this opposition in him.

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Mr. GALLATIN said, if the propositions could be divided, no gentleman could reasonably object to the sense of the House being taken upon them.

Mr. PARKER said, he had not yet spoken upon this business. He would now say, he disapproved of the amendment, and should not vote for it. He thought the Treaty a bad one, and would not agree to vote for it by means of any modification.

Mr. HEISTER said, he should vote for the amendment, because, if the Treaty went into operation, he should wish the reasons which induced the House to agree to it to appear, on the Journals. When, however, the resolution for carrying the Treaty into effect was put, he should vote against it.

The motion was then put on the preamble, and decided in the negative, as follows: yeas, 49, nays 50:

YEAS.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, John Clopton, Isaac Coles, Henry Dearborn, Samuel Earle, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, Andrew Gregg, William Barry Grove, Wade Hampton, Carter B. Harrison, John Hathorn, Jonathan N. Havens, Daniel Heister, James Holland, George Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Francis Preston, Robert Rutherford, Israel Smith, John Swanwick, Absalom Tatom, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Richard Winn.

NAYS.—Fisher Ames, Benjamin Bourne, Theophilus Bradbury, Nathan Bryan, Daniel Buck, Thomas Claiborne, Joshua Coit, Wm. Cooper, Jeremiah Crabb, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glenn, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, George Hancock, Robert Goodloe Harper, Thomas Hartley, John Heath, Thomas Henderson, James Hillhouse, William Hindman, Aaron Kitchell, John Wilkes Kittera, George Leonard, Samuel Lyman, Francis Malbone, William Vans Murray, Josiah Parker, John Read, John Richards, Theodore Sedgwick, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, Samuel Smith, William Smith, Thomas Sprigg, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

From this list it appears that the question was lost by one vote. The clerk, however, through mistake, reported the votes to be equal, viz: 49 for and 49 against the question, and the SPEAKER

gave his vote in the negative, but the above was afterwards found to be the true statement.

Mr. W. SMITH was glad the motion was negatived. He did not wish either blame or praise to be cast upon the Treaty by the resolution passed to carry it into effect. He would, therefore, move to add the following words to the original resolution: "Without reference to the merits of the Treaty."

Mr. GILES opposed this amendment. He said, it would be an indirect mode of passing a censure upon the House for having undertaken to judge of the merits of the Treaty. He did not know whether it struck the gentleman in the same way, but he would agree it was improper to pass a censure upon the House. He hoped, therefore, the motion would either be withdrawn or voted against.

The motion was withdrawn.

Mr. WINN said, as it was his opinion, and the opinion of the generality of his constituents, that the Treaty was a bad one, he should vote against it.

The question was then taken by yeas and nays, and determined in the affirmative—yeas 51, nays 48, as follows:

YEAS.—Fisher Ames, Theodorus Bailey, Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Gabriel Christie, Joshua Coit, William Cooper, Jeremiah Crabb, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glenn, Benjamin Goodhue, Chauncey Goodrich, Andrew Gregg, Roger Griswold, William Barry Grove, George Hancock, Robert Goodloe Harper, Thomas Hartley, Thomas Henderson, James Hillhouse, William Hindman, Aaron Kitchell, John Wilkes Kittera, George Leonard, Samuel Lyman, Francis Malbone, Frederick A. Muhlenberg, Wm. Vans Murray, John Read, John Richards, Theodore Sedgwick, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, Samuel Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, and John Williams.

NAYS.—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Thomas Claiborne, John Clopton, Isaac Coles, Henry Dearborn, Samuel Earle, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, Wade Hampton, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, James Holland, George Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, Francis Preston, Robert Rutherford, Israel Smith, Thomas Sprigg, John Swanwick, Absalom Tatom, Joseph B. Varnum, Abraham Venable, and Richard Winn.

Ordered, That a bill or bills be brought in, pursuant to the said resolution, and that Mr. HILLHOUSE, Mr. SEDGWICK, and Mr. GALLATIN, do prepare and bring in the same.

[RECAPITULATION.

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For declaring the Treaty highly objectionable 48

Against this declaration 48

The SPEAKER decided in the negative.

For declaring the Treaty objectionable 49

Against the declaration; some because they did not consider it objectionable; others because they feared making the declaration would be injurious, and others because, so opposed to the Treaty, as to object to all compromise 49

The SPEAKER decided in the negative.

For carrying into effect the Treaty; some because a good one, others because best to execute it under existing circumstances 51

Against carrying it into effect, because bad in itself, and notwithstanding existing circumstances 48

Absent on this question—MESSRS. SHERBURNE and FREEMAN, on leave; Mr. DUVALL, resigned; Mr. PATTON, by illness; Mr. FINDLAY, accidentally.]^[78]

FRIDAY, MAY 6.

Admission of Tennessee.

The House resolved itself into a Committee of the Whole, on the report of the committee to whom was referred the Message of the PRESIDENT, relative to the Territory of the United States south of the river Ohio.

Mr. RUTHERFORD hoped the committee would concur in the report. He had no idea of confining that Territory to the strict legal line. He did not wish to cavil with this brave, generous people. He would have them taken out of leading-strings, as they were now able to stand alone; it was time

to take them by the hand, and to say, we are glad to see you, stand on your own feet. We should not, he said, be too nice about their turning out their toes, or other trifles; they will soon march lustily along. They had complied with every requisite for becoming a State of the Union—they wished to form an additional star in the political hemisphere of the United States—they have erected a State Government, and wish to come into the Union, and to resist their claim would be out of character. He hoped it would be agreed to.

Mr. DAYTON said, he disapproved of the report of the committee, and of the terms in which the resolution they had recommended for the adoption of the House was expressed. He could never give his assent to any proposition which expressly or even impliedly admitted that the people inhabiting either of the Territories of the United States could, at their own mere will and pleasure, and without the declared consent of Congress, erect themselves into a separate and independent State. Yet this seemed to be the spirit of the report under consideration, and what was still worse, it went, as he understood, to renounce any right in Congress even to deliberate whether they should become a member of the Union. He was by no means desirous of opposing the wishes of this valuable and enterprising people who inhabit the South-western Territory, nor of unnecessarily impeding the efforts they were making to throw off the Territorial jurisdiction, and establish a system of Government for themselves; but being aware that the steps now about to be taken would be regarded and pursued hereafter as a precedent, he conceived it important that they should, in this first instance of the sort that had presented itself, proceed circumspectly and rightly. He was willing to pass a law in the present session which should at the same time provide for erecting and forming them into a State, and for admitting them as such into the Union. They should thereby effectually promote the views of the people of Tennessee, in a mode which, by avoiding the violation of any just political principle, would entirely reconcile and render consistent the interest of that district of country and of the several United States.

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Mr. D. acknowledged that he should have been much better satisfied if he had found all the people comprehended within the Territorial line petitioning for this measure, and if he had seen ingrafted in their constitution the conditions and restrictions contained in the ordinance upon which they found the right they were claiming; but he knew that unanimity was in no instance to be expected amongst a people so numerous and scattered; and he was convinced that they were bound by the conditions and limitations he alluded to, without an acknowledgment and repetition of them in their new charter.

Mr. DEARBORN said, as to the census relative to representation, it appeared doubtful, that, because that Territory had now 66,000 inhabitants, they were entitled to two Representatives, as the other States of the Union were represented according to the number of inhabitants they contained in the year 1790. It might be doubtful whether they should be entitled to an advantage which was not allowed to other States. It had been his opinion (and he saw no reasons to change) that if this Territory was admitted into the Union, it was not entitled to more than one Representative; and therefore it was not necessary to make another census. As to passing a previous law recognizing the Territory as a State before it was admitted into the Union, he did not think it necessary. They say they are now a State, and surely Congress would not say to them, You shall not be a State, or dictate to them what sort of a constitution they shall have, provided it be a Republican. The method taken for ascertaining their number of inhabitants, he thought, could not be objected to. He saw no reason to prevent them from accepting the Territory as a State of the Union: what number of Representatives they were entitled to, would turn upon another point.

Mr. BLOUNT said the House should have determined upon this question long since, as the government of Tennessee had a month ago gone into operation. The people there had chosen not only their State officers, but their Senators, and perhaps their Representatives, to come to Congress. The Governor had, from time to time, informed the PRESIDENT OF THE UNITED STATES of every step taken towards the proposed change of government. In July, he sent him a copy of the law directing the census to be taken; in November, when the census was completed, he sent him a copy of it, and a copy of his Proclamation requiring the people to elect members of Convention for the purpose of forming a constitution and State Government; and on the 19th of February he sent him a copy of the constitution, with notice that on the 28th of March, when the General Assembly of the State of Tennessee would meet to act on the constitution, the temporary government would cease; and this last information was, to his knowledge, received on the 28th of February—forty days before it was communicated by the PRESIDENT to Congress, and eleven days after it must have been known to the Secretary of State, if not to the PRESIDENT, that the State Government had gone into operation.

What would be the consequence, said Mr. B., of refusing at this time, and under these circumstances, to receive this State into the Union? Did gentlemen wish to re-establish a temporary Territorial Government there? If they did, he believed their wish would not easily be accomplished; for the people there believed, that in changing their government, they only exercised a right which had been secured to them by a sacred compact; and under that belief, they will be disposed to defend it. That right was, in his opinion, recognized by the Government of the United States, when Mr. WHITE was permitted to take his seat in that House as the Representative of the Territory; and from that circumstance they had reason to expect that 67,000 inhabitants would have entitled them, without scruple, to be a member of the Union. If the census was not a just one, or if there had been any fraud used in taking it, an impeachment would lie against the Governor, who, upon his responsibility as an officer of the United States, sanctioned the law for taking it, and acted under it after it was taken.

Mr. W. LYMAN said the subject presented itself in two points of view—as it related to the Territory

being admitted as a State into the Union, or as giving them a right to send members to Congress. In his opinion, according to the ordinance of Congress, they had a clear right to be admitted as a State into the Union; for it was there said, that when they had 60,000 inhabitants, they should be entitled. No mode is pointed out how it shall be ascertained; but the Governor being expressly mentioned in the case where 5,000 inhabitants were to entitle them to a temporary Government, he thought there could be no doubt but the same way was to be observed with respect to their qualification for becoming one of the States of the Union. This fact, he said, came fully ascertained, and being so, there could be no doubt the right was clear. It was a right, indeed, which they could not deny, and, as a matter of expediency, it was not worth while to oppose it. He saw no reason why they should call in question the proceedings or the purity of the government of that Territory, so as to doubt their return.

Mr. DAYTON said that he preferred the formation of the South-western Territory into one State, to a division of it into two, and he therefore did not agree with those gentlemen who had advocated the latter idea. The people had requested to be united into one State, and he was for complying with their request, and for taking them at their word, rather than by subdividing to give them a double representation in the Senate.

Mr. SEDGWICK concurred in opinion with the gentleman from New Jersey (Mr. DAYTON); and if any gentleman understood him to say that he did not wish the State of Tennessee to be admitted into the Union, it must have been an error, for he had no such desire. But he was still persuaded that it was never intended that that Territory should have the power of settling the way by which they were to become one of the independent States.

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What had been said by a gentleman from Virginia (Mr. MADISON) of their being in a degraded situation, because controlled by laws which were made by persons independent of them, would not only apply to 60,000, but to six persons. The question was whether they were in a situation in which they could claim to be a State? If they were, they ought to be admitted; if not, they ought not to be admitted. If the idea of the gentleman from New Jersey was adopted, they might be admitted at an early period. He had no idea of charging Governor Blount with improper conduct: he was entitled to his respect. If it was intended that these people should decide upon their own situation, they ought to do it in the way observed in cases directed by the constitution. Mr. S. proposed two resolutions—one for laying out territory into a State or States, and another for directing a census of the inhabitants to be taken.

It appeared to him that this was the way in which the subject should be considered: they should determine whether the Territory should be in one or two States, and before Representatives were sent to Congress, a census would be taken by authority of Congress. Words could not, he thought, have rendered more explicit the intention of the contracting parties than the words of the compact; and all this might be done in time for Representatives to be sent to the next session of Congress.

Mr. MACON said the chief differences in the opinions of gentlemen arose upon a subject which was not before the committee, viz: the number of Representatives to which this new State was entitled in that House. The question before the committee was on admitting the Territory to be a State of the Union. There appeared to him only two things as necessary to be inquired into: First, Was the new Government Republican? It appeared to him to be so. And, secondly, Were there 60,000 inhabitants in the Territory? It appeared to him there were; and, if so, their admission as a State should not be considered as a gift, but as a right. Their temporary government (by whose authority the late census was taken) had not only a Governor appointed by the Executive of the General Government, but also a Legislative Council. To admit this Territory as a member of the Union, appeared to him as a matter of course. It also seemed as if the Executive was of that opinion. The PRESIDENT, having been duly informed from time to time with the proceedings of that Territory towards being admitted into the Union, if he had thought they had been doing wrong, he would have set them right. It was also his opinion, that if they had passed a law directing a census to be taken, it would have been done exactly in the way the present had been taken. He thought the subject of navigation was settled by the Constitution of the United States; the waters in that country would be under the same regulations with all other waters in the Union, nor did he think there was any thing in the Constitution of Tennessee which had a contrary tendency. It appeared clearly to him that every thing had been fairly done, and that they had a right to claim an admission as a member of the Union.

Mr. BALDWIN said, had he belonged to the Territory south of the Ohio, he should probably have been for pursuing a different mode of conducting this business, from that which it seems they have thought proper to adopt. He should have thought it desirable, a year or two ago, to have obtained from Congress an act pointing out the mode of taking the census, and ascertaining the events on which they were entitled to become a State. He said Congress ought also, of their own accord, to have taken up that subject, and made those provisions, though not requested by the Territory; and it had always been with surprise he had observed that the first act for forming that Territory did not contain those provisions. He thought, as to the principle in this case there could be no doubt. Whenever the event happened of their having 60,000 inhabitants, as pointed out by law, their right to be a State took place. It was to depend entirely on that contingency; when that was proved to have taken place, they could not be debarred. There having been no mode previously pointed out for ascertaining this fact, only makes it more difficult for the Territory and for Congress to be satisfied of the fact of their actually having so many inhabitants, but does not affect their right. He thought it best for the House to proceed to examine their census and the evidence which they had thought proper to collect and bring forward in their own way. He was ready to allow that, for himself, he should examine it more scrupulously than he should have

done, had it been taken under a law of Congress. But he had not understood many objections had yet been made to it. Perhaps, on further examination, it will be found fully satisfactory; if so, they must be admitted to be a State as a matter of right. They might have waited longer, and attempted to have formed two States; they have made their election of the other alternative. He thought it wise for Congress to avail itself of this opportunity of holding them to what they have chosen, and thus prevent future difficulties and misunderstandings.

Mr. W. SMITH said he was glad to find the observations which he made yesterday in some measure sanctioned to-day. He then recapitulated his leading arguments. It was said yesterday by a gentleman from Virginia, (Mr. MADISON,) that whilst the people of the Territory remained in their colonial situation, they were in a state of degradation; but, he would ask, at whose request they became so? Look at their request in the year 1790, as expressed in the cession act. And yet, in the course of a few years, without consulting Congress, in consequence of a census taken by their own authority, they proceed to erect themselves into a State, create a new government, and claim to be admitted into the Union as matter of right. Under their former government their member was admitted to that House; yet, whilst he holds his seat under that government, they have appointed other members to represent them under their new Government. The most regular way would certainly have been to have transmitted their request to Congress to be formed into a State. Congress would then have passed a law for taking a census, have fixed when the Territorial system should cease and the State Government commence.

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He thought the business was of considerable consequence, and he was sorry it was taken up in so thin a House. There would certainly arise in a few years other new States in the Western country yet uninhabited, which might occasion considerable difficulties. They might make a census and say they had 60,000 inhabitants, when they had not half that number. He did not wish to keep the inhabitants of the South-western Territory out of the Union, but he wished them to be admitted in a constitutional mode.

Mr. GALLATIN was of opinion that the people of the South-western Territory became *ipso facto* a State the moment they amounted to 60,000 free inhabitants, and that it became the duty of Congress, as part of the original compact, to recognize them as such, and to admit them into the Union, whenever they had satisfactory proof of the fact.

It was objected that, previous to the proof of that fact being given, it was necessary that Congress should have laid out and formed that Territory into one or more States, and that the proof of their number should have been given under direction and by order of Congress, the people not being competent to give the proof themselves.

Both those objections suppose a construction of the original compact between the people of that Territory and the United States, (of the act of cession of North Carolina, and of the ordinance of Congress of 1787,) which was inadmissible; for it rendered that compact binding upon one party and not upon the other. It is supposed that that ordinance, whose object it was to establish the principles of a free government, and to ascertain a certainty of admission into the Union, had declared that the time when those people were to enjoy that government, and were to be admitted as a member of the Union, depended not on the contingency of their having 60,000 free inhabitants, but on certain previous acts of Congress—in other words, on the sole will of Congress. Either you must acknowledge that their admission depends solely on the condition of the compact being fulfilled, to wit: their having the number required; or you declare that it rests upon another act, which may be done or refused by the other party; that Congress have the power, by neglecting to lay them out into one or more States, or by refusing to pass a law to take a census, to keep them for ever in their colonial state. Nor did the strictest interpretation of that contract justify the construction given by the gentleman from South Carolina; for the only meaning that could consistently be given to the words, "lay out and form into one or more States," was, that Congress had power to fix the boundaries of the Territory or Territories that were to become a State or States. They could have declared that that Territory should be one or two States; but if they had neglected to do it, their omission could not be plead against the inhabitants of Tennessee. The power given by that clause to Congress was merely to fix boundaries, and to choose whether there should be more than one State; but if they had not made use of that power, there must be one State, and its boundaries were fixed by the act of cession, so that nothing remained now for Congress to operate upon.

Mr. BLOUNT said, there was an absolute necessity for the clause which the gentleman last up objected to. Persons were daily coming to that Territory in great numbers. If the census had been required to be taken in one day all the people who had come into the Territory, with the intention to reside permanently there, could by no means have been numbered. It was not intended to give the officers power to take persons in more places than one, nor did he believe it had been done. He undertook to explain yesterday the reason why so long a time was given, but he seemed not to have been understood, which was, the difficulties attending the passage of the wilderness.

The gentleman from South Carolina (Mr. SMITH) had said, that his arguments of yesterday had been to-day admitted. If the gentleman had supposed that he had admitted them, he was mistaken. That he might not continue under the mistake, he would inform him, that what he had called arguments, were, in his opinion, mere quibbles, such as could only have been expected from a County Court lawyer, at the bar of a County Court.

Mr. COIT said, that as he had not heard it suggested from any quarter that it would be expedient to divide the Territory into two States, he did not think it important to inquire into the powers of Congress in that respect. It is declared by the ordinance for the government of the Territory, that when there should be sixty thousand inhabitants in any one of the States there they should be

admitted into the Union. If, then, it is not in contemplation to divide the Territory into two States, he considered that the right to be admitted was complete as soon as there was the requisite number within the whole Territory. But it appeared to him, that on examining the census and the law under which it was taken, they could not be considered as furnishing proof that there was that number there. He did not pretend to say that any fraud had been committed in the execution of the law, but the law itself was wholly defective. The same man might have been counted in several counties, nay, in every county in the Territory, and that without any fraud, but in strict compliance with the law; two months having been allowed for taking the enumeration, and it being enjoined on the sheriffs of the several counties to include in their enumeration all persons within their respective districts within that period.

The gentleman from North Carolina (Mr. BLOUNT) seemed to imagine that it would have been impracticable to have followed a mode similar to the one pointed out in the enumeration law of the United States, but he could not see the reason. [He read the law.]

Mr. SITGREAVES said, he felt every disposition favorable to meet the wishes of the people of the South-western Territory, and for a reason which had been given, viz: that, as they were our fellow-citizens, it was desirable they should equally participate with us in all the advantages of the General Government, and suffer no longer than was necessary the comparative humiliation of a Colonial or Territorial administration; but, from obvious considerations, he thought it highly important that they should be admitted to the enjoyment of these advantages only in conformity with the promise made to them, and on the terms of the compact entered into jointly by the United States and by them. Two constructions of this compact had been contended for; one, that so soon as sixty thousand free inhabitants should be collected within the Territory, they should be entitled to a place in the Union, as an independent State; the other, that Congress should first lay off the Territory into one or more States, according to a just discretion, defining the same by bounds and limits; and that the admission of such States thus defined, should take place as their population respectively amounted to the number of free inhabitants mentioned; that is, that the sixty thousand inhabitants could not claim admission into the Union, unless their number was comprised within a State whose Territorial limits had been previously ascertained by an act of the United States. He inclined to this latter construction, because it was conformable to the letter, and, as he understood it, to the spirit of the instrument. By the act of cession of the State of North Carolina, accepted by Congress, it is provided that the ceded territory should be laid off into one or more States, and that the people of the Territory should be entitled to all the privileges secured to the inhabitants of the Territory north-west of the Ohio, by the ordinance of 1787. The extent of their privileges, therefore, is to be determined by this ordinance, which may be called their charter. They have no other or greater privileges than the inhabitants of the North-western Territory; and it cannot be pretended that these would be entitled to admission into the Union as one State, so soon as their whole number shall amount to sixty thousand, because the ordinance itself divides that country into three separate and distinct States, each of which must contain sixty thousand free inhabitants before it can claim to be received. The actual circumstances and situation of the South-western Territory evinced the reasonableness and propriety of the construction; it is composed of two settlements, the Hoston and the Mero districts, separated from each other by the Cumberland Mountains and a wilderness of two hundred miles in width, which has always been inhabited by the Indians, and the soil and jurisdiction of which have been actually ceded to them by the United States, by late Treaties; and by an examination of the documents on the table it would appear, that when, agreeably to the act of the Territorial Legislature, the officers who took the census put to the people of the Territory the question whether they were desirous of admission into the Union; the inhabitants of the Western or Mero district almost universally answered in the negative. He would not undertake positively to pronounce on the inexpediency of forming the whole country into one State; but under the circumstances which he had stated, and until they should be satisfactorily explained to his mind, it did appear to him that the interest and the wishes of that people required a division of the Territory. It looked somewhat absurd to connect under one permanent Government, people separated from each other by natural barriers, by a distance of two hundred miles, and by a foreign jurisdiction. They had been told, by gentlemen who knew the fact, that during the period of Indian hostility, the people emigrating to the Mero district were obliged to stop five or six weeks at the eastern boundary of the wilderness, until they could collect in companies or caravans of sufficient number and force to pass in safety; the time of hostility may again return, and even a state of peace with Indians is not a state of such tranquillity or security as to preclude the necessity of caution and vigilance on the frontiers. The people of the Western district seem sensible of the inconvenience of an arrangement so unnatural as the one proposed, and so far as their wishes can be collected from the documents before the committee, they desire as yet to preserve their connection with us in its present mode, and to remain under the Territorial Government.

Mr. MACON said, he should be as unwilling to agree to the doctrine of the gentleman from New Jersey, (Mr. DAYTON,) as he was unwilling to agree to his. As to the people of this Territory attaching themselves to any other nation, he should not have thought it could have been suggested. There was no more likelihood of their going over to any other government than there was of any other State doing the same thing.

Mr. GALLATIN said, how the resolution on the table, or the doctrine he had asserted, supported the idea that that Territory would have a right to separate from the Union, he could not see, and he should be glad to be informed. So far from it, his opinion was that if they were a State, they were at the same time a member of the Union; that they could not exist as a State without being one of the United States. The only difference of opinion was whether an act of Congress was necessary

previous to their being recognized as such; and if any doctrine could lead to the conclusion of the SPEAKER, it was that of those gentlemen who thought that Congress must form them into a State, several months before they were admitted into the Union. In that intermediary situation, whilst declared a State and not one of the United States, they might, perhaps, claim, as an independent State, a right to reject an admission in the Union. But those consequences could only flow from the doctrine he was combating; the principle he was supporting was that no previous act was necessary, that there could not be two acts upon the subject; but that one and the same act must recognize them as a State and admit them in the Union.

Mr. BLOUNT hoped the original resolution would not be rejected for the sake of the gentleman from New Jersey. He did not wish to give up the right to which these people were entitled; though perhaps the law might not pass the Senate.

Mr. HARPER objected to the mention of the Senate, as to what was likely to be done there. He hoped they should adopt the resolution of the gentleman from New Jersey.

The question was then taken on the original resolution reported by the select committee, and carried by 41 to 35.

The committee rose and the House took up the consideration, when Mr. KITCHELL proposed a resolution in the place of that which had been agreed to in a Committee of the Whole, as he thought some law should be passed by Congress recognizing the Territory as a State, before they were admitted into the Union. It was negatived; and the original resolution was agreed to by 43 to 30, as follows:

YEAS.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Thomas Claiborne, John Clopton, Jeremiah Crabb, William Findlay, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, Wade Hampton, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Daniel Heister, James Holland, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, John Page, Francis Preston, John Read, Robert Rutherford, Israel Smith, Richard Sprigg, jr., Thomas Sprigg, Absalom Tatom, Philip Van Cortlandt, and Abraham Venable.

NAYS.—Benjamin Bourne, Theophilus Bradbury, Gabriel Christie, Joshua Coit, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glenn, Chauncey Goodrich, Roger Griswold, Thomas Hartley, Thomas Henderson, James Hillhouse, William Hindman, Aaron Kitchell, George Leonard, Samuel Lyman, Francis Malbone, Theodore Sedgwick, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, George Thatcher, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

SATURDAY, May 21.

Military Establishment.

The amendments of the Senate to the bill fixing the Military Establishment were read. They went to the retaining the whole number of light dragoons and the Major General, and directing that men should be enlisted for five instead of three years. The amendment respecting the dragoons being under consideration—

Mr. BALDWIN informed the House that the amount of the amendments of the Senate was this, to keep up 320 dragoons instead of 52, and to retain the Major General. It appeared to him that the House, having determined upon these subjects already, would be at no loss to form an opinion upon these amendments.

Mr. WILLIAMS hoped that the amendment from the Senate would not be agreed to. This House had taken great pains to mature the bill, and he was of opinion that the number of troops agreed to was sufficient for a peace establishment. No gentleman had observed to the contrary; any addition would not only be an augmentation to the great expenses already accrued by the late war, but be a mean of retaining in the army useful citizens, who would be otherwise employed in pursuits of much more benefit to the United States.

Mr. W. LYMAN hoped the amendment would be disagreed to.

Mr. S. SMITH said, the Senate seemed to contemplate these light dragoons, on account of the officers, who were to do duty on horse or foot, as necessity required. From this idea, he would suggest the propriety of agreeing to the amendment.

Mr. KITTERA said, the army would be placed so widely from each other, that the horse would prove very useful.

Mr. GILES had no idea of keeping up the horse for the sake of the officers.

Mr. GILBERT was in favor of retaining the whole number of horses.

On motion of Mr. WILLIAMS, the yeas and nays were taken, and the amendment was negatived, 58 to 22.

The consideration of the propriety of retaining the Major General was next taken up.

Mr. NICHOLAS could not conceive any use for generals. He believed if the Senate had struck out the General they sent them, the amendment would have been a good one.

Mr. GILES hoped they should not agree to the amendment. It would be a commencement of sinecures in the Military Department. There would be generals without men to command. He believed the bill, as sent from that House, contained its full proportion of officers.

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Mr. S. SMITH was in favor of the amendment. He said the expense would be no great things, and the present Major General would be very necessary in taking possession of the posts. Perhaps, at this time, it was essential to keep this man in command, as, if he were discharged, it might create a derangement in our Army which might be fatal. The command of three thousand men, it was true, was too trifling for a Major General. But, perhaps, as this General had been the victorious means of procuring us peace with the Indians, immediately to discharge him would appear like ingratitude, if not injustice.

Mr. RUTHERFORD concurred in opinion with the gentleman last up.

Mr. W. LYMAN said, they were not now called upon to reward the services of Major General Wayne, but to provide proper officers for their Army. If the gentleman from Maryland (Mr. S. SMITH) were to bring forward a measure of that kind, they should know how to decide upon it. Nor did he think the argument for making the office of a Major General, because the posts were to be received, had much weight. Any other officer would receive them as well as a Major General.

Mr. GILES said, he had no personal objections to the present commander of our Army; but he considered the present proposition such a breach of principle as he could not agree to. It was the making of an office for a man; as the gentleman from Maryland seemed to think the taking possession of the posts the principal business to be performed by him. If the services of this gentleman were necessary on that occasion, he would much rather pass a bill to make him a commissioner for that purpose. All the arguments in favor of a Major General were in favor of the man, and not of the propriety of the office.

Mr. MURRAY said, the gentleman last up must know that the gentleman who had so successfully commanded our Western Army, was now in the service of the United States, yet he would insinuate that there was an intention of creating a new office. There was no disposition in those who wished to retain this meritorious man in service to create new offices. They were now about to make a regular Military Establishment; heretofore it had rather been a nominal one. There had been hitherto a Major General at the head of our corps, and he thought it would be proper to continue the command. There appeared to him a great deal of danger from the instability of their proceedings, an instability often charged upon a Government like ours. He would not attribute this to any other motive than such as were too apt to enter into large deliberative bodies. Was it right that when a man had led our armies to victory, and returned, that he should be immediately stripped of his commission? He thought not. It was said that this was done, because the Army was reduced; but he believed it was now as large as when General Wayne obtained his victory by it, for it was not then more than three thousand men; and yet, because they wished to retain this man in the service of the United States, they were told that they were creating new offices for which there was no necessity.

Mr. NICHOLAS said, with respect to the instability of their measures, he was ready to take his own share of it as well as that of the gentleman last up, for he never found him vary from one point; he was always desirous to keep up every office which had been once established. Mr. N. thought the conduct of gentlemen extraordinary. At one time they were to make our Establishment as large as possible, and when more favorable circumstances appeared, they were not to reduce it. Where were the benefits of peace, if they were still to keep up our War Establishments? Gentlemen tell you that the Army would be as large now as before the reduction, yet the same gentlemen were opposed to its being reduced to the number now contemplated. This appeared something like inconsistency. Mr. N. said, if they did not seize every favorable opportunity of lessening the expenses of Government, he believed their constituents would have good reason to complain of their want of attention to their duty.

Mr. MACON said, they ought to legislate on this subject as if there were no Army in existence. They had no permanent Establishment, as their men were discharged at the end of every three years. He believed our present commander was a very respectable officer, but he could not vote for a Major General in the Establishment, which he thought unnecessary, because he thought him a deserving man.

Mr. BOURNE believed it was not necessary to have any appropriate number of men for a Major General to command. It had often been thought that a Major General was necessary. He believed they had thought so on former occasions. If any necessity should arise for the militia to be called out to aid the Army, such an officer would be highly necessary. He did not think it would be true economy to reject him.

Mr. GALLATIN said it was not pleasing to give a vote which was in some degree of a personal nature like the present. He was unacquainted with the gentleman who now held the office of Major General in our Army, and, therefore, was under no personal influence, and his opinion on the subject was formed upon the information of those in whose judgment on military affairs, he must necessarily confide, as it was a subject he did not understand. It was supposed that a Major General was necessary for a War Establishment, but not for a Peace Establishment. He drew this conclusion from that grade ceasing with the war in 1783, and being again introduced in 1791, when the Indian war had commenced, and he understood it was more connected with the nature of the service than the number of men. The gentleman from Maryland (Mr. SMITH) said that the

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nature of the service of this summer, required the service of General Wayne; but as the act they were about to pass would not take place till the 31st of October, as it was the opinion of all gentlemen of military knowledge, that there was no necessity for retaining a Major General in our reduced Army Establishment after the posts had been taken possession of, and as the whole summer appeared sufficient for that service, he would vote against the amendment.

Mr. HARTLEY thought it best to have a Major General. The expense was but small, and in case of the militia being called out (as was mentioned by the gentleman from Rhode Island) a Major General would be necessary; besides, to reject him, would have the appearance of forcing this man out of office in an ungenerous manner.

On motion of Mr. BAILEY, the yeas and nays were then taken, and the Senate's amendment was lost, 49 to 34.

MONDAY, May 23.

Widow of General Greene.

The House went into Committee of the Whole on the petition of Catharine Greene, widow of the late General Greene, for indemnity against the demands of Harris and Blachford, of London, merchants, on account of a certain bond which had been given to them by General Greene, as was said on account of the United States. The following was the report of the Committee of Claims:

"That this petitioner prays for indemnity against the demands of Messrs. Harris and Blachford, merchants, who have obtained a judgment against the estate of the late General Greene, for a large sum, in consequence of his being security to the said Harris and Blachford, for the debt of John Banks & Co., which debt, she states, was incurred for, and in behalf of the United States; and that General Greene gave security for no other purpose than to forward the interests of the public.

"On a strict investigation of this claim, the committee find, that in the fall of 1782, General Greene was authorized by the Department of War to obtain supplies of clothing for the Southern Army, then under his command; and, not long after, he contracted with John Banks, a partner in the house of Hunter, Banks & Co., for such supplies.

"In February, 1783, General Greene, under authority of the Superintendent of Finance, contracted with the same John Banks, to furnish such provisions as the same army were in want of; both of which contracts met the approbation of his employers.

"Both these contracts required greater funds than the contractors could command, and the last, which was to supply rations for the army, was near being defeated, because the creditors—for supplies on the former contract—were about to deprive the contractors of their means to fulfil the last. In this situation, Gen. Greene had before him the alternative of turning the army loose upon the inhabitants, to plunder for their necessary food, or support, by his own credit, that of the contractors. He preferred the latter, and gave, in addition to the security of John Banks & Co., his own bond to Harris and Blachford, to secure an eventual payment for articles which had gone to the use of the United States in clothing the army.

"John Banks received of the United States the whole sum of the contract, but diverted the money from its proper channel, and left General Greene liable to pay the sum secured by the bond mentioned above, and another to Messrs. Newcomen and Collet. Banks & Co. became bankrupts, and, soon after, Banks died.

"The committee find that General Greene, as soon as he was apprised of any possible danger which might accrue to him, took measures to procure some security; but his attempts were ineffectual as to a complete indemnity. It appears he effected some payments, and obtained partial indemnity, but was left finally exposed to a large claim of Messrs. Newcomen and Collet, and this bond about which the present petition is conversant.

"Against the claim of Newcomen and Collet, Congress have indemnified the estate of General Greene, by an act passed April 27th, 1792.

"This act has served as a precedent to the committee, in deciding on the present petition, as there are the same reasons existing for the interference of Government now as then; to which may now be added the weight of precedent.

"For further particulars as to the merits of the claim, the committee ask leave to refer the House to a report of the Secretary of the Treasury, made to Congress on this subject, the 26th December, 1791, and which is herewith laid before them. The bond given by Gen. Greene to Harris and Blachford for J. Banks & Co., is dated 8th April, 1783, for the sum of £18,473, 13s. 7d. South Carolina currency. This sum, by a variety of negotiations and payments, has been considerably reduced; the committee have not been able to ascertain with precision the sum now due, but suppose it to be between eleven and twelve thousand pounds.

"The committee are of opinion that General Greene gave this bond with the sole and honorable motive of serving, to his utmost ability, the then pressing interest of the United States: and that the salvation of the Southern Army, and success of our arms in that part of the Union, in a great measure depended upon this timely interference of his private credit.

"They think the honor and justice of Government is pledged to indemnify the estate of General Greene, and by paying the sum due to Harris and Blachford, save a deserving family from indigence and ruin. They therefore report, for the consideration of the House, the following resolution, viz:

"*Resolved*, That the United States ought to indemnify the estate of the late General Greene, for the sum due on a bond, given by the said General Greene to Harris and Blachford, bearing date April 8, 1783, for the sum of £18,473, 13s. 7d., South Carolina currency, as surety for John Banks & Co.: *Provided*, That it shall appear, upon due investigation, by the officers of the Treasury, that the said General Greene, in his lifetime, or his executors since his decease, have not already been indemnified, for the contents of the said bond: *And provided*, That the said executors shall make over to the Comptroller of the Treasury, and his successors, for the United States, all mortgages, bonds, covenants, or other counter securities whatsoever, if such there are, which were obtained by General Greene in his lifetime, from the said Banks & Co., or either of them, on account of his being surety for them, as aforesaid; to be sued for in the name of the said executors, for the use of the United States: And the officers of the Treasury are hereby authorized to liquidate and settle the sum due to the estate of the said General Greene, to indemnify the same as aforesaid, according to the true intent and meaning of this resolution; and to pay such sum as may be found due on the said bond, out of the Treasury of the United States, to the said executors, to be accounted for by them, as part of the said estate."

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After some debate on this subject, in the course of which the SPEAKER read, in his place, a letter he had received from the Secretary of the War Department, in consequence of a resolution passed on Saturday, calling for a letter which had been written by the late Colonel Burnett to the late Secretary of War, declaring that no such letter could be found in the War Office; and Mr. CORR spoke at considerable length against the claim—at length the question was put and carried in favor of the report, there being 51 members in the affirmative. The committee then rose, and the House took up the consideration, when, on motion of Mr. BLOUNT, who said he had intended to have made some observations on this subject, but finding the majority so large in favor of the report, he could not believe what he should say would have any effect, the yeas and nays were taken and stood, yeas 56, nays 26, as follows:

YEAS.—Fisher Ames, Abraham Baldwin, David Bard, Lemuel Benton, Benjamin Bourne, Theophilus Bradbury, Richard Brent, Dempsey Burges, Thomas Claiborne, William Cooper, Jeremiah Crabb, Abiel Foster, Dwight Foster, Ezekiel Gilbert, William B. Giles, Nicholas Gilman, Henry Glenn, Chauncey Goodrich, Christopher Greenup, Robert Goodloe Harper, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, William Hindman, George Jackson, John Wilkes Kittera, Samuel Lyman, William Lyman, Francis Malbone, John Milledge, Frederick A. Muhlenberg, William Vans Murray, Anthony New, John Nicholas, John Read, Robert Rutherford, Samuel Sitgreaves, Jeremiah Smith, Israel Smith, Isaac Smith, Samuel Smith, William Smith, Richard Sprigg, jr., John Swanwick, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, Abraham Venable, Peleg Wadsworth, and John Williams.

NAYS.—Thomas Blount, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, Joshua Coit, Isaac Coles, George Dent, Samuel Earle, Jesse Franklin, Albert Gallatin, James Gillespie, Roger Griswold, William B. Grove, Wade Hampton, George Hancock, Thomas Henderson, James Holland, Aaron Kitchell, Matthew Locke, Samuel Maclay, Nathaniel Macon, Andrew Moore, Nathaniel Smith, Thomas Sprigg, Absalom Tatom, and Richard Winn.

The resolution was referred to the Committee of Claims, to report a bill.

[The facts, as stated in the course of debate, were as follows:

A little time before the evacuation of Charleston by the English, in the fall of the year 1782, a number of merchants who had settled there, under British authority, were under the necessity of leaving the city. Thus situated, these merchants were willing to dispose of their goods in a way that would secure their money, and enable them to leave the country immediately. John Banks knowing of this, and being, it is said, a man of a speculative disposition, determined to avail himself of this offer. He therefore went into Charleston, at a time when General Greene was lying not far from its walls, and there made a contract with Messrs. Harris & Blachford for goods to the amount of £50,000, which were delivered to him under the firm of Hunter, Banks & Co. After Banks had made this purchase, he entered into contract with General Greene to supply the Army with clothes. Some time after that contract had taken place, the Army was in want of provisions, and the supplies were cut off, and about to fail, when Banks came forward and made a contract to supply the Army with provisions; but the funds which were to enable him to fulfil this contract, were in the goods he had lately bought, and an interference of his partners and creditors took

place. The creditors were afraid if these goods were disposed of for that purpose, their security would be lessened, and his partners were not willing that he should convert their joint property to his own particular benefit—for they, it seems, were to have nothing to do with the provision contract. To surmount these difficulties, security was required. The creditors of Banks would be satisfied, if security was given. In this state of things, General Greene became security for Banks, in his first purchase. Banks afterwards received the whole sum of the contract, but diverted the money from its proper channel, and left General Greene liable to pay the sum secured by the bond to Harris & Blachford.

The question in the committee was, whether General Greene entered into this security with the sole view of obtaining provisions for his Army in a time of distress, or whether he had some concern or partnership in the transaction. The following particulars were mentioned, to prove that the security was given for no other purpose than that of obtaining food for his men. The first purchase of Banks was made in September, 1782; the evacuation of Charleston took place in December following. Banks's clothing contract was made a few days previous to the evacuation; his proposal for the provision contract was made about the same time, but not actually entered into till the 18th of February, 1783, and not completed till General Greene's security was given on the 8th of April. On the 7th of May, General Greene got a counter security. It could not be seen, as was observed, for what purpose General Greene entered into this contract, if it were not for the relief of his army. Had General Greene been a partner, would he have required security of Banks six months after the contract, when business was going on extremely well—when Banks was in good credit, and making money, and when no doubt could be entertained of him? It was insisted he would not: but, having no connection with him, he thought it prudent to obtain a counter security.

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On the other hand, various suggestions were thrown out which had somewhat of a suspicious appearance—such as General Greene's forcing his men to buy clothing, &c., of Banks, at an exorbitant price, reports in the Army, a letter said to be written by the late Colonel Burnett, who, it appears, was a partner of John Banks, intimating that General Greene was a partner in the concern, though his name was never mentioned in it; but nothing like proof appeared to the committee upon which to ground any reliance. Indeed, if General Greene had any concern with Banks, it seemed to be a matter which could not be proved, as, in General Greene's lifetime, he brought an action against Mr. Ferry, one of the partners with Banks, which was tried at Charleston, when every thing in Mr. Ferry's cause depended on proving General Greene a partner; but he failed in doing it, and having failed, it was said to be pretty strong presumptive evidence that it could not be proved; because Mr. Ferry might have brought a cross bill against General Greene, and oblige him to declare on oath that he was in no way interested in the suit, which he did not think it proper to do.

The report of the committee was at length agreed to, as before stated, and a bill ordered to be brought in, which subsequently passed. By this decision, between £11,000 and £12,000 sterling will be paid out of the Treasury of the United States to the executors of General Greene. The yeas and nays, on the passing of the bill, stood, 55 to 24.]

FRIDAY, May 27.

Amy Dardin's Horse.^[79]

On motion of Mr. CLAIBORNE, the House formed itself into a Committee of the Whole on the report of the Committee of Claims on the petition of Amy Dardin, who prayed for compensation for a very valuable horse which had been impressed during the war. The report was against the petitioner, on the ground of the act of limitation barring the claim. The case appeared a hard one, as a widow and orphans were in want of the money; and several members having suggested that application had been made before the act of limitation took place, proof of which could be substantiated, the committee rose, and the papers were recommitted to the Committee of Claims.

MONDAY, May 30.

Military and Naval Appropriations.^[80]

The House went into a Committee of the Whole on the bill providing appropriations for the Military and Naval Establishments; when,

On motion of Mr. W. SMITH, the blank for the sum for the payment of the Army was filled with \$273,666.

Mr. W. SMITH proposed to fill up the next blank, for the subsistence of the officers of the Army, with \$68,480.

Mr. GALLATIN said, he was not ready to vote for this object. It had been usual to appropriate the subsistence of the officers and non-commissioned officers and privates all in one sum. He did not know what were the separate calculations.

Mr. W. SMITH believed that it had been usual to put the two subjects together heretofore, but the Secretary of War had suggested the propriety of placing them under different heads. It was therefore done.

Mr. GALLATIN said, when he objected to this plan of putting the two objects together, it was not

merely on account of the arrangement, but because he did not know the amount calculated for the different descriptions. He knew, however, the rations were calculated at 30 cents. He would move to fill the blank with 20 cents, which would be two-thirds of the amount proposed. He would give his reasons for thus filling the blank. It would be found, by a communication from the Secretary of the Treasury at the commencement of the session, that, in the estimate for the Military Department, rations were charged 15 cents each, making the whole subsistence for 6,000 men \$367,061; notwithstanding the nominal Army Establishment had been reduced one-half, the total amount of expense was estimated as high as before. The items upon which an increase had been made, were subsistence, hospital, ordnance, and quartermaster's departments, and protection of frontiers. It would be found that, in the second estimate of the Secretary, lately made, rations were estimated at 30 cents each, which made the whole amount of subsistence \$437,762.

This difference in the estimate led the Committee of Ways and Means to an inquiry into the business, because, as the nominal establishment was decreased from 6,000 to 3,000 men, they had hoped there would have been some decrease of expense also. They received for answer, that rations could not be contracted at Detroit for less than 30 cents each; but though this, by the contract, was the price of rations at that post, they could not suppose they would cost the same at the other posts. It also appeared, from the information received from the Secretary of the Treasury, that the contract which had been made, was upon these terms—to furnish rations either at Detroit at 30 cents, or at Pittsburg at 11 cents, the place of delivery being at the option of Government. It would be seen that there was a difference betwixt those two prices of 19 cents; and he would ask whether any gentleman in that House believed that it would cost 19 cents per ration to transport them from Pittsburg to Detroit? He did not think that transportation would, on an average, cost 9 cents. The distance by land was not 200 miles; and water carriage would reduce it to 20.

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Mr. W. SMITH said, if agreeing to this motion would save the money, it would deserve attention; but, if they were to make the appropriation so small as to embarrass Government, it would be much worse than if they were to vote for a little too much. There would be a certain number of men who must be fed, and he thought they might rely upon the Administration's not giving more for rations than was necessary. But, if the sum voted was too small, what would be the consequence? The rations must be got, be the prices what they may; the men must be fed. Difficulties would arise if the fund appropriated should prove inadequate. He did not see that there would be any real saving by reducing the sum appropriated.

Mr. BOURNE hoped the blank would be filled up with the sum proposed by the gentleman from South Carolina. It had been stated that rations might be purchased at Pittsburg for 11 cents, but they could not be bought for less than 30 at Detroit, and he thought they could not calculate upon any other price than that, as it was uncertain whether or not the contract would be fulfilled; and if it failed, and the Secretary of the Treasury was obliged to purchase at Detroit, if they calculated the rations at 20 cents only, he would not be able to purchase the necessary provisions for their men; but if, on the contrary, 30 cents were agreed to, there would be enough in any case, and if the ration could be bought for 20 cents, he did not fear that the money would be expended unnecessarily.

Mr. VENABLE said he should not feel himself justified in appropriating more than was necessary for the object before them; for, if they were not to be guided by a proper estimate, they might as well at once give an unlimited power on the Treasury. All the expenses could not be estimated to be made at Detroit. If one-third of our men were kept at Detroit, he should think it a large number. Why, then fix the price as if the whole Army was to be kept there? And, even in that case, 20 cents would be a large appropriation. Why, then, embarrass themselves by making a larger appropriation than was necessary? The Army would be extended on the whole frontier, and at some places rations would be bought cheaper than at Pittsburg.

Mr. DAYTON (the Speaker) observed, that the gentleman from Pennsylvania (Mr. GALLATIN) assumed as undeniable, and established as the foundation of his arguments and objections, what he did not only not admit, but absolutely denied, viz: that the rations of provisions would cost the United States more when delivered at Detroit, than at any other post. He believed there were two or three others at which the price would be higher than at Detroit, and mentioned Michilimacina in particular. The gentlemen who were for reducing this item of appropriation, had referred to the contract which had been made some time since, and had, at the same time, acknowledged the extraordinary advance in the price of the necessaries of life, even in the interior of the country. The latter event, said Mr. D., was of a nature to excite much fear that the contract would be thrown back upon the United States, owing to the inability it would create in the individuals to fulfil it, and ought, therefore, to prompt Congress to guard against such an exigency, by a more ample provision than would otherwise have been requisite.

Mr. W. SMITH said there was one fact which he forgot to mention. The Secretary of the Treasury informed the Committee of Ways and Means that the contractor would lose money by the contract to deliver the rations at 11 cents at Pittsburg, and it was possible, therefore, that it might not be fulfilled. Gentlemen say—why provide the money if it be not wanted? They seemed to mistake the business; the money was to be borrowed, and if not wanted, it would not be taken. No more would be expended because there was more than sufficient appropriated. There would be no money lying unemployed in the Treasury.

Mr. GALLATIN believed the gentleman from South Carolina (Mr. SMITH) would not deny that his information was correct. The contract was made to deliver the rations either at Pittsburg or Detroit, at the option of Government. To calculate the whole number of rations at 30 cents, was

considering the whole Army at Detroit; and, though it be true, that there be one post more distant than Detroit, yet, the greater number were far nearer, and consequently, where provisions would be got cheaper. Therefore, considering the price at Detroit to be the general price, was allowing too much. This, he believed, would not be controverted.

Mr. NICHOLAS said, he should be glad to know what was the price of rations in the Atlantic States. One half of the Establishment would be upon the Eastern waters, and, therefore, the money necessary to be appropriated would depend, in some degree, upon the price of rations there. He thought 20 cents would be a full average price for the whole.

Mr. HAVENS said, that if they were to fix the price too high, it might produce a combination amongst the contractors to advance the price—as he believed there was a greater likelihood of combination than competition amongst them. He knew this was no reason why they should fix the price too low, but he thought it was a consideration which should lead them to vote for the proposition of the gentleman from Pennsylvania.

The original motion was put, and negatived, 34 to 31; and then Mr. GALLATIN'S, to fill the blank with \$45,606, was put, and carried. [Pg 765]

Mr. W. SMITH moved to fill the next blank, for the subsistence of non-commissioned officers and privates, with \$369,282, which was calculating the rations at 30 cents each.

The question was put, and negatived, 33 to 30.

Mr. GALLATIN then moved to have the blank filled with \$246,188, which was calculating the rations at 20 cents each.

Mr. DAYTON hoped that the sum named would not be agreed to; if it were, he believed that the soldiers of the Army would not be subsisted. He was satisfied that gentlemen who proposed and advocated so scanty and inadequate sums had the same views as he had; but he was, nevertheless, convinced, that so far from promoting economy, they would eventually produce profusion.

Mr. DAYTON concluded with saying, that he did not wish to appropriate lavishly, but his sole aim was to avoid any of those serious consequences which would inevitably flow from an ill-judged parsimony; and he should sit down and console himself under any event, with the reflection, that he had discharged his duty.

Mr. W. SMITH moved to fill the blank with \$360,000, which was carried, 34 to 31.

On motion of Mr. W. SMITH, the blank for forage was filled with \$16,592, and that for clothing was filled with \$70,000, without debate. He proposed to fill the blank for providing horses for cavalry, with \$7,500; when

Mr. BLOUNT observed, that he thought it unnecessary to provide for the purchase of horses, when they had resolved upon reducing the number of troops.

Mr. GALLATIN said he would just notice, that when the full number of horses was kept up, the appropriations for clothing were the same as now, and those for horses were less. The former estimate was \$6,000 for horses; now, \$7,500; so that the more they reduce the Army, the greater was the expense.

Mr. MACON believed, there were as many horses now in the service as would complete two companies, and they could not, with any propriety, calculate upon one-half dying. He moved to strike out the item altogether.

The motion was put and negatived, 33 to 26.

Mr. HAVENS said, he did not vote for striking out the item altogether, as he supposed some money would be wanted, but could not think so much as had been mentioned was necessary.

The motion for \$7,509 was put and carried, 34 to 31.

On motion of Mr. W. SMITH, the blank for bounty was filled with \$10,000, and that for Hospital Department with \$30,000, without objection. He also proposed to fill the blank for the Ordnance Department with \$48,907, when

Mr. GALLATIN said, that this sum was \$11,000 more than the former estimate; \$1,000 of which was owing to an increase of rent. The other additional item of \$10,000 was for contingent expenses; but, as they had a distinct head for contingent expenses he thought that the contingencies would be best, all of them, placed under that head. He therefore moved to have the blank filled with \$38,907.

Mr. WILLIAMS proposed \$40,000, which was carried.

Mr. W. SMITH proposed to fill the blank for the Indian Department with \$70,000.

Mr. GALLATIN said, it would be recollected that they had already made two appropriations under this head; the one for establishing trading-houses with the Indian tribes, the other for carrying into effect several treaties. On inquiry what reason there was for this appropriation, he could only find one, viz: that a treaty was expected to be held in Georgia, at which 3,000 Indians were to be present. He had supposed this expense was to have been borne by Georgia, but it was alleged that a part of it would fall on the United States.

The motion was put and negatived, 33 to 26; when

Mr. W. SMITH proposed \$60,000. He would mention, that the Secretary of War had been called upon to give a reason why so large a sum should be appropriated; when they were told of the

treaty which the gentleman from Pennsylvania had mentioned, and that it would be necessary to have a large store for the purpose of feeding and clothing the Indians who attended it. The motion was then put and carried, 31 to 28.

Mr. W. SMITH moved to fill the blank for the Quartermaster's Department with \$250,000.

Mr. GALLATIN said, it would be remembered that in the estimate at the opening of the session, this item was calculated at \$200,000. The reason given for this advance, was, that the expense of removing stores, ordnance, &c., to new posts, would be very considerable; but, it would be recollected, that \$200,000 only were appropriated for that purpose in the time of war, when the Army was liable to be removed very often. The present estimate was for a Peace Establishment, when their men, once removed to the new posts, would be stationed; and the appropriation, instead of for 6,000 men, was now only for 3,000. He moved to insert \$200,000, instead of \$250,000.

Mr. BLOUNT said, he supposed the taking possession of the posts was contemplated when the first estimate was made. It was then known the British had stipulated to surrender them on the 1st of June.

Mr. W. SMITH said, it was not certain when the first estimate was made, whether that House would have ratified the treaty; and, if not ratified, the posts would not have been got. The increased calculation was owing to the expense in transporting ordnance, stores, &c., to the posts.

Mr. ISAAC SMITH said, it would require more cannon for one of those posts, than were required by all the Army.

Mr. BLOUNT said, they had had sufficient proof to lead them to believe, that the PRESIDENT did not think that House had the power mentioned by the gentleman from South Carolina, and, therefore, he doubted not but the first estimate was made with reference to the expense of taking possession of the posts.

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The motion for \$250,000 was put and negatived, 31 to 26; when \$200,000 was put and carried.

Mr. W. SMITH, moved to fill the blank for contingencies of the War Department with \$30,000; which was carried without opposition. He then proposed to fill the blank for the defence and protection of the frontiers with \$150,000.

Mr. GALLATIN said, he certainly wished the frontier to be protected, but he could not think so large a sum necessary for that purpose. The sum last year appropriated was \$130,000; and now we had peace with the Indians, which was secured not only by a treaty with them, but by treaties with Great Britain and Spain, he could not account for an increased expense.

The motion for \$150,000 was put and negatived; \$130,000 was then proposed and carried, 34 to 33.

Mr. W. SMITH proposed to fill the next blank, for the completion of the fortifications, &c., at West Point, with \$20,000.

Mr. NICHOLAS inquired if there was any law on this head?

Mr. W. SMITH said, there was an act to authorize a provision for this purpose, but that act had expired. He believed, however, it might properly come in there. This expense, he was told, was necessary to make the posts tenable, and that if no money was expended, the fortifications would be lost. He believed this item might properly be considered as a part of the Military Establishment.

Mr. NICHOLAS said, he did not object to the propriety of the expense, but to the manner of introducing it. It would apply to New York as well as West Point. He considered the admission of West Point as the admission of a principle to which all the surplus appropriations might be applied. All the fortifications, he said, were in the power of the Executive; but, as they had had a committee appointed on the business, whose report they had considered, he thought they should act consistently. He therefore moved to strike out the clause.

Mr. WILLIAMS hoped this item would not be struck out, and that the PRESIDENT would be enabled to extend aid to the fortifications at New York; if not, the works would go to decay.

Mr. VAN CORTLANDT said, that fortifications ought to be attended to, and that he should vote for them.

Mr. GILES hoped the motion would prevail. There had been a committee most of the session, to consider the subject of fortifications. If these fortifications stood in need of repair, the PRESIDENT should have given the information to that committee. He thought the item improper in the present bill.

Mr. GALLATIN believed the gentlemen from Virginia were mistaken. The committee which had been appointed was to consider the fortifications of our harbors only. The works at West Point were of a different description, and the estimate included not only the completing of the fortifications, but the building and repairs of barracks and stores which had been destroyed. The present item could not extend to fortifications in general, as had been apprehended; for, though the Secretary of the department does not confine the money appropriated to one object, to that particular purpose, yet, he cannot expend it on any object which was not contained in the act of appropriation. He moved to add, "magazines, store-houses, and barracks." Agreed to, and also the sum.

Mr. W. SMITH then moved to fill the blank for the fortification of forts and harbors with \$50,000.

Mr. GALLATIN said, this item he should move to strike out. A committee had been appointed, and had reported on this subject, and that it was not necessary to attend to it at present, as there was a surplus of \$23,000 unexpended. If they were to agree to the present sum, it would be appropriating an additional sum of \$50,000 for the same object; he hoped, therefore, that it would be struck out.

Mr. W. LYMAN was in favor of striking it out.

Mr. WILLIAMS hoped it would be agreed to, on the ground of the necessity of some attention being paid to the works at New York.

Mr. DAYTON was in favor of striking out this item altogether, as there really was not money to spare for objects not essential. If any particular harbor had been, or could be mentioned, the committee might better be enabled to judge whether it would be fit, at this time, pressed as they were for resources, to make an appropriation for fortifying it, and how much. But, as he knew of none, and believed there were no such, he should certainly be opposed to appropriating a single shilling for this purpose. He meant not to say, that there were not ports in the United States which might be advantageously fortified, but only, that this country was not yet in a situation to justify their encountering such an expense, especially as it did not appear to be immediately necessary.

The motion for striking out was put, and carried.

Mr. W. SMITH moved to fill the blank for the pay of officers, seamen, and marines, with \$113,025.

Mr. NICHOLAS hoped this item would be struck out. It was certainly an expense for which there was no occasion. He did not wish to see men raised when they could be of no service. The frigates, he said, could not be fit for service before the next session. He hoped, therefore, no opposition would be made to the striking out of the clause.

Mr. W. SMITH said, they had authorized by law the building of three frigates, and it was wished that they should go into service the present year. If the whole sum was not appropriated, there would certainly be a necessity for a part of it.

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Mr. NICHOLAS moved to strike out the item as it stood, and insert, "the pay of the captains of three frigates."

Mr. MACON believed these were the only officers at present appointed.

Mr. HAVENS wished gentlemen to say why these captains should be paid at all. He believed that building of ships was not their business, and that these places were at present mere sinecures. He should therefore vote against the amendment.

Mr. W. SMITH said, it would be necessary to add subsistence as well as pay of three captains, and moved to fill the blank with five thousand dollars; which, after a few observations, was agreed to.

On motion of Mr. W. SMITH, the blank for military pensions was filled, without opposition, with \$114,259.

The committee then rose and the House entered upon the consideration of the amendments which had been made, when all were agree to, except that relative to the subsistence of the non-commissioned officers and privates.^[81]

WEDNESDAY EVENING, June 1.

Mr. J. SMITH, from the committee appointed to wait upon the PRESIDENT OF THE UNITED STATES, to notify him of the intention of both Houses to adjourn on this day, reported his approbation thereof.

The business before the House being finished, a message was sent to the Senate, to inform them that the House was ready to adjourn. Whereupon, after waiting some time to receive any answer that might be sent thereto, without receiving any—

The SPEAKER adjourned the House until the first Monday in December next.

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END OF VOL. I.

FOOTNOTES:

- [1] Of this talent, Mr. Gales has lately given a most remarkable instance, in drawing out from notes which had remained as lost for near forty years, a most important speech of Mr. Randolph, delivered shortly before the late war with Great Britain, and in relation to the then condition of public affairs, both with Great Britain and the Emperor Napoleon the First. Mr. Gales had taken down the speech: the notes of it got into the bottom of a trunk, and lay there till a year ago, when Mr. Gales, searching high and low for matter for the Annals, chanced to find them; and immediately drew out the full speech with the freshness and vigor of a morning report of a previous day's debate.
- [2] In the first five years of the existence of the Federal Government, there was no publication of debates in the Senate, that body having sat with closed doors, in its legislative as well as in its executive capacity, until the 20th of February, 1794. Until that time there will be no Senate debates to be abridged; but the proceedings of the body were fully kept in journals, and selections from these proceedings will afford much curious and instructive information to the student of American political history, as showing the manner in which the founders of the government put it into operation, their views in relation to important points, and the changes which the constitution of the Senate has undergone.
- [3] A list of the Senators and Representatives who composed the First Congress is inserted at page 20.
- [4] his address being in the nature of an Inaugural, and confined to general recommendations, only the beginning and the ending, so characteristic of the father of his country, have been given.
- [5] These entries in relation to the Secretary of Foreign Affairs show the early method of communicating with the Secretaries, being called before the Senate to give explanations and bring papers—a method now superseded by reports. The early Senators lamented the change, believing the old way to be the best for getting the information that was wanted, and also the best security against the appointment of incompetent Secretaries.
- [6] Another instance of the early practice of the government. The President consults the Senate beforehand upon the negotiation of Indian treaties, and sends the Secretary at War in person to give the necessary explanations: this mode of consulting the Senate since so far departed from that that body has no knowledge of the treaty until sent in for ratification.
- [7] This message of President Washington is a strong instance of his deference for the Senate, thus giving up upon its objection the nomination of a citizen which he knew to be fit and meritorious. It was also a strong instance of the deference of the Senate to the Senators of the State interested in the nomination, Col. Fishbourn having been rejected simply because the Georgia Senators preferred another.
- [8] These proceedings of President Washington and the Senate, in fixing on the mode of communication between them when treaties were to be formed, or appointments to be made, was their interpretation of the clause in the constitution which requires the advice and consent of the Senate on such occasions. Their interpretation was (according to the obvious meaning of language) that the advice and consent should be obtained beforehand; and the practice was in conformity to that interpretation, as will be seen in the proceedings of the next day, when the President and Secretary at War attended the Senate, and the President gave in a statement of facts, which, in his opinion, rendered treaties with the Southern Indian tribes necessary, and asked the advice and consent of the Senate upon their formation. These proceedings will be read with interest by all who study the working of our government, and observe the changes which its practice has undergone. The change has been great in the mode of obtaining this advice and consent, and greatly to the prejudice of the free and independent action of the Senate in such cases. Instead of consultation and concurrence beforehand, as the words of the constitution imply, and as the practice under Washington required (even to the minute provisions of an Indian treaty), the most important, and even unusual and extraordinary treaties, and with foreign powers, have come to be negotiated (oftentimes) without even the knowledge of the Senate, concealed from it until concluded, and then laid before the body for ratification, as an administration measure—the ratification to be pressed under all the influences of an executive measure, and upon all the considerations of inconvenience and danger to attend the rejection of a measure executively concluded

with a foreign power. Under such circumstances treaties are often ratified, and appointments often confirmed, under a moral duress of the Senate, the weight of the executive and the inconveniences of rejection leaving no chance for the free action of the body. President Polk revived the Washingtonian mode of consulting the Senate, in the formation of the Oregon Treaty in 1846, asking the advice of the Senate beforehand on the point of establishing the boundary line with Great Britain on the parallel of 49 degrees; whereof the secret as well as the public history may be seen in the "Thirty Years' View," under the proper year. The personal attendance of the President and Secretaries being found to be inconvenient, that part of the mode of communication was dispensed with in Washington's time.

- [9] The question in relation to North Carolina arose out of the circumstance that she had not then accepted the Federal Constitution, and was not at that time a member of the Union.
- [10] North Carolina was not represented in the *first* Session of this Congress, not having at that time accepted the Constitution.
- [11] Rhode Island, for the same cause, did not appear till the *third* Session.
- [12] Mr. Bland deceased during the second recess of Congress, and was succeeded at the third Session by William B. Giles.
- [13] See notes to list of Senators.
- [14] Ibid.
- [15] For a list of the Representatives in the first Congress, see p. 20.
- [16] For this list see the Senate Journal.
- [17] This scale of duties, thus offered by the Continental Congress of 1783, and agreed to by the States, after proposing small specific duties on a few enumerated articles, (wines, spirits, teas, coffee, cocoa, molasses, sugars and pepper,) proposed an *ad valorem* duty of five per centum upon all other goods, computed on the value of the article at the time and place of importation.
- [18] In bringing forward the measure for imposing impost and tonnage duties, Mr. Madison proceeded in the approved parliamentary form, of first discussing and agreeing upon the provisions of the measure, and then appointing a committee to bring in a bill according to what had been agreed upon. Long experience had proved that to be the safest mode of legislation, giving full scope to the whole intelligence of the House, before the measure had taken a form which it might be difficult to alter, as is always the case when a committee brings in a detailed bill, (without previous instructions from the House,) and which, as an act of a committee, and as a matured plan, (though done by a few,) has an authority which resists alteration, and renders amendments, at the instance of a member, most difficult to obtain. This wise and safe practice, of settling the provisions of a bill beforehand, has been nearly abandoned by our Congress—to the great prejudice of beneficial legislation.
- [19] Not additional. The enumerated articles were not to be subject to the *ad valorem* duty of five per centum.
- [20] The delegates from that State were gone to meet the Vice-President, who was expected in town this day.
- [21] The members of the two Houses of Congress began to assemble on the 4th day of March, but a quorum did not appear in the House of Representatives until the 1st of April, nor in the Senate until the 6th of that month. The organization of the two Houses necessarily preceded the inauguration of the President, which took place on the 30th of April. Some of the ceremonies observed on that occasion, and for some time afterwards, have since been discontinued: as, the proclamation for the long life of the President—his repairing to church to attend divine service, accompanied by the two Houses—his re-conducting to his own house by a committee of the two Houses—the answer to the inaugural address by each House.
- [22] In this measure of the tonnage duties the House, as in the case of the impost duties, (and in fact in all other cases in which a law was wanted,) first settled the provisions of the bill in discussing the propositions on which it was to be founded, and then directed a committee to bring in a bill accordingly: but the bill, when brought in, still open to debate and amendment. This was the safe mode of legislation, approved by long experience in the British Parliament, and still more commended by the evils which have grown out of its abandonment in our Congress.
- [23] The legislative and diplomatic history of the United States affords abundant evidence of the wisdom of the objection taken in this debate against the indefinite duration of public acts. To repeal such laws, or to terminate such treaties, is almost impossible. Besides the difficulty of getting the three legislative branches to agree at the same time upon the repeal, or the termination, an interest grows up under the measure which becomes identified with its existence, and works for its perpetuity; and when it has been continued for some years, and the temporary circumstances in which it originated have been forgotten, it becomes invested with the sanctity of age, and finds protection in the spirit which dreads change as innovation. Of this character, two acts of Congress, and two conventions with foreign powers, may be mentioned as samples of many in our history, to wit: 1. The Factory system of supplying the Indians with cheap goods through Government agents, established as a temporary experimental measure for three years, &c., under Washington, and which was soon found to be working badly both for the Indians and for the Government, and yet which could not be got rid of for thirty years! nor until after the whole capital had disappeared.
2. The salt tax, and the fishing bounties and allowances founded upon it, revived as a temporary war-tax during the late war with Great Britain in 1812, and now continued forty years after the war has been finished! successfully resisting all attempts at repeal,

while burthening the people with an odious tax, and enabling the fishing interest to take some \$300,000 annually (near five millions up to this time) out of the public treasury, most of it unduly. Of treaties may be considered as instances the convention with Great Britain for the joint occupation of the Columbia, where the stipulated right of each party to terminate it at pleasure upon a year's notice, could not be exercised for twenty years! and then, with alarms of war and great disturbance to the country. And also the convention of 1842, with the same power for keeping up each a squadron on the coast of Africa, (for the suppression of the slave trade,) for five years; and until either party should give notice for its abrogation. The five years have been out three times over! yet the notice cannot be given; and a temporary measure becomes permanent through an illusory limitation.

[24] The preamble to this act, and the speeches in favor of it, have been greatly relied upon in support of a protective tariff, but without reason, as the speeches themselves, and the rate of duties established, fully show. Every speech showed revenue to be the object of every proposed duty—protection to domestic industry being an incident to result from the accomplishment of that object, and from such moderate duties as were then imposed—the *ad valorem*s being five per centum, 7-1/2 and 12-1/2; and only a single class going as high as fifteen per centum, and that class confined to an article of luxury, to wit: imported pleasure carriages. The specific duties were on the like moderate scale; yet these moderate duties, thus laid for revenue, gave all the protection which was then asked, and to the satisfaction of every part of the Union, and cannot be quoted as any argument for the protective system which so much disturbed the country.

[25] This call to order, and enforcement of it, for so slight a deviation from the point in debate, is a striking illustration of the business habits of our early Congresses, and accounts for the reason (*inter alia*) why the debates of that early time were so pithy, pointed, sententious, instructive and beautiful.

[26] It is presumable he alluded to Mr. GERRY, a member of a Committee of Congress, appointed to superintend the Treasury.

[27] The questions of contested elections, generally depending upon personal and temporary circumstances, are usually omitted in this abridgment; but where they rise higher and reach the principles of Government, or connect themselves with the national history, then they become questions of general and permanent interest, adding to the stock of political knowledge; and as such are entitled to historical commemoration. Upon this view of such questions the debate on the contested election of William Smith, of South Carolina, is here given; and that on the contested election of Albert Gallatin, and some others, will be given hereafter.

[28] This remark of Mr. MADISON shows the true reason for instituting the previous question, which was to prevent debate in cases in which there ought not to be any; cases in which it was necessary to guard the House against improper discussion. What a departure from that reason has since taken place in the House of Representatives! for the Senate has, thus far, been shielded from the introduction of that question and its consequent abuse.

[29] It was afterwards renewed and carried, and in that form the amendments were made, twelve in number, and form additional articles to the constitution, leaving the text of that instrument unaltered, but controlled by the amendment where they differ, as in the twelfth amendment.

[30] By taking the hour of 5 o'clock for the funeral, the adjournment of the two Houses, and the loss of a day was obviated, while becoming respect was shown to the memory of the deceased member.

[31] Having found a personal attendance on such occasions inconvenient, President Washington adopted the form of a written message in asking the advice and consent of the Senate to the formation of the treaties which he judged to be necessary. Mr. Polk followed this form in consulting the Senate on the Oregon treaty of 1846.

[32] The galleries were unusually crowded.

[33] The committee reported in favor of a residence of two years, and with that provision the bill was passed.

[34] Estimated at twenty-one millions of dollars, and distributed among the States thus:

New Hampshire,	\$300,000
Massachusetts,	4,000,000
Rhode Island,	200,000
Connecticut,	1,600,000
New York,	1,200,000
New Jersey,	800,000
Pennsylvania,	2,200,000
Delaware,	200,000
Maryland,	800,000
Virginia,	3,200,000
North Carolina,	2,200,000
South Carolina,	4,000,000
Georgia,	300,000

\$21,000,000

[35] The motion of Mr. Madison was lost, and with it the largest door was opened to the pillage of original creditors, the plunder of the public Treasury and the corruption of Congress which the history of any Government has ever seen. The immediate mischief was some thirty millions: it was only the beginning. Assignees of claims have since been the great suitors to Congress—purchasing for a trifle, and upon speculation—pursuing

the recovery by indirect means—taking no denial—and gaining in the end what was scouted at the start. It has given rise to a new profession—a new industrial pursuit, still more industrious by night than by day—hunting up claims, pressing them upon Congress; and by organization, skill, perseverance, appliances, and seductions carrying through the most unfounded demands. By the common law a *chose in action* (an executory contract) was not assignable; and the whole experience of our Government from the assumption of the State debts, and funding of the revolutionary certificates in 1790 down to the present day, shows that the interest of the original creditor, the safety of the Treasury, and the purity of Congress require this wise common law principle to be applied to all claims upon the Government.

[36] These proceedings put an end to abolition petitions in Congress. The Society of which Dr. Franklin was president was purely philanthropic in its character, and having got the answer to their petition, "that Congress had no right to interfere in the emancipation of slaves, or their treatment in any of the States," acquiesced in the decision and did not repeat their application.

[37] This measure became combined with the Assumption Bill. Each had failed by small majorities: both were afterwards passed. There was a strong sectional party for each, but not a majority. The Eastern and Middle States were for the assumption—the Southern States against it: these latter were for the Potomac for the seat of Government—the former for the Susquehannah. The discontent was extreme on each side at losing its favorite measure. At last the two measures were combined. Two members from the Potomac who had voted against the assumption, agreed to change their votes: a few from the Eastern and Middle States who had voted against the Potomac, agreed to change in its favor; and so the two measures were passed. Mr. Jefferson gives this account of it, omitting his strictures: "This measure (the assumption) produced the most bitter and angry contest ever known in Congress, before or since the union of the States. I arrived in the midst of it: but a stranger to the ground, a stranger to the actors in it, so long absent as to have lost all familiarity with the subject, and as yet unaware of its object, I took no concern in it. The great and trying question, however, was lost in the House of Representatives. So high were the feuds excited on this subject that, on its rejection, business was suspended. Congress met and adjourned from day to day without doing any thing, the parties being too much out of temper to do business together. The Eastern members threatened secession and dissolution. Hamilton was in despair. As I was going to the President's one day, I met him in the street. He walked me backwards and forwards before the President's door for half an hour. He painted pathetically the temper into which the Legislature had been wrought—the disgust of those who were called the creditor States—the danger of the secession of their members, and of the separation of the States. He observed that the members of the administration ought to act in concert—that though this question was not of my department, yet a common duty should make it a common concern—that the President was the centre on which all administrative questions ultimately rested, and that all of us should rally around him, and support, with joint efforts, measures approved by him; and that the question having been lost by a small majority only, it was probable that an appeal from me to the judgment and discretion of some of my friends, might effect change in the vote, and the machine of government, now suspended, might be again set in motion. I told him that I was really a stranger to the whole subject; that not having yet informed myself of the system of finances adopted, I knew not how far this was a necessary sequence; that undoubtedly, if its rejection endangered a dissolution of our Union at this incipient stage, I should deem that the most unfortunate of all consequences, to avert which all partial and temporary evils should be yielded. I proposed to him, however, to dine with me the next day, and I would invite another friend or two, bring them into conference together, and I thought it impossible that reasonable men, consulting together coolly, could fail, by some mutual sacrifices of opinion, to form a compromise which would save the Union. The discussion took place. I could take no part in it but an exhortatory one, because I was a stranger to the circumstances which should govern it. But it was finally agreed, that whatever importance had been attached to the rejection of this proposition, the preservation of the Union, and of concord among the States, was more important, and that therefore it would be better that the vote of rejection should be rescinded—to effect which some members should change their votes. But it was observed that this pill would be peculiarly bitter to the Southern States, and that some concomitant measure should be adopted to sweeten it a little to them. There had before been propositions to fix the seat of Government either at Philadelphia, or at Georgetown on the Potomac; and it was thought that by giving it to Philadelphia for ten years, and to Georgetown permanently afterwards, this might, as an anodyne, calm in some degree the ferment which might be excited by the other measure alone: so two of the Potomac members (White and Lee, but the former with a revulsion of stomach almost convulsive) agreed to change their votes; and Hamilton undertook to carry the other point."

[38] Could the extent to which the evil has since been carried, have been foreseen at the time, the state of the vote might have been very different.

[39] Topics of temporary interest omitted.

[40] At this commencement of the second Congress, being in the third year of Washington's administration, and when the finances had been brought to order and system by General Hamilton, and the machinery of government put into fair and full operation, a proper point presents itself to look at the expenses of the new Government, both as a fact at the time, and as a point of comparison in the future. In the annual speech which the President delivered to the two Houses, he congratulated Congress on the adequacy of the revenues which had been provided, and on the prospect that no new burthens would be required to be laid upon the people. This was a gratifying announcement, and makes it desirable to see what was the revenue at that time, and to what objects applied. The first inquiry is answered by a recurrence to the two tariff acts which had been passed—one at the first, the other at the second session of the first Congress. The first act had

produced near two millions of dollars, which, though five times beyond what was necessary for the support of the Government, was not sufficient for the demands of the public debt and the Indian war raging in the North-west. An augmentation of the duties became necessary, and was accomplished in the second act, but still on a scale of moderation. The *ad valorem*s were 5 per centum, 7-1/2, 10, 12-1/2, 15; but in counting their product, only the two first may be considered, as the mass of the importations fell under those rates; to wit, above 16 millions under the two first, and less than one million under the three last; so that the 5 and the 7-1/2 *ad valorem*s may be considered as the effective duties, and the actual levy upon the imports. The list of specific duties was enlarged in the second bill, (the Secretary of the Treasury wisely saying that the experience of the world showed that duties upon quantities, ascertainable by weight and measure, were the only ones capable of safe and cheap collection, and therefore to be preferred as far as possible.) and their rate increased, but still in moderate proportion. The produce of the whole was about 3-1/2 millions, which was nearly nine times as much as the support of the Government required, leaving nearly eight parts out of nine to go to the public debt, the Indian war, and other extraordinary objects. This important statement requires to be verified, which is done by referring to General Hamilton's estimate of appropriations at the commencement of this first session of the second Congress; to wit, CIVIL LIST, comprehending compensation to the President and Vice President—the Departments of State, Treasury and War—the Board of Commissioners—the government of the North-western Territory—the Judiciary—the two Houses of Congress—contingencies incident to the civil list: in all \$328,653.00; to which was afterwards added \$87,000 for diplomatic intercourse, increasing the amount of the annual estimate to \$415,000. The public debt, the Indian war, and other extraordinaries took all the rest, amounting to about three millions; so that this small revenue, produced by such moderate duties upon the small importation of that day, sufficed for the support of the Government, for carrying on an Indian war as far off, (the distance measured by time and cost of march and transportation,) and with Indians far more formidable than any now in the world; and also for the interest of the public debt. This is a result for statesmen to consider, and to bring into comparison with the present state of things; and the reflection may be, that with the same spirit of economy which, then prevailed, the same knowledge of the objects for which the Federal Government was created, and the same determination to confine its action to those objects, the same moderate rate of duties on the large importations of this day would be entirely sufficient, both for the support of the Government and for all extraordinary objects. The cost of collecting the revenue in that early period also presents a point for retrospect and comparison; it was then about 3 and 1/3 per cent., and according to the principle of such collections, should become less in proportion to the larger amount collected. On the contrary, the increase has been inordinate! and is, perhaps, now hardly ascertainable, but cutting deep into the national income.

[41] The case of Pennsylvania goes far to sustain this view. The policy of William Penn was that of justice and humanity to the Indians, and his colony was long exempt from its calamity of savage hostility. It had been settled seventy years—from 1680 to 1753—before an Indian killed one of its inhabitants, and then in consequence of a disturbance in a neighboring province. Such an exemption, for so long a time, and while all the other colonies were involved in Indian wars from their early settlement, while so honorable to Penn's government and to the inoffensive manners of the inhabitants, goes far to show that the Indians were manageable by good treatment, and that, although savage, their savageism was not of a kind to resist the effects of justice and kindness.

[42] This speech, of Cornplanter, the famous chief of the Seneca tribe, (one of the Six Nations,) does not appear in the debates, having been confidentially read to the House; but it is found in the State papers of the time, and is, as the allusions to it implied, a plea in behalf of the Indians against the wrongs of the whites. Intrusion upon their lands, fraudulent purchases, and killing unoffending Indians, are the subjects of complaint. The speech opens with a characteristic appeal to Washington.

"Father: The voice of the Seneca nation speaks to you, the great councillor in whose heart the wise men of all the Thirteen Fires (Thirteen United States) have placed their wisdom. It may be very small in your ears, and we therefore entreat you to hearken with attention: for we are about to speak of things which are to us very great. When your army entered the country of the Six Nations, we called you the town destroyer; and to this day, when that name is heard, our women look behind them and turn pale, and our children cling close to the necks of their mothers. Our councillors and warriors are men, and cannot be afraid; but their hearts are grieved with the fears of our women and children, and desire it to be buried so deep as to be heard no more. When you gave us peace, we called you Father, because you promised to secure us in the possession of our lands. Do this, and, so long as the lands shall remain, that beloved name will live in the heart of every Seneca."

Then followed a complaint for wrongs done them in their lands; to which Washington replied that that wrong was done before the new Government was established and the management of Indian affairs given up to it; but that they would now be protected. This reply fell short of his expectations, and the Cornplanter rejoined:

"Father: Your speech written on the great paper, is to us like the first light of the morning to a sick man, whose pulse beats too strongly in his temples, and prevents him from sleep. He sees it and rejoices, but is not cured."

Of killing and robbing their people he said:

"Three men and one woman have been killed at Big Beaver Creek, and they were good people, and some of the white people will testify this. Twenty-seven men came from another State, and murdered these men in the Quaker State where they had come to trade, and took away all the horses, and all the goods they had purchased from the traders."

The President answers to this complaint that he is very angry to hear of this murder and robbery—that he will have it inquired into, and will comfort the friends and relations of the persons who were killed, and make them compensation for the horses and property taken; and do all in his power to bring the murderers to justice, and that he will consider the crime as bad, exactly, as if committed against so many white people, and will use the same endeavors to bring them to punishment. Satisfied with the assurances which the President gave them, the Cornplanter, and the other chiefs with him, took a formal and affectionate leave in writing; in which they say:

"Father: No Seneca ever goes from the fire of his friend until he has said to him 'I am going.' We therefore now tell you, that we are setting out for our own country. Father: We thank you from our hearts, that we now know there is a country we may call our own, and on which we may lie down in peace. We see that there will be peace between your children and our children, and our hearts are very glad."

On arriving at Pittsburg on their way home, for these interviews with Washington took place in Philadelphia, these children of the forest with a native sentiment of graceful politeness, wrote back to him to let him know how they were getting along, the whole expressed in two brief sentences.

"Through the whole Quaker State, as we came up the road, we were treated well, and they took good care of us until we came here. One misfortune happened only, that one of our wagons is not yet arrived here, the one we first engaged, and with the goods you presented to us."

They always speak affectionately of the Quaker State, and in one of the speeches to President Washington, having occasion to mention a promise made to them by the State, said:

"The Quaker State will do what it promises."

[43] Mr. JEFFERSON, Secretary of State, in his Report on the fisheries.

[44] Letters of the Secretary of War and Quartermaster General.

[45] For an authorized establishment of 5,120 men, of all arms, the actual establishment being about 3,600. It would be curious to compare the army expenses of that day with those of this day, and the comparative care with which Congress looked into these expenses at the two different periods. The United States were engaged in Indian wars then as now, and upon a theatre (time and cost of getting to it considered) as far off as our Indian wars are at present; for, the distance estimated in that way, is less now to California than it was then to the Miami of the Lakes: yet a cost of something like \$200 a head was considered extravagant, and such as to call upon Congress for an inquiry.

[46] The bill came down from the Senate where debates were not published, and seems to have passed the House without debate, and almost without division, there being but seven votes against it, and two of these (Messrs. Mercer and Parker) from slave States. Nor does it appear to what part of the bill they objected, whether to the part in relation to fugitives from justice, or to those who fled from service, for both classes of fugitives were comprehended in the same bill. It was passed on a message from President Washington, founded on a communication from the Governor of Pennsylvania in relation to a fugitive from justice who had taken refuge in Virginia, and because it was necessary to have an act of Congress to give effect to the rendition clause in the constitution. There was but little necessity in those times, nor for long after, for an act of Congress to authorize the recovery of fugitive slaves. The laws of the free States, and still more the force of public opinion, were the owners' best safeguards. Public opinion was against the abduction of slaves; and if any one was seduced from his owner, it was done furtively and secretly, without show or force, and as any other moral offence would be committed. State laws favored the owner, and to a greater extent than the act of Congress did, or could. In Pennsylvania there was an act (it was passed in 1780, and only repealed in 1847) discriminating between the traveller and sojourner, and the permanent resident, allowing the former to remain six months in the State before his slaves would become subject to the emancipation laws; and, in the case of a federal government officer, allowing as much more time as his duties required him to remain. New York had the same act, only varying in time, which was nine months. While these two acts were in force, and supported by public opinion, the traveller and sojourner was safe with his slaves in those States, and the same in the other free States. There was no trouble about fugitive slaves in those times. This act of 1793 did not grow out of any such trouble, but out of the case of a fugitive from justice. It was that case which brought the subject before Congress; and, in the act that was passed, the case of fugitives from justice was first provided for, the first and second sections of the act being given to that branch of the subject, and the third and fourth to the other—all brief and plain, and executable without expense or fuss. In the case of a slave the owner was allowed to seize him wherever he saw him, by day or by night, Sundays or week-days, just as if he was in his own State, and a penalty of \$500 attached to any person who resisted or obstructed him in this seizure. The only authority he wanted was after the seizure, and to justify the carrying back, and for that purpose, the affidavit of the owner, or his agent was sufficient. This act was perfect, except in relying upon State officers, as well as federal officers to execute it, these State officers not being subject to the federal law, and being forbid to act after slavery became a subject of political agitation.

[47] This was a party election, and as such conducted on both sides. Marshall, in his Life of Washington, says of it: "By each party a candidate for the chair was brought forward; and Mr. Muhlenberg, who was supported by the opposition, was elected by a majority of ten votes against Mr. Sedgwick whom the Federalists supported."

[48] The debate on this subject was one of the most elaborate, and most replete with knowledge of commercial principles and statistics, which our Congress has furnished. It grew out of the clause in the constitution which gave Congress power to regulate commerce with foreign nations, and gives the interpretation of that clause by its authors,

which was wholly different in its nature, as well as distinct in its grant, from the power to lay and collect duties on imports. The latter was to raise revenue: the former to coerce nations into reciprocity of liberal trade with us by making a discrimination in the trade of nations to the disadvantage of the nations which refused to come into reciprocal arrangements with us. The discrimination proposed by Mr. Madison was 5 per centum, and was levelled against Britain, and was only defeated by five votes. In this great debate, as in that upon the Bank of the United States, the genius of Hamilton and Jefferson were pitted against each other, each having made opposite reports on each question, which were the magazines from which the opposing speakers in Congress chiefly armed themselves—Mr. Madison being the chief exponent of the Jeffersonian side, and Mr. William Smith, of South Carolina, that of General Hamilton. It is curious that while this power to regulate foreign commerce by Congress, was one of the chief causes for forming the Federal Government, yet it has never been exercised by Congress, and seems to be a power overlooked, or confounded with that to lay duties and imposts for revenue. Though not yet exercised, it is a power which has found need for its exercise, and will find it again. Our immense commerce, if all articles are taxed even moderately, will produce far more revenue than the economical and fair administration of the Government would require: a large part of it would be left free, as after the payment of the public debt in President Jackson's time; and as may be again after the extinction of the public debt, and the introduction of economy into the expenditures. A moderate duty on two-thirds of the importations may then be sufficient for the expenditures of the Government, leaving (say) one-third to go upon the free list. Now the nations which receive the chief benefit of that large free importation ought to reciprocate the favor by taking something free, or at a moderate duty, from us. "*Free commerce is not to be given in exchange for burthens and impositions;*" and that was the principle of Mr. Madison's resolutions, which were barely defeated, and that by the influence of the mercantile class engaged in commerce with Great Britain. A full view of this subject is given in the first volume of the Thirty Years' View, in giving an account of the effort of the author to revive Mr. Madison's plan.

- [49] It is grateful to behold the immense progress which the humanity of nations has made. Great Britain is no longer subject to the imputation of exciting pirates and savages against us. She has long since ceased to instigate Indian hostilities, and long ago joined us in humbling Algiers. Far from stimulating barbarian war, she even interposes to save us from civilized war with great nations—witness the proffered mediation of William the Fourth to settle the difficulty between France and the United States, in General Jackson's time: a beautiful instance of old animosity extinct under time, and former evil deeds succeeded by works of kindness and respect.
- [50] This seventh, article stipulated indemnity to the owners of the deported slaves.
- [51] Mr. Jefferson resigned his place of Secretary of State at the end of this session, and was succeeded by Mr. Edmund Randolph, of Virginia. Of the resignation and character of Mr. Jefferson, Marshall thus speaks: "This gentleman withdrew from political station at a moment when he stood particularly high in the esteem of his countrymen. His fixed opposition to the financial schemes which had been proposed by the Secretary of the Treasury, and approved by the Legislative and Executive Departments of the Government; his ardent and undisguised attachment to the revolutionary party in France; the dispositions which he was declared to possess in regard to Great Britain; and the popularity of his opinions respecting the Constitution of the United States; had devoted to him that immense party whose sentiments were supposed to comport with his on most or all of these interesting subjects. To the opposite party he had, of course, become particularly unacceptable. But the publication of his correspondence with the French minister, *Genet*, dissipated much of the prejudice which had been excited against him. He had, in that correspondence, maintained, with great ability, the opinions embraced by the Federalists on those points of difference which had arisen between the two Republics, and which, having become universally the subjects of discussion, had in some measure dissipated those topics on which parties had previously divided."
- [52] The ratification of the Treaty, with the exception of the 12th article, was by the following vote: YEAS—*Messrs.* Bingham, Bradford, Cabot, Ellsworth, Foster, Frelinghuysen, Gunn, Henry, King, Latimer, Livermore, Marshall, Paine, Potts, Read, Ross, Rutherford, Strong, Trumbull, and Vining—20. NAYS—*Messrs.* Bloodworth, Brown, Burr, Butler, Jackson, Langdon, Martin, Mason, Robinson, and Tazewell—10. This excepted article related to the direct trade with the British West Indies; and the recommendation added to the clause of ratification was with a view to obtain the full enjoyment of that trade. This was in the year 1795, and the object of the recommendation was not obtained until above thirty years thereafter, and under the administration of General Jackson.
- [53] This recommendation to treat further for obtaining indemnity for the slaves carried off by the British during the Revolution, remained without effect, and all claim to that indemnification was relinquished by the treaty of 1796. But the same deportation of slaves took place in the war of 1812, followed by the same stipulation for indemnity in the treaty which closed that war, which was contained in the treaty which closed the war of the Revolution; and attended by the same refusal to comply with it. It was not until after twelve years of further negotiation, and under the administration of Mr. John Quincy Adams, and under the arbitrament of the Emperor Alexander, of Russia, that indemnity for these deported slaves of 1812 was received.
- [54] This was the first instance of any heated debate in answering an address from Washington. It became a party discussion on some points, especially in relation to what was said of the Democratic societies. Marshall says of it: "A very eloquent and animated debate ensued, which terminated in the Committee of the Whole by striking out the words, "self-created societies"—47 voting for, and 45 against expunging them." The question was renewed in the House; and the Chairman of the committee being opposed in sentiment to the Speaker, who was now placed in the chair, the majority was precisely changed, and the words were reinstated. This was a victory for the Administration, but

soon lost, the next being in favor of the opposition.

- [55] He resigned accordingly, no further investigation being moved with respect to him. Recording the event, Marshall says: "Seldom has any minister excited in a higher, or more extensive degree than General Hamilton, the opposite passions of love and hate. His talents were of a grade too exalted not to receive from all the tribute of profound respect; and his integrity and honor as a man, not less than his official rectitude, though slandered at a distance, were admitted to be superior to reproach by those enemies who knew him."
- [56] A celebrated painter who died in 1554. Speaking of this artist, Henry the Eighth once said, "Out of seven ploughmen I can make seven Lords, but out of seven Lords I cannot make even one Holbein."
- [57] Col. Timothy Pickering, in place of Gen. Knox, resigned.
- [58] The distinction was invidious, and soon fell under the ban of public opinion; but the mode of making it was commendable, and freed the Senators voting for the increase from the imputation of a personal motive.
- [59] This was nominally a private petition, but in reality a question between the State of North Carolina and the Federal Government in relation to their relative rights over Indian lands within the chartered limits of the State.
- [60] This was the first discussion with open doors, except on the contested election of Mr. Gallatin.
- [61] This was the first formal opposition to the mode of answering the President's Speech at the opening of the Sessions of Congress, though many members had from the first been repugnant to it as being too close an imitation of the British mode of opening the Sessions of Parliament by an Address from the sovereign in person, an answer to it, and the presentation of the answer by the House in a body.
- [62] DESCRIPTION OF THE FLAG.—It is tricolor, made of the richest silk, and highly ornamented with allegorical paintings. In the middle, a cock is represented, the emblem of France, standing on a thunderbolt. At two corners, diagonally opposite, are represented two bombshells bursting; at the other two corners, other military emblems. Round the whole is a rich border of oak leaves, alternately yellow and green; the first shaded with brown and heightened with gold; the latter shaded with black and relieved with silver; in this border are entwined warlike musical instruments. The edge is ornamented with a rich gold fringe. The staff is covered with black velvet, crowned with a golden pike, and enriched with the tricolor cravatte and a pair of tassels worked in gold, and the three national colors. The flag is to be deposited in the archives of the United States.
- [63] Counsel for the prisoner.
- [64] Of all the members who opposed this trading establishment from the commencement, Mr. Macon was the only one that remained in Congress until it was abolished in 1822.
- [65] This motion, going to the destruction of the Mint itself, brought up an incidental debate on the right of Congress to withhold appropriations for the support of existing establishments—which is the only part of the debate on the bill which retains a surviving interest.
- [66] This being the last year of Washington's administration, it presents a proper occasion for seeing what the support of the Government then cost, both as an inquiry pertinent in itself, and as furnishing a point of comparison for the future. This is shown in the introductory clause to the appropriations, stating, "That for defraying the expenditure of the civil list of the United States for the year 1796, together with the incidental and contingent expenses of the several departments and officers thereof, there be appropriated a sum not exceeding \$530,392 85 cents." The objects to which this expenditure went, were, 1. Salary to President and Vice President. 2. Compensation to the members of Congress, with all the incidental expenses of that body. 3. The federal judiciary, with all its contingent expenses. 4. The Executive departments, with all their subordinate offices and expenses of every kind. 5. The Mint establishment. 6. The light-house establishment. 7. North-western and South-western territorial governments; with a few other small objects. For each of these items a specific sum was appropriated, of which, the appropriations for Congress were, for the pay of the members and all the officers and attendants, (estimated for a session of six months,) \$193,460; and the expenses, fuel, stationery, printing, and all other contingencies of the two Houses, were \$11,500. For diplomatic intercourse, \$40,000.
- [67] And proved to be so in this case, though it required thirty years' experience to show it. When the system was brought to a close in 1822, it was found that the whole capital was gone.
- [68] This was the first attempt to pay members of Congress as salaried officers.
- [69] This resolution would seem to embody Mr. Madison's interpretation of the clause in the constitution which authorizes Congress to establish post roads.
- [70] This explanatory note was written by Mr. Gales, editor of the Annals of Congress, who has rendered a valuable service to the student of political history in bringing these two great debates, each by itself, into a single and connected form. They are the groundwork of high constitutional knowledge; and, whether for the intrinsic importance of their matter, the close acquaintance of the speakers with their subject, or as fine specimens of parliamentary debating, they stand forth as debates of the first class which our congressional history has afforded. Marshall, in his history, says of them: "Never had a greater display been made of argument, of eloquence, and of passion; and never had a subject been discussed in which all classes of their fellow-citizens took a deeper interest." The first debate related to the Treaty-making power, and how far the House of Representatives had the right to refuse assent to a treaty which required an

appropriation of money, or which regulated commerce, or which required the exercise of any other power specifically granted to Congress. The second applied to the execution of the commercial Treaty of 1794, with Great Britain; one party contending that the Congress was bound to make the appropriation to carry it into effect—the other denying the obligation and claiming the right of a discretionary power. The two debates were upon kindred subjects, and before the House at the same time, yet kept distinct, in the discussion, neither sliding into the other, and one finished before the other began; such was the closeness with which members then adhered to the subject, even in Committee of the Whole, and which gave to these early debates of our Congress so much point and power, and so much attraction to the hearer then and to the reader now. An abridgment can only present a part of these great debates, which cover above 300 pages of the Annals of Congress; but the whole argument will be seen on both sides, as the pith and marrow of each main speech will be given.

- [71] This course was long followed, no Indian Treaty being held except authorized by an act of Congress, which was the Legislative consent to the grants of money which such Treaties usually contain, and for the payment of which an Act of Congress would be necessary. And in the two great cases of acquiring foreign territory, (Louisiana and Florida,) under Presidents contemporary with the formation of the constitution, and which required large appropriations to carry them into effect, the consent of the Legislative branch of the Government was sought and obtained before the Executive began to act—the law in both cases originating in the House of Representatives as the proper initiatory branch when money was to be paid which the people would have to raise.
- [72] Thus the House, by a majority of 25, passed the call upon the President for the papers, and upon the declared ground of a *right* to judge the Treaty, as it contained a regulation of commerce, and also required an appropriation of money. President Washington received the call in the sense in which it was made, and although he had no objection to furnishing the papers, and had laid them before the Senate, (whence they became public,) yet he deemed it his duty to resist the claim of right asserted by the House, and therefore to refuse the papers—which he did in a closely reasoned Message, an epitome of the arguments used in the House on that side.
- [73] It is seen in this answer of President Washington, that he holds the assent of the House to be unnecessary to the validity of any Treaty whatever, which, of course, includes the class contended for by the House, but makes the question broader than the one presented by its limited claim.
- [74] In this resolution the House specifies the class of Treaties over which it claims a right of judgment, and limits it to those which involve a matter which has been specially granted to Congress—as an appropriation of money, or the regulation of commerce.
- [75] And thus the President and the House were completely at issue—the House having expressly asserted, by a majority of 27, a right to judge, not every Treaty, or Treaties generally, but those which involved the exercise of any power granted by the constitution to itself. Trained in the school of this majority, the author of this Abridgment, as often as the occasion required, has maintained the same right for the House; and especially in the case of the territorial purchase from Mexico in 1854.
- [76] Mr. Hillhouse had submitted a resolution in favor of carrying the Treaty into effect, and afterwards Mr. Maclay submitted one, declaring the contrary; and the question was, which should be taken up? Mr. Madison, as a skilful parliamentary tactician, preferred that of Mr. Hillhouse, as putting the burden of the affirmative upon the adversary, always an advantage in the debate, and, in an even vote, always decisive for the negative side.
- [77] The following is the letter received by the committee appointed to inquire into the situation of the son of General LAFAYETTE:

[TRANSLATION.]

"RAMAPAGH, (New Jersey,) March 28, 1796.

"SIR: I have just received the honorable resolution which the merits of my father have procured for me. Deign to express to the Representatives of the people of America his gratitude—my youth forbids me yet to speak of mine. Every day recalls to me what he taught me, at every period of his life, so full of vicissitudes, and what he has repeated in a letter, written from the depth of his prison. 'I am convinced (he says) that the goodness of the United States and the tenderness of my paternal friend will need nothing to excite them.

"Arrived in America some months since, I live in the country, in New Jersey, occupied in the pursuits of my education. I have no wants; if I had felt any, I should have answered to the paternal solicitude of the President of the United States, either by confiding them to him, or by accepting his offers. I shall hereafter consider it a duty, to impart them to the House of Representatives, which deigns to inquire into my situation.

"I am as happy as a continual inquietude relative to the object of my first affections will permit. I have found benevolence wherever I have been known, and have often had the satisfaction of hearing those, who were ignorant of my connections, speak of their interest in the fate of my father, express their admiration of, and partake the gratitude I feel, for the generous Dr. Bollman, who has done so much to break his chains.

"It is amid all these motives of emulation, that I shall continue my studies. Every day more convinced of the duties which are imposed by the goodness of Congress, and the names I have the honor to bear.

"GEO. WASHINGTON MOTIER LAFAYETTE.
The Hon. EDWARD LIVINGSTON, Chairman," &c.

- [78] This vote of the House to carry the Treaty into effect, was no abandonment of the right it

had asserted to judge its merits, and to grant or withhold the appropriation according to its discretion. The discussion sufficiently shows this, and that many members took care to save their votes from any misconstruction on this head. A sense of expediency, and not the force of obligation, carried the vote; and certainly the inducements to let the Treaty stand were very great. Marshall sums them up thus: "If Congress refused to perform the Treaty on the part of the United States, a compliance on the part of Great Britain could not be expected. The posts on the great lakes would still be occupied by British garrisons: no compensation would be made for American vessels illegally captured: the hostile dispositions which had been excited, would be restored with increased aggravation: and that these dispositions must infallibly lead to war, was implicitly believed." The amount to be appropriated was only \$90,000, a sum entirely insignificant, and only to be contested on account of the principle its appropriation would involve. Yet the insignificance of the sum, and with all the inducements to let the Treaty stand, and under such a President as Washington, barely saved it from defeat! so jealous was the Democratic party of that day of the rights of Congress, and so determined was the House to remain master of the public purse. Ninety thousand dollars was all the money at stake; but what has since been seen? An Executive offering fifty millions for a slip of territory! and one hundred millions, and afterwards two hundred, for an island! Actually negotiating a Treaty of twenty millions, which the Senate reduced to ten! and all, not only without the sanction, but without the knowledge of the Legislative power. To admit that Congress would be bound to appropriate such sums if the offers had ripened into Treaty stipulations, would be to admit that the President, Senate, and a foreign potentate were masters of the appropriating power; and, of course, of the taxing and borrowing power, and of all the means by which money was to be raised. Even a discretionary power over the appropriation, after the Treaty has been made, is but a slight defence for the treasury, there being always in Congress, as in all public bodies, men to yield to circumstances,—good easy men to be persuaded; timid men to be scared; venal men to be purchased. And out of these classes enough are usually found to turn the scale, when upright men divide upon a large measure. The only safe way is that of consultation beforehand, as practised by Washington in the early part of his Administration, and by the Presidents under whom Louisiana, Florida, and California were acquired.

- [79] The claim was renewed continually, and fruitlessly, until the year 1832, when it was allowed, and the horse paid for according to his certificated specie value at the time he was taken in the year 1781—\$1,500.
- [80] Up to this time and afterwards, until the year 1798, there was no Naval Department, or Secretary of the Navy, and the marine, as well as the land force, was under the charge of the Secretary of War—which accounts for the appropriations of the two branches of the service appearing in the same bill.
- [81] The whole sum appropriated for the Military and Naval Establishments of the year, was, \$1,318,873—the strength of the army being 3000 men, and the debate is given as an instance of the closeness with which appropriations were scrutinized in the early ages of the Government, and also as showing the expense of maintaining troops in the north-west—then as far off (time and cost considered) as our Pacific possessions now are.

*** END OF THE PROJECT GUTENBERG EBOOK ABRIDGMENT OF THE DEBATES OF
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